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STETINA BRUNDA GARRED & BRUCKER
75 ENTERPRISE, SUITE 250
ALISO VIEJO, CA 92656

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In re Application of	:	
Selby et al.	:	
Application No. 10/511,194	:	DECISION ON PETITION
Filed: March 31, 2005	:	
Attorney Docket No. SOMMR-014US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 23, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 17, 2008, as required by the Notice of Allowance and Fee(s) Due mailed April 17, 2008. Accordingly, the application became abandoned on July 18, 2008. A Notice of Abandonment was mailed July 29, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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.

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA, VA 22314

Mail Date: 04/21/2010

Applicant	: Nick Buckley	: DECISION ON REQUEST FOR
Patent Number	: 7665608	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/511,201	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **731** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/20/07

Paper No.: _____

TO SPE OF : ART UNIT 2834

SUBJECT : Request for Certificate of Correction on Patent No.: 7242133

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.**

CHANGES TO CLAIMS APPROVED?

Thank You For Your Assistance

D. Irvine
Certificates of Correction Branch
Tel. No. 703-308-9590

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

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

Comments:

The changes do not affect allowability of claims nor do they alter their scope.

DARREN SCHUBERG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

2834
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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NXP, B.V.
NXP INTELLECTUAL PROPERTY DEPARTMENT
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE CA 95131

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OFFICE OF PETITIONS

In re Application of	:	
Steven T. Peake	:	
Application No.: 10/511212	:	DECISION ON
Filing or 371(c) Date: 10/13/2004	:	PETITION
Attorney Docket Number:	:	
GB02 0048 US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 8, 2007, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed June 25, 2007. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned October 26, 2007. A Notice of Abandonment was mailed October 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 and the publication fee; (2) the petition fee; and (3) a proper statement of unintentional delay.

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

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

Derek L. Woods
Attorney
Office of Petitions

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BRIARCLIFF MANOR NY 10510

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In re Application of	:	
Bentvelsen et al.	:	
Application No. 10/511,218	:	DECISION ON PETITION
Filed: October 13, 2004	:	
Attorney Docket No. NL 020305	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 8, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a timely manner to the final Office action mailed October 16, 2008. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on January 17, 2009. A Notice of Abandonment was mailed May 11, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

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

This matter is being referred to Technology Center 2436 for processing of the Request for Continued Examination under 37 CFR 1.114 and the Amendment filed with the instant petition.

Joan Olszewski
Petitions Examiner
Office of Petitions

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JAN 20 2010

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

In re Application of	:	
Laurence E. Allen et al.	:	DECISION ON PETITION
Application No. 10/511,224	:	TO REVIEW RESTRICTION
Filed: June 28, 2005	:	REQUIREMENT UNDER
For: MULTISTEP SEPARATION OF PLASTICS	:	37 CFR § 1.144

This is in response to applicants' petition filed under 37 CFR 1.144 received October 6, 2009 requesting a review of the requirement for restriction made final in the July 6, 2009 Office action.

The petition is **GRANTED to the extent indicated below**.

The record shows that on July 11, 2008 the Examiner made a requirement for restriction based on lack of unity. Seventeen categories of invention were set forth. The Examiner insisted upon restriction because "Groups 1-17 do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT 13.2, they lack the same or corresponding special technical features" because "[c]laim 15 describes a general plastic recycling process or the creation of a recycling process which is known and not considered a special technical feature." Thus the examiner has alleged that claim 15 does not define a "contribution" over the prior art, and therefore, does not contain a "special technical feature"; but, the examiner failed to cite any prior art reference, as is required by MPEP 1850. However, in the Office action mailed July 6, 2009, the examiner applied U.S. Patent No. 6,452,126 to Xiao against claim 15. By applying the reference, the examiner has demonstrated that claim 15 does not define a "contribution" over the prior art, and therefore does not contain a "special technical feature". Each of the seventeen groups set forth in the requirement for restriction was deemed by the examiner to contain a "special technical feature", i.e., a feature which makes a "contribution" over the prior art.

Applicants elected group 10 directed to the special technical feature of "triboelectric separation" and argued that all of the claims read on the elected group. In the Office action mailed July 6, 2009, the examiner disagreed with applicants' selection of claims because "only claims 45-53, 57, 59 and 60 actually require tribolectrostatic separation and are thus properly part of the elected group 10."

A reading of claim 15, which the examiner considered to be generic as it is included in each of the 17 groups of invention, shows that paragraph (d) recites "separation process which separates a first plastic type from a second plastic type and is enhanced by the narrow surface to mass distribution, the process involving either electrostatic sorting, froth flotation, or density differential alterations..." Thus paragraph (d) contains a Markus group since it recites alternative forms of the enhancement of the separation process. With respect to paragraph (d), there are no claims directed to the alternative form of froth flotation or density differential alternatives.

806.04(d) [R-3] Definition of a Generic Claim

In an application presenting three species illustrated, for example, in Figures 1, 2, and 3, respectively, a generic claim should read on each of these views; but the fact that a claim does so read is not conclusive that it is generic. It may define only an element or subcombination common to the several species.

** In general, a generic claim should *>require< no material element additional to those **>required by< the species claims, and ** each of the species >claims must require all the limitations of the generic claim<.

** Once a **>generic claim is allowable<, all of the claims drawn to species in addition to the elected species which *>require< all the limitations of the generic claim will ordinarily be * allowable >over the prior art< in view of the *>allowability< of the generic claim, since the additional species will depend thereon or otherwise *>require< all of the limitations thereof. When all or some of the claims directed to one of the species in addition to the elected species do not *>require< all the limitations of the generic claim, ** see MPEP § *>821.04(a)<.

806.04(e) [R-5] Claims Limited to Species

Claims are definitions >or descriptions< of inventions. *Claims >themselves< are never species*. The scope of a claim may be limited to a single disclosed embodiment (i.e., a single species, and thus be designated a *specific species claim*)*>. Alternatively,< a claim may *>encompass< two or more of the disclosed embodiments** (and thus be designated a *generic or genus claim*).

Species * *always >refer to< the * different embodiments >of the invention<*. Species may be either independent or related as disclosed (see MPEP § 806.04 and § 806.04(b)).

803.02 [R-5] Markush Claims

A Markush-type claim recites alternatives in a format such as "selected from the group consisting of A, B and C." See Ex parte Markush, 1925 C.D. 126 (Comm'r Pat. 1925). The members of the Markush group (A, B, and C in the example above) ordinarily must belong to a recognized physical or chemical class or to an art-recognized class. However, when the Markush group occurs in a claim reciting a process or a combination (not a single compound), it is sufficient if the members of the group are disclosed in the specification to possess at least one property in common which is mainly responsible for their function in the claimed relationship, and it is clear from their very nature or from the prior art that all of them possess this property ...

> This subsection deals with Markush-type generic claims which recite a plurality of alternatively usable substances or members. ... In applications containing a Markush-type claim that encompasses at least two independent or distinct inventions, the examiner may require a provisional election of a single species prior to examination on the merits. ... **Following election, the Markush-type claim will be examined fully with respect to the elected species and further to the extent necessary to determine patentability.** If the Markush-type claim is not allowable **, the provisional election will be given effect and examination will be limited to the Markush-type claim and claims to the elected species, with claims drawn to species patentably distinct from the elected species held withdrawn from further consideration.

In the petition, applicants argue that "the claims the Examiner argues group 10 excludes, do not exclude triboelectric separation from the processes that are enhanced by narrow surface to mass distribution. Rather, these claims are silent with respect to the processes encompassed by a separation process..enhanced by a narrow surface to mass distribution." Applicants' argument is correct. Since these claims are silent with respect to the processes encompassed by a separation process...enhanced by a narrow surface to mass distribution, they require no material additional to those required by the forth flotation or density differential alternatives; and accordingly, are "generic" to all elements of the Markus group set forth in paragraph (d) of claim 15. The claims that the examiner withdrew for prosecution pertain to features that are required for any of the Markush group of paragraph (d) of claim 15. For example, claim 19 recites "subjecting the plastic-rich mixture to the sequence of processes includes separating the plastic-rich mixture into different types of plastic material," and claim 30 recites "the preprocessing step includes air aspiration." All of the elements of the Markush group require the step of "subjecting the plastic-rich mixture to the sequences of processes" (see claim 15, line 25) and a "preprocessing step" (paragraph (a) of claim 15). The "subjecting" and "preprocessing" steps are independent of the separation process which includes triboelectric separation. Accordingly, it was improper for the examiner to withdraw these claims.

The application will be promptly returned to the examiner for consideration of claims 16, 18-23, 25-27, 30-42, 54, 55, 58 and 63-68.

Any questions concerning this decision should be referred to Quality Assurance Specialist Teri Luu at (571) 272-7045.

Fredrick Schmidt, Director
Technology Center 3600
(571) 272-5150

FS/tl: 01/13/10

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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
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32ND FLOOR
CHICAGO IL 60606

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OFFICE OF PETITIONS

In re Application of	:	
Erwan Pincemin	:	
Application No. 10/511,227	:	ON APPLICATION FOR
Filed: May 24, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. 08-985-WO-US	:	
Title: OPTICAL DEVICE AND	:	
METHOD OF CONVERTING WDM	:	
SIGNALS INTO AN OTDM SIGNAL	:	
AND VICE VERSA	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT," filed April 27, 2009. Applicant requests that the determination of patent term adjustment be increased by three hundred and eighty-four (384) days to seven hundred and forty-eight (748) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the

§ 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

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

---

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

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

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

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

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Erwan Pincemin	: DECISION ON REQUEST FOR
Patent Number	: 7577363	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/511,227	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **746** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

#3

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Ellen M Bierman
Seed Intellectual Property Law Group LLC
701 5th Avenue
Suite 6300
Seattle WA 98104-7092

In re Application of THIAGARAJAN Application No.: 10/511,235 PCT No.: PCT/IN03/00049 Int. Filing: 07 March 2003 Priority Date: 01 April 2002 Attorney Docket No.: 630185.401USPC For: REPETITION CODED COMPRESSION FOR HIGHLY CORRELATED IMAGE DATA	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 12 October 2004 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that the basic national fee of $555 has been provided. The required petition fee of $685 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

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

17 MAR 2006

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JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK NY 10168

In re Application of	:	
Huang et al.	:	
Application No.: 10/511,236	:	DECISION
PCT No.: PCT/JP03/04563	:	
Int. Filing Date: 10 April 2003	:	ON
Priority Date: 11 April 2002	:	
Attorney Docket No.: F-8417	:	PETITION
For: Conversation Control System And	:	
Conversation Control Method	:	

This is in response to the petition under 37 CFR 1.47(a) filed on 26 September 2005.

BACKGROUND

This international application was filed on 10 April 2003, claimed an earlier priority date of 11 April 2002, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 16 October 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 12 October 2004 (since 11 October 2004 was a holiday). Applicants filed *inter alia* the basic national fee on 12 October 2004.

On 22 April 2005, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration and a surcharge under 37 CFR 1.492(e).

DISCUSSION

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

Regarding requirement (1), the petition was accompanied by the $200.00 petition fee.

Regarding requirement (2), petitioner urges that the absence on the declaration of the signature of joint inventor Dong Li be excused because allegedly he "cannot be found or reached after diligent effort." Counsel's attention is respectfully drawn to MPEP 409.03(d), which states in part:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR

1.47. Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 CFR 1.47. 37 CFR 1.43 may be available under these circumstances. See MPEP § 409.02. Such a petition under 37 CFR 1.47 will be dismissed as inappropriate.

The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included >in the< statement of facts. It is important that the statement contain facts as opposed to conclusions.

Counsel alleges that a declaration, along with "the application documents (including specification, claims and drawings)" was "sent to Dong Li by certified mail on July 8, 2005 to Dong Li's last known address" but was undeliverable because Mr. Li "has moved from his last known address and did not leave a forwarding address." This account is corroborated by the accompanying "Declaration of Shin Nomura..." and supporting documentation. However, petitioner has not shown what diligent efforts if any were undertaken to locate Mr. Li after becoming aware that he had moved. For instance, did petitioner perform internet searches or telephone directory searches, or perform any other inquiries, to attempt to locate Mr. Li's current address? Since the instant petition does not establish that any efforts were undertaken to locate Mr. Li other than merely sending a single parcel to his last known address, it would not be appropriate to conclude that he "could not be found or reached after diligent effort" within the meaning of 37 CFR 1.47(a). Hence, it would be inappropriate to conclude that requirement (2) has been satisfied at this time.

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

Regarding requirement (4), the petition is accompanied by a declaration signed by joint inventors Huang, Katukura and Wu on behalf of themselves and non-signing joint inventor Li. This declaration satisfies requirement (4).

DECISION

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

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

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

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

28 SEP 2006

United States Patent and Trademark Office

#9

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JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK NY 10168

In re Application of	:	
Huang et al.	:	
Application No.: 10/511,236	:	DECISION
PCT No.: PCT/JP03/04563	:	
Int. Filing Date: 10 April 2003	:	ON
Priority Date: 11 April 2002	:	
Attorney Docket No.: F-8417	:	PETITION
For: Conversation Control System And	:	
Conversation Control Method	:	

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 14 September 2006.

DISCUSSION

In a decision mailed on 17 March 2006, the petition under 37 CFR 1.47(a) filed on 26 September 2005 was dismissed without prejudice because

> Counsel alleges that a declaration, along with "the application documents (including specification, claims and drawings)" was "sent to Dong Li by certified mail on July 8, 2005 to Dong Li's last known address" but was undeliverable because Mr. Li "has moved from his last known address and did not leave a forwarding address." This account is corroborated by the accompanying "Declaration of Shin Nomura..." and supporting documentation. However, petitioner has not shown what diligent efforts if any were undertaken to locate Mr. Li after becoming aware that he had moved. For instance, did petitioner perform internet searches or telephone directory searches, or perform any other inquiries, to attempt to locate Mr. Li's current address? Since the instant petition does not establish that any efforts were undertaken to locate Mr. Li other than merely sending a single parcel to his last known address, it would not be appropriate to conclude that he "could not be found or reached after diligent effort" within the meaning of 37 CFR 1.47(a). Hence, it would be inappropriate to conclude that requirement (2) has been satisfied at this time.

The instant renewed petition requests reconsideration, stating that "petitioner has performed internet searches, telephone directory searches, and other inquiries." The attached "Declaration of Yasutaka Nire..." indicates that Mr. Nire was unsuccessful in locating Mr. Li using internet searches, and provides, in Appendix I, the search terms used on Google. He also states that, "on August 24, 2006, I conducted a local telephone directory search to find the whereabouts or contact information for Mr. Dong Li. The directory search was undertaken for Matsudo-shi, Chiba, Japan, which is the city of Mr. Dong Li's last known address. I was unable

to determine Mr. Dong Li's whereabouts by conducting the local telephone directory search." Petitioner has also furnished a "Declaration of Nobuo Yaegashi..." which states *inter alia that*

> On August 23, 2006, I effected an oral inquiry in P to PA, Inc. to determine the whereabouts of Mr. Dong Li. I asked Mr. Shengyang Huong, Mr. Hiroshi Katakura, and Mr. Tao Wu, who are Mr. Dong Li's joint inventors in the above-identified application, as to the whereabouts of Mr. Dong Li. I also asked Mr. Shin Nomura, who is a director of P to PA, Inc. regarding the whereabouts of Mr. Dong Li. My inquiries did not result in the determination of the whereabouts of Mr. Dong Li.

Based on the totality of the evidence currently of record, it would now be appropriate to conclude that Mr. Li could not be found or reached after diligent effort, within the meaning of 37 CFR 1.47(a).

DECISION

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

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

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

The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **26 September 2005**.

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

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

28 SEP 2006

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Mr. Dong Li
Daini-Corpo-Onda 205
47, Nishi-Mabashi-Kuramoto-cho
Matsudo-shi, Chiba-ken
JAPAN

In re Application of
Huang et al.
Application No. 10/511,236
PCT No.: PCT/JP03/04563
Int. Filing Date: 10 April 2003
Priority Date: 11 April 2002
For: Conversation Control System and
Conversation Control Method

Dear Mr. Li:

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

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

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

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

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

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

JORDAN AND HAMBURG LLP
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28 SEP 2006

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OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of an application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of all inventors. The petition has been granted. A notice has been sent to the last known address of the non-signing inventor. The inventor whose signature is missing (Dong Li) may join in the application by promptly filing an appropriate oath or declaration complying with 37 CFR 1.63. The international application number is PCT/JP03/04563 and was filed on April 10, 2003 in the names of Shengyang Huang, Hiroshi Katakura, Tao Wu and Dong Li for the invention entitled CONVERSATION CONTROL SYSTEM AND CONVERSATION CONTROL METHOD. The national stage application number is 10/511,236 and has a 35 U.S.C. 371(c)(1), (2) and (4) date of September 26, 2005.

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29 JUL 2005

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Frank E. Reid
ExxonMobil Chemical Company
P.O. Box 2149
Baytown, Texas 77522-2149

In re Application of	: DECISION ON
Cheng et al	:
Application No.: 10/511,241	:
PCT No.: PCT/US2002/031046	:
Int. Filing Date: 30 September 2002	: PETITION UNDER
Priority Date: 16 October 2001	:
Attorney's Docket No.: 2001B126B	:
For: Method Of Removing Dimethyl Ether	:
From An Olefin Stream	: 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 13 October 2004.

BACKGROUND

On 30 September 2002, this international application was filed, claiming an earliest priority date of 16 October 2001.

The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 16 April 2004.

On 13 October 2004, applicants filed the instant petition under 37 CFR 1.137(b) and Transmittal letter for entry into the national stage in the United States, which was accompanied by, basic national fee. No executed declaration or oath was filed at such time.

DISCUSSION

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

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

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

DECISION

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

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

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

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

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OFFICE OF PETITIONS

In re Application of
Ji, et al.
Application No. 10/511,276
Filed: January 21, 2005
Attorney Docket No. P26155

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 10, 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 4, 2008 *cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.*[1]

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

This application is being referred to Technology Center AU 2135 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Monica A. Graves
Petitions Examiner
Office of Petitions

---

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

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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

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OFFICE OF PETITIONS

In re Application of	:	
Oorschot, Ronald Willem Arie	:	DECISION ON PETITION
Application No. 10/511,287	:	TO WITHDRAW
Filed: October 14, 2004	:	FROM RECORD
Attorney Docket No. 294-200 PCT/US	:	

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** to extent explained below.

A review of the file record indicates that the power of attorney was given to the attorneys associated with Customer Number 23869 upon filing of the instant application. Presently, Justin K. Holmes is not an attorney or agent associated with Customer Number 23869. To extent that he was associated with Customer Number 23869 on the date of Request for Withdrawal was filed with the PTO, the request has been approved.

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

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272- 3206.

Denise Pothier
Petitions Examiner
Office of Petitions

24 JUN 2005

#3

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Carole A. Mickelson
Greer, Burns & Crain, Ltd.
Suite 2500
300 South Wacker Drive
Chicago, IL 60606

In re Application of LETTKEMAN et al	:	
U.S. Application No.: 10/511,338	:	
PCT Application No.: PCT/US03/09400	:	
Int. Filing Date: 27 March 2003	:	DECISION
Priority Date Claimed: 27 March 2002	:	
Attorney Docket No.: 2033.67346	:	
For: HIGH STRENGTH FLOORING	:	
COMPOSITIONS	:	

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 15 October 2004.

BACKGROUND

On 27 March 2003, applicant filed international application PCT/US03/09400, which claimed priority of an earlier United States application filed 27 March 2002. The thirty-month period for paying the basic national fee in the United States expired on 27 September 2004.

International application PCT/US03/09400 became abandoned as to the United States for failure to timely pay the basic national fee.

On 15 October 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 27 March 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 15 October 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

05 JUN 2006

#7

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

In re Application of	:	DECISION ON
SASAKI, S. et al	:	
Application No.: 10/511,341	:	
PCT No.: PCT/EP03/04840	:	
Int. Filing Date: 16 April 2003	:	PETITION UNDER
Priority Date: 16 April 2002	:	
Attorney Docket No.: 4093-8	:	
For: ENDOCRINE CELL LINES AND METHOD OF	:	
USING THE SAME	:	37 CFR 1.182

This decision is in response to petitioner's "SUPPLEMENTAL SUBMISSION" filed on 16 March 2006, which is being treated as a petition under 37 CFR 1.182. The petition fee of $400.00 has not been paid.

BACKGROUND

On 15 October 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 provide an executed oath or declaration as required under 35 U.S.C. 371(c)(4).

On 17 June 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date." It also stated that items set forth above must be submitted within two months from date of mailing or by 32 months from the priority date, whichever is later. Failure to properly respond will result in abandonment.

On 25 August 2005, applicants submitted an executed declaration. In the declaration section pertaining to the fourth named inventor, the name Misako SUZUKI appears; this name did not appear in the international application. In addition, the declaration has been signed by "Misako SUZUKI."

On 08 November 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF A DEFECTIVE RESPONSE" (Form PCT/DO/EO/916) because the declaration was in not compliance with 37 CFR 1.497(a) and (b). It stated that inventor #4 last name does not match IA, and no notification of a change in application.

On 16 March 2006, petitioner filed the instant petition, which included an affidavit in support of the name change of the inventor from Misako YOSHIZAWA to Misako SUZUKI.

DISCUSSION

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

With respect to item (1), the petition fee has not been provided. Item (1) has not been satisfied.

With respect to item (2), an affidavit has been provided signed under both names- Misako YOSHIZAWA (maiden name), and Misako SUZUKI(married named), and setting forth the procedure whereby the change of name was effected. Therefore, item (2) has been satisfied.

Applicants have not satisfied item (1) under MPEP § 605.04(c).

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

CONCLUSION

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

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". 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
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2 4 JAN 2007

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ARLINGTON, VA 22203

In re Application of	:	DECISION ON
SASAKI, S. et al	:	
Application No.: 10/511,341	:	
PCT No.: PCT/EP03/04840	:	
Int. Filing Date: 16 April 2003	:	PETITION UNDER
Priority Date: 16 April 2002	:	
Attorney Docket No.: 4093-8	:	
For: ENDOCRINE CELL LINES AND METHOD OF	:	
USING THE SAME	:	37 CFR 1.182

This decision is in response to petitioner's "RENEWED PETITION UNDER 37 CFR 1.182" filed on 14 June 2006. The petition fee of $400.00 has been paid by credit card.

BACKGROUND

In a decision from this Office on 05 June 2006, the decision indicated that the application could not enter into the national stage at that time because item (1), the fee, was not paid.

On 14 June 2006, applicants paid the required fee by credit card.

DISCUSSION

Items (1) and (2) have now been met. Accordingly, the application may enter into national stage processing at this time.

CONCLUSION

The petition under 37 CFR §1.182 for change of name of inventor is **GRANTED**. This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **25 August 2005.**

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
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Paper No. None

YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON VA 22202

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OFFICE OF PETITIONS

In re Application of	:	
Franco Gozzi	:	DECISION ON PETITION
Application No. 10/511,346	:	UNDER 37 C.F.R. §1.28(c)
Patent No. 6,966,460	:	
Filed: October 15, 2004	:	
Issue Date: November 22, 2005	:	
Attorney Docket No. 2541-1027	:	
Title: DEVICE FOR CONTAINING	:	
AND SUPPLYING LOOSE MATERIAL	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 C.F.R §1.28(c).

37 C.F.R. §1.28(c)(2)(ii) sets forth that the party submitting the deficient payment must include:

(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 a non-small entity;
(b) The small entity fee actually paid, and when;
(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.

Petitioner has meet each of the above requirements save for requirement (b). Petitioner has failed to identify when the small entity fee was actually paid.

Therefore, the petition under 37 C.F.R §1.28(c) must be **DISMISSED.**

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.28(c)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and any renewed petition may be submitted by mail[1], hand-delivery[2], or facsimile[3].

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[4]. 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

---

a1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.
4 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

14 JUL 2006

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Klarquist Sparkman LLP
121 S.W. Salmon Street, Suite #1600
One World Trade Center
Portland, Oregon 97204-2988

In re Application of
BLACKSHEAR et al.
U.S. App. No.: 10/511,362
PCT No.: PCT/US03/12348
Int. Filing Date: 18 April 2003
Priority Date: 19 April 2002
Attorney Docket No.: 4239-64828-02
For: COMPOSITIONS AND METHODS FOR DIAGNOSTICS AND THERAPEUTICS FOR HYDROCEPHALUS

DECISION ON PETITION UNDER 37 CFR 1.10

This decision is issued in response to applicants' "Petition to Correct Filing Receipt" which is being treated as a petition under 37 CFR 1.10(c) filed 23 June 2005 requesting that the above-identified application be accorded a (35 U.S.C.) 371(c) filing date of 15 October 2004. Petitioner states that the application was deposited via "Express Mail" pursuant to 37 CFR 1.10.

BACKGROUND

On 14 October 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 an executed declaration.

On 25 April 2005, a Notification of Acceptance was issued identifying the 35 U.S.C. 371(c) date as 14 October 2004. Subsequently, an Official Filing Receipt was issued indicating a "FILING DATE" of 14 October 2004.

On 23 June 2005, applicant filed a "Petition to Correct Filing Receipt." Petitioner avers that the application was deposited via "Express Mail" pursuant to 37 CFR 1.10 on 15 October 2004, rather than 14 October 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.

Petitioner has satisfied items (1) and (2) above. However, with regard to item (3), Petitioner has not submitted a true copy of the "Express Mail" mailing label (customer receipt) bearing the same "Express Mail" mailing number as identified in the certificate under 37 CFR 1.10 that accompanied the application papers showing that the original papers were, in fact, deposited as "Express Mail" with the United States Postal Service on 15 October 2004. Thus, a discrepancy has not been shown to exist as required by 37 CFR 1.10(c).

Accordingly, it is inappropriate, on the present record, to accord a filing date of 15 October 2004.

CONCLUSION

Applicants' petition under 37 CFR 1.10(c) requesting that a filing date of 15 October 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 reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10."

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

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

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17 NOV 2006

Klarquist Sparkman LLP
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Portland, Oregon 97204-2988

In re Application of
BLACKSHEAR et al.
U.S. App. No.: 10/511,362
PCT No.: PCT/US03/12348
Int. Filing Date: 18 April 2003
Priority Date: 19 April 2002
Attorney Docket No.: 4239-64828-02
For: COMPOSITIONS AND METHODS FOR DIAGNOSTICS AND THERAPEUTICS FOR HYDROCEPHALUS

DECISION ON PETITION UNDER 37 CFR 1.10

This decision is issued in response to applicants' "Renewed Petition under 37 CFR 1.10" which is being treated as a petition under 37 CFR 1.10(d) filed 18 September 2006 requesting that the above-identified application be accorded a (35 U.S.C.) 371(c) filing date of 15 October 2004. Petitioner states that the application was deposited via "Express Mail" pursuant to 37 CFR 1.10.

BACKGROUND

On 14 October 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 an executed declaration.

On 25 April 2005, a Notification of Acceptance was issued identifying the 35 U.S.C. 371(c) date as 14 October 2004. Subsequently, an Official Filing Receipt was issued indicating a "FILING DATE" of 14 October 2004.

On 23 June 2005, applicants filed a "Petition to Correct Filing Receipt." Petitioner avers that the application was deposited via "Express Mail" pursuant to 37 CFR 1.10 on 15 October 2004, rather than 14 October 2004. In a decision dated 14 July 2006, applicants' request was dismissed without prejudice.

On 18 September 2006, applicant filed a "Renewed Petition under 37 CFR 1.10."

DISCUSSION

Applicant presently requests that the USPTO accord the above-identified national stage application a 35 U.S.C. 371(c) filing date of 15 October 2004. A review of the file reveals that the DO/EO/US correctly accorded an 35 U.S.C. 371(c) filing date of 14 October 2004 pursuant to 1.10(a). In the subject petition, applicants argue that the USPS incorrectly entered the "date-in" on the Express Mail label. 37 CFR 1.10(d) allows an applicant to petition to correct an incorrectly entered "date-in" of an Express Mail receipt and states that:

37 CFR 1.10(d) provides:

> (d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "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 within one business day after deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

The petition here was filed promptly after applicant learned of the 15 October 2004 35 U.S.C. 371(c) filing date; 37 CFR 1.10(d)(1) is therefore satisfied.

As noted above, the application materials included a certificate of mailing which listed the "Express Mail" label number used. Applicant has therefore satisfied the requirement of 37 CFR 1.10(d)(2).

A review of the application papers filed in the present application reveals that Express Mail label "EV514904915US" was placed on the Transmittal Letter (PTO-1390) prior to mailing thereof. The "Addressee Copy" of Express Mail label no. "EV514904915US" shows a "date in" of **14 October 2004**. However, information obtained from the United States Postal Service (USPS) Express Mail database shows that "EV514904915US" was accepted by the USPS on **15 October 2004**.

In view of the discrepancy between the 14 October 2005 date shown in the Customer Copy of Express Mail label "EV514904915US" and the 15 October 2004 date shown in the USPS database, it would not be appropriate to grant applicant's request to accord the present application a 15 October 2004 filing date at this time. Moreover, no corroborative evidence that came into being after the deposit and within one business day of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS has been presented. Accordingly, it is inappropriate, on the present record, to accord a filing date of 15 October 2004.

CONCLUSION

Applicants' petition under 37 CFR 1.10(d) requesting that a filing date of 15 October 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 reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10."

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

2 9 JAN 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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Klarquist Sparkman LLP
One World Trade Center, Suite #1600
121 S.W. Salmon Street
Portland, Oregon 97204-2988

In re Application of
BLACKSHEAR et al.
U.S. App. No.: 10/511,362
PCT No.: PCT/US03/12348
Int. Filing Date: 18 April 2003
Priority Date: 19 April 2002
Attorney Docket No.: 4239-64828-02
For: COMPOSITIONS AND METHODS FOR DIAGNOSTICS AND THERAPEUTICS FOR HYDROCEPHALUS

DECISION ON PETITION UNDER 37 CFR 1.10

This decision is issued in response to applicants' (second) "Renewed Petition Under 37 CFR 1.10(d)" filed 17 January 2007 requesting that the above-identified application be accorded a corrected filing date of 15 October 2004, the date petitioner avers that the application was deposited via "Express Mail" pursuant to 37 CFR 1.10. In a decision dated 17 November 2006, applicants' "Renewed Petition Under 37 CFR 1.10" filed 18 September 2006 was dismissed without prejudice under 37 CFR 1.10(d).

The procedural background for this application was set forth in the decision mailed 17 November 2006.

DISCUSSION

Applicants presently request that the USPTO accord the above-identified national stage application a 35 U.S.C. 371(c) filing date of 15 October 2004. A review of the file reveals that the DO/EO/US correctly accorded a 35 U.S.C. 371(c) filing date of 14 October 2004 pursuant to 1.10(a). In the subject petition, applicants argue that the USPS incorrectly entered the "date-in" on the Express Mail label. 37 CFR 1.10(d) allows an applicant to petition to correct an incorrectly entered "date-in" of an Express Mail receipt and states that:

> (d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered

> or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "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 within one business day after deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Applicants have satisfied Items (1) - (3).

In view of all of the evidence, it is reasonably concluded that the actual date of deposit of this application in the "Express Mail Post Office to Addressee" service of the USPS was 15 October 2004. In this regard, petitioner has provided a satisfactory showing under 37 CFR 1.10(d)(3).

Accordingly, it is appropriate to accord the above-identified national stage application a 35 U.S.C. 371(c) filing date of 15 October 2004.

CONCLUSION

Applicants' Renewed Petition Under 37 CFR 1.10(d) is **GRANTED**.

The Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) mailed on 25 April 2005 is hereby **VACATED**.

The application has an international filing date of 18 April 2003 under 35 U.S.C. 363 and a date of 15 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 15 October 2004 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 **15 October 2004**.

The application will be returned to Art Unit 2877 for further prosecution.

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

ENTER IN PART: /JKF/ 05/12/2008

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. 7,306,197 B2 Page 1 of 1

APPLICATION NO.: 10/511,391

ISSUE DATE: December 11, 2007

INVENTORS: Andrea PARRINO et al.

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

Enter this amendment

In claim 19, column 9, lines 10-12, "An assembling process of a connecting element providing the connection element of claim 15; comprising the steps of:" should read --An assembling process of a connecting element comprising the steps of: providing the connection element of claim 15;--.

Do not Enter this amendment

In claim 44, column 11, lines 41-43, "An assembling process of a connecting element providing the connection element of claim 42; comprising the steps of:" should read --An assembling process of a connecting element comprising the steps of: providing the connection element of claim 40;--.

Enter this amendment

In claim 64, column 13, lines 48-50, "An assembling process of a connecting element providing the connection element of claim 52; comprising the steps of:" should read --An assembling process of a connecting element comprising the steps of: providing the connection element of claim 52;--.

MAILING ADDRESS OF SENDER

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

ENTER IN PART: /JKF/ 05/12/2008

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. 7,306,197 B2 Page 1 of 1

APPLICATION NO.: 10/511,391

ISSUE DATE: December 11, 2007

INVENTORS: Andrea PARRINO et al.

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

Enter this amendment

In claim 19, column 9, lines 10-12, "An assembling process of a connecting element providing the connection element of claim 15; comprising the steps of:" should read --An assembling process of a connecting element comprising the steps of: providing the connection element of claim 15;--.

Do not enter this amendment

In claim 44, column 11, lines 41-43, "An assembling process of a connecting element providing the connection element of claim 42; comprising the steps of:" should read --An assembling process of a connecting element comprising the steps of: providing the connection element of claim 40;--.

Enter this amendment

In claim 64, column 13, lines 48-50, "An assembling process of a connecting element providing the connection element of claim 52; comprising the steps of:" should read --An assembling process of a connecting element comprising the steps of: providing the connection element of claim 52;--.

MAILING ADDRESS OF SENDER

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

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Date: 2/6/09

Patent No : 7,306,197 B2
Application No: 10/511,391
Issued : December 11, 2007
Inventor : Parrino, et al.
Title : **CONNECTION ELEMENT AND CONNECTING DEVICE FOR TUBES**

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 provision of Rule 1.322 or R 1.323.

Respecting the alleged error, approve only the 1st and third change. The second amendment changes the scope of the claims. Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 or 255 the Code of Federal Regulation (C.F.R.) R1.322 or R1.323.

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

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

Further correspondence concerning this matter should be filed and directed to Decisions and Certificates of Correction Branch. Any response must be filed within a four week period.

Valerie Jackson
Mary F. Diggs
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. # 114

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

vj/MFD

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

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OFFICE OF PETITIONS

In re Application of	:	
Helmut Kahrs et al.	:	
Application No. 10/511,392	:	DECISION ON PETITION
Filed: October 15, 2004	:	TO WITHDRAW
Attorney Docket No. 2002P05893	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 28, 2007.

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Lerner Greenberg Stemer LLP**
P O Box 2480
Hollywood, FL 33022-2480

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GE HEALTHCARE, INC.
IP DEPARTMENT 101 CARNEGIE CENTER
PRINCETON, NJ 08540-6231

Mail Date: 04/21/2010

Applicant	: Peter Stewart Weisner	: DECISION ON REQUEST FOR
Patent Number	: 7592605	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/511,405	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **726** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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RUTAN & TUCKER, LLP.
611 ANTON BLVD
SUITE 1400
COSTA MESA CA 92626

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In re Application of	:	
MAK, John	:	
Application No. 10/511,408	:	DECISION ON PETITION
Filed: April 08, 2005	:	TO WITHDRAW
Attorney Docket No. **100325.0208US**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 11, 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 Michelle R. Eason at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **ROBERT FISH**
FISH & ASSOCIATES, PC
2603 MAIN STREET
SUITE 1050
IRVINE, CA 92614

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RUTAN & TUCKER, LLP.
611 ANTON BLVD
SUITE 1400
COSTA MESA, CA 92626

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In re Application of	:	
MAK, John	:	
Application No. 10/511,408	:	DECISION ON PETITION
Filed: April 08, 2005	:	TO WITHDRAW
Attorney Docket No. **100325.0198US**	:	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 October 07, 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 October 14, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **FISH & ASSOCIATES, PC**
ROBERT D. FISH
2603 MAIN STREET
SUITE 1050
IRVINE CA 92614-6232

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OFFICE OF PETITIONS

HAYNES AND BOONE, LLP
901 MAIN STREET
SUITE 3100
DALLAS TX 75202-3789

In re Application of :
Scott Costa, et al. :
Application No. 10/511,410 : DECISION ON PETITION
Filed: October 14, 2004 : TO WITHDRAW
Attorney Docket No. 25791.101.05 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed April 18, 2007.

The request is **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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 04/21/2010

Applicant	: Andreas Derr	: DECISION ON REQUEST FOR
Patent Number	: 7604723	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/511,418	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1273** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

30 AUG 2005

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Patrick M. Bergin
Davis & Kuelthau, S.C.
111 E. Kilbourn, Suite 1400
Milwaukee, WI 53202

In re Application of	:	
Mueller et al.	:	
Serial No.: 10/511,419	:	DECISION ON
PCT No.: PCT/US03/11584	:	PETITION
Int. Filing Date: 16 April 2003	:	UNDER 37 CFR 1.137(b)
Priority Date: 16 April 2002	:	
Attorney's Docket No.: 07420.06543	:	
For: CLEANING SPRAY NOZZLE	:	

This decision is responsive to the "PETITION FOR REVIVIAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(b)" filed by facsimile transmission on 11 May 2005.

BACKGROUND

On 16 April 2003, applicants filed international application PCT/US03/11584, which claimed priority of an earlier United States provisional application filed 16 April 2002. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 16 October 2004.

On 14 October 2004, applicants filed a transmittal letter for entry into the national stage in the United States. The transmittal letter was accompanied by, *inter alia*, a copy of the international application, a declaration and authorization to charge applicant's deposit account $59 to pay the basic national fee. These papers were assigned Application No. 10/511,419.

On 05 May 2005, the United States Patent and Trademark mailed the "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) which indicated that the application had become abandoned for failure to provide the full U.S. Basic National Fee by 30 months.

On 11 May 2005, applicant filed the current petition along with authorization to charge the deposit account for the basic national fee, and the petition to revive fee.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional delay must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied (1) by a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," (2) by a proper reply, (3) by the petition fee required by law (37 CFR 1.17(m)), and (4) if the international filing date of the application is before June 8, 1995, any petition to revive under 37 CFR 1.137(b) must be accompanied by a terminal disclaimer and small entity fee of $55.

Items (1) and (3) have been satisfied, and item (4) is not required.

With regard to item (2), the present petition included an authorization to charge the basic national fee to counsel's deposit account. However, in this regard 37 CFR 1.6(a) states in part:

> "Facsimile transmissions are not permitted and, if submitted, will not be accorded a date of receipt in the following situations:
>
> (3) Correspondence which cannot receive the benefit of the certificate of mailing or transmission as specified in § 1.8(a)(2)(i)(A) through (D) and (F), and § 1.8(a)(2)(iii)(A), except that a continued prosecution application under § 1.53(d) may be transmitted to the Office by facsimile."

37 CFR 1.8(a)(2), states, in part:

> "The procedure described in paragraph (a)(1) of this section does not apply to, and no benefit will be given to a Certificate of Mailing or Transmission on, the following:
> (F) The filing of a copy of the international application and the basic national fee necessary to enter the national stage, as specified in § 1.495(b)."

Although applicant filed the required statements and the petition fee, applicant has not provided a proper response in that applicant is not permitted to file the national stage filing fee by facsimilie.

CONCLUSION

The petition to revive the application abandoned under 35 U.S.C. 371(d) is **DISMISSED without prejudice** as to the National Stage in the United States of America.

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

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

Debra Brittingham
Office of PCT Legal Administration
DSB/RC:dsb

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

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

#7

21 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

Patrick M. Bergin
Davis & Kuelthau, S.C.
111 E. Kilbourn, Suite 1400
Milwaukee, WI 53202

In re Application of	:	
Mueller et al.	:	
Serial No.: 10/511,419	:	DECISION ON
PCT No.: PCT/US03/11584	:	PETITION
Int. Filing Date: 16 April 2003	:	UNDER 37 CFR 1.137(b)
Priority Date: 16 April 2002	:	
Attorney's Docket No.: 07420.06543	:	
For: CLEANING SPRAY NOZZLE	:	

This decision is responsive to the "PETITION FOR REVIVIAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(b)" filed by facsimile transmission on 11 May 2005.

BACKGROUND

On 16 April 2003, applicants filed international application PCT/US03/11584, which claimed priority of an earlier United States provisional application filed 16 April 2002. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 16 October 2004.

On 14 October 2004, applicants filed a transmittal letter for entry into the national stage in the United States. The transmittal letter was accompanied by, *inter alia*, a copy of the international application, a declaration and authorization to charge applicant's deposit account $59 to pay the basic national fee. These papers were assigned Application No. 10/511,419.

On 05 May 2005, the United States Patent and Trademark mailed the "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) which indicated that the application had become abandoned for failure to provide the full U.S. Basic National Fee by 30 months.

On 11 May 2005, applicant filed the current petition along with authorization to charge the deposit account for the basic national fee, and the petition to revive fee.

U.S. Serial

On 30 August 2005, applicant's petition was dismissed because the petition to revive and the basic national fee were sent by facsimile.

On 26 September 2005, applicant filed a new petition to revive and the basic national fee by United States Postal Service Express Mail.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional delay must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied (1) by a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," (2) by a proper reply, (3) by the petition fee required by law (37 CFR 1.17(m)), and (4) if the international filing date of the application is before June 8, 1995, any petition to revive under 37 CFR 1.137(b) must be accompanied by a terminal disclaimer and small entity fee of $55.

Items (1) and (3) were satisfied in the earlier filed petition, and item (4) is not required. With respect to item (2), applicant has now filed a proper reply, and the petition is granted.

CONCLUSION

The petition to revive the application abandoned under 35 U.S.C. 371(d) is **GRANTED** as to the National Stage in the United States of America.

This application is being forwarded to the national stage office for preparation of a "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) showing a 35 U.S.C. 371 date of **26 September 2005**.

Debra Brittingham
Office of PCT Legal Administration
DSB/RC:dsb

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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JOSEPH S. HEINO, ESQ.
DAVIS & KUELTHAU, S.C.
111 E. KILBOURN
SUITE 1400
MILWAUKEE WI 53202-6613

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OFFICE OF PETITIONS

In re Application of	:	
J. Mueller, et al.	:	
Application No. 10/511,419	:	ON PETITION
Filed: September 26, 2005	:	
Attorney Docket No. 07420.06543	:	

This is a decision on the petition filed October 16, 2008, requesting correction to the joint inventors names.

The petition is **dismissed**.

Although the petition was accompanied by an Application Data Sheet which set forth the change to the inventor's name, the ADS was not signed in accordance with 37 CFR 1.33(b). The renewed petition fee must be accompanied by a properly executed ADS. No additional petition fee is required.

If the renewed request is not submitted until after payment of the issue fee, the correction to the inventors names must be achieved by certificate of correction after issuance of the patent.

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

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

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

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3222.

K. A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JOSEPH S. HEINO, ESQ.
DAVIS & KUELTHAU, S.C.
111 E. KILBOURN
SUITE 1400
MILWAUKEE WI 53202-6613

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DEC 19 2008

In re Application of	:	
J. Mueller, et al.	:	
Application No. 10/511,419	:	ON PETITION
Filed: September 26, 2005	:	
Attorney Docket No. 07420.06543		

This is a decision on the renewed petition under 37 CFR 1.182 filed November 21, 2008, to correct the name of a joint inventors and the city of their residence cited on this application in USPTO records.

The petition is granted.

A corrected filing receipt is enclosed.

The application file is being directed to the Office of Patent Publication for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: 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
10/511,419	09/26/2005	3752	274	07420.06543	21	2

CONFIRMATION NO. 4438

CORRECTED FILING RECEIPT

24382
JOSEPH S. HEINO, ESQ.
DAVIS & KUELTHAU, S.C.
111 E. KILBOURN
SUITE 1400
MILWAUKEE, WI 53202-6613

"OC000000033672639"

Date Mailed: 12/17/2008

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)

John R. Mueller, Merton, WI;
Patricia M. Mueller, Merton, WI;

Power of Attorney: The patent practitioners associated with Customer Number 24382

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US03/11584 04/16/2003
which claims benefit of 60/373,075 04/16/2002

Foreign Applications

If Required, Foreign Filing License Granted: 12/17/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/511,419**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

CLEANING SPRAY NOZZLE

Preliminary Class

239

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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DAVIS & KUELTHAU, S.C.
111 E. KILBOURN
SUITE 1400
MILWAUKEE WI 53202-6613

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OFFICE OF PETITIONS

In re Application of

J. Mueller, et al.

Application No. 10/511,419

Filed: September 26, 2005

Attorney Docket No. 07420.06543

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), December 29, 2008, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $755.00 and publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed September 26, 2008. The Notice set forth a three (3) month statutory period for reply. The issue fee was not received within the allowable period. Accordingly, this application became abandoned on December 27, 2008.

The issue fee was received on December 29, 2008.

Form PTOL-85B, filed December 29, 2008, is noted and made of record.

The application is being directed to the Office of Data Management for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

26 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 A. Nebb
Dergosits & Noah, LLP
Four Embarcadero Center, Suite 1450
San Francisco, CA 94111

In re Application of	:	DECISION ON
Joseph Paternoster	:	
Application No.: 10/511,421	:	
PCT No.: PCT/US02/34628	:	PETITION UNDER
Int. Filing Date: 28 October 2002	:	
Priority Date: 26 October 2001	:	
Attorney's Docket No.: 298.41	:	
For: USE OF THERMOREGULATORY MATERIAL	:	37 CFR 1.137(b)
TO IMPROVE EXERCISE PERFORMANCE	:	

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 14 October 2004.

BACKGROUND

On 28 October 2002, this international application was filed, claiming an earliest priority date of 28 October 2001.

The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 28 April 2004.

On 14 October 2004, applicants filed the instant petition under 37 CFR 1.137(b) and Transmittal letter for entry into the national stage in the United States, which was accompanied by, basic national fee, and an executed declaration.

DISCUSSION

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

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

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

DECISION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **14 October 2004.**

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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OFFICE OF PETITIONS

In re Application of	:	
TORRANCE, Edward	:	
Application No. 10/511,429	:	DECISION ON PETITION
Filed: October 15, 2004	:	TO WITHDRAW
Attorney Docket No. **501-22**	:	FROM RECORD

CORRECTED COPY

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 04, 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 Robert Molan on behalf of all attorneys of record who are associated.
All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Edward Torrance at the address indicated below. 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 Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **EDWARD TORRANCE**
230 CITADEL WAY NW
CALGARY, ALBERTA CANADA TG3 4W8

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT E. KREBS
THELEN, REID & PRIEST
P O BOX 640640
SAN JOSE, CA 95164-0640

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OCT 3 1 2006

OFFICE OF PETITIONS

In re Application of
Patrick Payne
Application No. 10/511,456
Filed: October 15, 2004
Attorney Docket No. 031280-000009

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 21, 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 April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: TIM R. WYCKOFF
LEE & HAYES, PLLC
1011 WESTERN AVENUE
SUITE 906
SEATTLE, WA 98104

#9

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ALEXANDRIA, VA 22313-1450
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09 JAN 2006

STITES & HARBISON, PLLC
424 Church Street, Suite 1800
Nashville, TN 37219

In re Application of	:	DECISION ON
BARTLETT et al	:	
PCT No.: PCT/GB03/01641	:	
Application No: 10/511,461	:	PETITION UNDER
Int. Filing Date: 16 April 2003	:	
Priority Date: 16 April 2002	:	
Attorney's Docket No.: 13058N/041750	:	37 CFR 1.47(a)
For: Arrangement for Cooling a Roll	:	

This is in response to the "PETITION UNDER 37 CFR 1.47(a)" filed on 28 November 2005. The petition fee of 130.00 has been paid.

BACKGROUND

On 16 April 2003, applicants filed international application PCT/GB03/01641, which claimed priority to an earlier application filed 16 April 2002. A copy of the international application was communicated by the International Bureau to the United States Patent and Trademark Office on 30 October 2003.

On 24 March 2003, applicants filed a Transmittal Letter for entry into the national stage in the United States of America. Filed with the Transmittal Letter was, inter alia, the requisite basic national fee. No executed oath or declaration from the inventors accompanied the Transmittal Letter.

On 22 April 2004, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a), and (b), identifying the application by International application number and international filing date." The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it: is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68. The Notice stated that the declaration must be submitted within two 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.

On 26 July 2005, petitioner filed an executed declaration without the signature of Mr. Corcoran.

On 23 August 2005, the USPTO mailed a "NOTIFICATION OF DEFECTIVE RESPONSE" (PCT/DO/EO/916) indicating, *inter alia*, that the second inventor Steven Phillip Corcoran did not sign the Declaration sent on 26 July 2005.

On 28 November 2005, petitioner filed the present petition under 37 CFR 1.47(a) accompanied, *inter alia*, with a declaration in support of filing on behalf of omitted inventor Stephen Phillip Corcoran.

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), and (3) of 37 CFR 1.47(a). However, requirements (2) and (4) of 37 CFR 1.47(a) has not been satisfied.

Regarding requirement (1), petitioner has provided the fee under 37 CFR 1.17(h).

Regarding requirement (2), Mr Myers stated that he telephoned Mr. Corcoran to request that he sign the declaration that was previously forwarded to him and Mr. Corcoran left a voicemail to Mr Myers that Mr. Corcoran would "not present my signature on the documents." Mr. Myers later states that on November 17, 2005 he received an e-mail from Mr. Corcoran and that following the receipt of it, Mr. Myers forwarded Mr. Corcoran another copy of the application filed in the US but Mr. Corcoran continued to refuse to sign the Declaration. However, a review of Mr. Corcoran's e-mail sent on 17 November 2005 at 2:38 pm states that it was that day he actually received the full documentation and that he has not said that he would continually refuse to sign. Also, Mr. Corcoran stated that he has not had the time to sort anything out and thus how can he decide to sign. So based on Mr. Corcoran's e-mail it can not yet be determined that he refuses to sign since it appears that he received the full documentation on November 17, 2005 and he needs time to sort out things. Moreover, the petition was filed on 28 November 2005 just less than two weeks from receiving Mr. Corcoran's e-mail. Accordingly, Mr Corcoran was not given enough time to decide to sign the required papers.

Accordingly, the current record does not support the premise that Mr. Corcoran's conduct constitutes refusal since he was not given enough time to review the documentation and to reply. Petitioner should have given Mr. Corcoran more time to response before filing the petition.

Regarding requirement (3), petitioner has provided a statement of the last known address of the missing inventor.

Regarding requirement (4), petitioner has provided a defective declaration because petitioner has not provided the necessary information about Mr. Corcoran such as his citizenship and residence on the declaration.

Consequently, at this time it can not be concluded that Mr. Corcoran has refused to sign the documents based on the evidence provided and the date the petition was filed.

DECISION

Consequently, the petition has not met the requirements under 37 CFR 1.47(a).

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

If reconsideration of the merits of the petition under 37 CFR 1.47(a) is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." Extensions of time are available under 37 CFR 1.136(a). Failure to timely file the proper response will result in ABANDONMENT.

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

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

12 APR 2006

#11

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STITES & HARBISON, PLLC
424 Church Street, Suite 1800
Nashville, TN 37219

In re Application of	:	DECISION ON
BARTLETT et al	:	
PCT No.: PCT/GB03/01641	:	
Application No: 10/511,461	:	
Int. Filing Date: 16 April 2003	:	PETITION UNDER
Priority Date: 16 April 2002	:	
Attorney's Docket No.: 13058N/041750	:	
For: Arrangement for Cooling a Roll	:	37 CFR 1.47(a)

This is in response to the "RENEWED PETITION UNDER 37 C.F.R. §1.47(a)" filed on 14 March 2006.

BACKGROUND

In a decision from this Office on 09 January 2006, the initial petition under 37 CFR 1.47(a) was dismissed. The decision stated it could not be determined that Mr. Corcoran refused to sign because he needed time to sort out things and also petitioner provided a defective declaration because it did not have Mr. Corcoran's citizenship and residence on it.

On 14 March 2006, submitted a "Renewed Petition Under 37 CFR 1.47(a)" requesting reconsideration of the Office's decision of 09 January 2006 with respect to accepting the above application without the signature of nonsigning co-inventor Mr. Corcoran. Filed with the renewed petition is a new Declaration signed by Mr. Barlett, who is signing on behalf of himself and on behalf of the non-signing joint inventor, Mr. Corcoran, and lists his citizenship. Also, Mr. Myers submitted a declaration stating that Mr. Corcoran still refuses to sign the Declaration as evidenced by a phone conversation on March 8, 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 on behalf of the non-signing joint inventor.

The renewed petition of 14 March 2006 has satisfied requirements (2) and (4) under 37 CFR 1.47(a). Regarding requirement (2) petitioner has provided sufficient evidence that Mr. Corcoran refuses to sign the required papers, and with respect to requirement (4) petitioner has provided a proper executed declaration.

Consequently, the current record does sufficiently establish that Mr. Corcoran refusal to join in the application because petitioner has shown a *bona fide* attempt was made to deliver the complete application to him and he has refused to sign.

Petitioner has now satisfied items (1), (2), (3), and (4) under 37 CFR 1.47(a), thus completing the requirements under 37 CFR 1.47(a).

DECISION

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

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing to accept the application as a 37 CFR 1.47(a) application and to mail a filing receipt. The 35 USC 371 date of this application is **14 March 2006.**

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12 APR 2006

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Steven Phillip Corcoran
22 Great Close, Crowood
Yorkshire YO8 3UG
(Great Britian)

In re Application of	:	DECISION ON
BARTLETT et al	:	
PCT No.: PCT/GB03/01641	:	
Application No: 10/511,461	:	
Int. Filing Date: 16 April 2003	:	PETITION UNDER
Priority Date: 16 April 2002	:	
Attorney's Docket No.: 13058N/041750	:	
For: Arrangement for Cooling a Roll	:	37 CFR 1.47(a)

Dear Mr. Corcoran:

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. 118. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.47(a) and (b).

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401 COMMERCE STREET
SUITE 800
NASHVILLE, TN 37219

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DEC 0 2 2009

OFFICE OF PETITIONS

In re Application of Bartlett et al. :
Application No. 10/511,461 : Decision on Petition
Filing Date: October 14, 2004 :
Attorney Docket No. 13058N/041750 :

This is a decision on the petition under 37 CFR 1.181 filed August 26, 2009, requesting the Office withdraw the holding of abandonment.

The petition is **granted**.

The Office mailed a non-final Office action on January 28, 2009. The Office action set a three-month shortened statutory period for reply. The file record contains a reply to the Office filed (received) on August 3, 2009. The reply was accompanied by payment of $555 for an extension of time. The reply includes a certificate of mailing dated July 28, 2009. The Office mailed a Notice of Abandonment on August 5, 2009. The Notice of Abandonment states the application is abandoned because a reply was never filed in response to the January 28, 2009 Office action.

Petitioner asserts a reply was timely filed in response to the January 28, 2009.

A reply was filed in response to the January 28, 2009. In view of the certificate of mailing and payment of $555, the reply was timely. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 2725 will be informed of the instant decision and the application, including the amendment filed August 3, 2009, 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
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OFFICE OF PETITIONS

FENNEMORE CRAIG
3003 NORTH CENTRAL AVENUE
SUITE 2600
PHOENIX, AZ 85012

In re Application of Landschaft	:	
Application No. 10/511,463	:	Decision on Petition
Filing Date: October 14, 2004	:	
Attorney Docket No. 15872.212	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 8, 2010, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. § 1.137(b)."

Facts

As of June 16, 2008, the following individuals were the representatives of record:

1. D. Peter Hochberg,
2. Sean Mellino,
3. Katherine R. Vieyra, and
4. James A. Rich.

The Office mailed a final Office action on June 16, 2008, setting 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 September 17, 2008.

The Office mailed a Notice of Abandonment on May 11, 2009. The notice stated, "On telephonic interview of 05/05/09 Applicant's Representative D. Peter Hochberg confirmed to the Examiner that the application has been abandoned."

The instant petition was filed March 8, 2010. The petition is accompanied by two declarations.

The declaration by Yigal Fatran, an officer of the assignee states,

> The [assignee] did not receive a copy of the Office action mailed on October 16, 2008 (the "Office Action") issued in connection with the above-captioned application. As a result, the Company was not aware of the due date for filing a response to the Office Action ending April 16, 2009, with a three month extension of time....
>
> The entire delay in filing the required reply form the due date for the required reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The declaration by the sole inventor states,

> I did not receive a copy of the Office action mailed on October 16, 2008 (the "Office Action") issued in connection with the above-captioned application. As a result, I was not aware of the due date for filing a response to the Office Action ending April 16, 2009, with a three month extension of time....
>
> The entire delay in filing the required reply form the due date for the required reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The instant petition includes a revocation of the prior power of attorney and power of attorney giving practitioners associated with Customer No. 27887 (Susan Rosenfield, Rodney Fuller, Matthew Seaton) power of attorney in this case.

Discussion

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent."

37 C.F.R. § 1.137(b)(3) requires a petition under 37 C.F.R. § 1.137(b) to be accompanied by a statement that the entire delay in filing a reply was unintentional. Although a statement will normally be sufficient, 37 C.F.R. § .137(b) states, "The Commissioner may require additional information where there is a question whether the delay was unintentional."

Prior counsel of record confirmed the abandonment of the application on May 5, 2008, and the petition was filed almost 18 months after the date of abandonment. Therefore, there is a question in this case whether or not the entire delay was unintentional.

Petitioner should note the issue in this case is not whether some of the delay was unintentional; rather, the issue is whether the entire delay *has been shown* to the satisfaction of the Director to be unintentional. In other words, a party filing a petition under 37 C.F.R. § 1.137(b) bears the burden of establishing the entire delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 C.F.R. § 1.137(b). *See In re Application of G*, 11 U.S.P.Q. 2d (BNA) 1378, 1380 (Comm'r Pat. 1989).

The declarations filed with the petition state the assignee and the inventor did not receive the Office action. However, the declarations do not assert the Office action was never received by the practitioners of record.

The declarations state the entire delay was unintentional, but the record indicates Attorney Hochberg was aware of the Office action and the abandoned status at least as early as May 5, 2008, the date he spoke with the examiner.

In view of the prior discussion, the petition fails to establish the entire delay in the filing of a reply to the June 16, 2008 Office action was unintentional. Therefore, the petition is dismissed.

Any request for reconsideration of the instant decision should include a statement from Attorney Peter Hochberg concerning the abandonment of the application. Hochberg's statement should discuss the reason(s) the application became abandoned while it was under his control and discuss any instructions he received from the inventor or the assignee concerning the June 16, 2008 Office action or the status of the application.

Any request for reconsideration of the instant decision should include copies of any correspondence relating to the June 16, 2008 Office action sent from or to Hochberg, the assignee, or the inventor.

If Hochberg intentionally allowed the application to become abandoned due to a failure to receive instructions from the inventor and/or the assignee, any request for reconsideration should discuss the applicability of the following language from *Lawman Armor v. Simon*, 2005 U.S. Dist. LEXIS 10843, 74 U.S.P.Q. 2d (BNA) 1633 (D.E. Mich. 2005) to the instant case:

> Plaintiff cites to cases such as *In re Maldague*, 10 U.S.P.Q. 2d 1477 [(Comm'r Pat. 1988)], and *In re Application of G*, 11 U.S.P.Q. 2d 1378 [(Comm'r Pat. 1988)], for the proposition that the failure of a patent application, acting through his or her representative, to file a required response to a patent office action is a deliberate decision to allow an application to become abandoned, and is not subject to revival under 37 C.F.R. § 1.137(b). Although defendant emphasizes his attorney's inability to contact him, despite multiple mailings, the court notes defendant made a choice to assign a representative to represent him before the USPTO. As plaintiff points out, the USPTO mails correspondence only to the correspondence address or the attorney/agent of record. 37 C.F.R. §§ 1.33(a),(c). That representative confirmed to the USPTO that no steps had been taken to respond to a final office action. The court agrees these were deliberate acts, and cannot be considered unintentional.[1]

Statements are required from any and all persons having firsthand knowledge of the circumstances surrounding the lack of a reply to the June 16, 2008 Office action. Therefore, if any party other than the assignee, inventor, and Hochberg has firsthand knowledge of

[1] Id. at *16. The accompanying footnote states, "Plaintiff cites to *Link v. Wabash Railroad Company*, 370 U.S. 626 ... (1962) (*citing Smith v. Ayer*, 101 U.S. 320, 326 ...) and *Irwin v. Department of Veterans Affairs*, 498 U.S. 89, 93 ..., for the proposition that a party is bound by the acts of his or her agent/lawyer."

circumstances surrounding the abandonment of the application, any request for reconsideration should include a statement by the party.

Petitioner should note a petition under 37 C.F.R. § 1.137(b) must establish the *entire* delay in the filing of the petition to revive was unintentional. In other words, even if the initial failure to file a reply was unintentional, the petition cannot be granted if any portion of the delay in filing a petition to revive was intentional. Any request for reconsideration should *fully* discuss the date Hochberg first learned the application was abandoned, the date the assignee first learned the application was abandoned, the date the inventor first learned the application was abandoned, and the delay between the prior dates and May 8, 2010, the date the instant petition was filed.

The petition is accompanied by a payment of $555 for a three-month extension of time. Payment for an extension of time is unnecessary for relief under 37 C.F.R. § 1.137(b). Specifically, MPEP 711.03(c)(II)(A) states, "A petition for an extension of time under 37 CFR 1.136 and a fee for such an extension of time are not required to be included with the reply." In addition, the fee cannot be accepted because the extension of time fee was submitted after the expiration of the maximum extendable time period for reply. Therefore, the $555 fee has been credited back to Deposit Account No. 06-0590.

Unless filed by EFS Web, further correspondence with respect to this matter should be addressed as follows:

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

14 APR 2006

#6

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In re Application of	:	
MILNE, Stuart Angus et al.	:	
Application No.: 10/511,480	:	DECISION
PCT No.: PCT/GB03/01521	:	
Int. Filing Date: 10 April 2003	:	ON REQUEST UNDER
Priority Date: 17 April 2002	:	
Attorney Docket No.: 20747/210	:	37 CFR 1.497(d)
For: FP RECEPTOR ... OF THE UTERUS	:	

This decision is in response to "Request For Correction of Inventorship in Application Under 37 C.F.R. §1.497(d)," filed in the United States Patent and Trademark Office on 15 November 2005.

BACKGROUND

On 10 April 2003, applicant filed international application PCT/GB03/01521, which claimed a priority date of 17 April 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 30 October 2003. The deadline for entry into the national stage in the United States was midnight on 17 October 2004.

On 15 October 2004, applicant filed a submission for entry into the national stage in the United States, accompanied by, *inter alia*, the U.S. Basic National Fee.

On 18 April 2005, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497(a)-(b).

On 15 November 2005, applicant filed a request under 37 CFR 1.497(d) and a declaration of the inventors.

DISCUSSION

Applicants have filed this request to add inventor Hilary Octavia Dawn Critchley to this application.

A request under 37 CFR 1.497(d) requires: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in §1.17(i); and (3) the written consent of the assignee, if an original named inventor has executed an assignment.

Items (1), (2) and (3) have been satisfied. Applicants have provided a statement from the inventor being added that the omission of her name on the international application occurred without

deceptive intention on her part. Applicants have provided the processing fee and the written consent of the assignee.

CONCLUSION

For the above reasons, applicants' request under 37 CFR 1.497(d) is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including accordation of a 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) date of **15 November 2005**.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

07 MAR 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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Edwin V. Merkel
NIXON PEABODY LLP
Clinton Square, P.O. Box 31051
Rochester, NY 14603

In re Application of:	:	
JABBOUR, Henry, Nicolas, et al	:	DECISION ON PETITION TO
U.S. Application No.: 10/511,484	:	CORRECT INVENTORSHIP
PCT No.: PCT/GB2003/001536	:	
International Filing Date: 10 April 2003	:	
Priority Date: 17 April 2002	:	
Attorney's Docket No.: 20747/200	:	
For: FP RECEPTOR ANTAGONISTS OR	:	
PGF2 ALPHA ANTAGONISTS FOR	:	
TREATING MENORRHAGIA	:	

This decision is issued in response to the "Request For Correction Of Inventorship In Application Under 37 CFR 1.497(d)" filed 21 October 2005. Applicants have paid the required processing fee.

BACKGROUND

On 17 April 2002, applicants filed international application PCT/GB2003/001536 which claimed a priority date of 10 April 2003 and which designated the United States. On 30 October 2003, a copy of the international application was communicated to the United States Patent and Trademark Office ("USPTO") by the International Bureau ("IB"). The published international application identified two applicant/inventors for the United States: Henry Nicolas JABBOUR and Hillary Octavia Dawn CRITCHLEY.

The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 17 October 2004.

On 15 October 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 23 March 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that an executed oath or declaration in compliance with 37 CFR 1.497 was required.

On 21 October 2005, applicants filed a response to the Notification Of Missing Requirements (with required five-month extension fee) that included a declaration executed by the two inventors of record and a third inventor, Stuart Angus MILNE, as well as the request to add Mr. MILNE as an inventor of record, treated herein under 37 CFR 1.497(d).

DISCUSSION

Where, as here, the inventorship in the national stage declaration is not consistent with the inventorship in the international application, applicants must correct the inventorship pursuant to 37 CFR 1.497(d), which states the following:

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

With respect to item (1), applicants have submitted a statement form the inventor being added, Stuart Angus MILNE, in which the inventor states that the earlier error in inventorship did not result from deceptive intent on his part. Item (1) is therefore satisfied.

With respect to item (2), applicants have submitted the required $130 processing fee. Item (2) is therefore satisfied.

With respect to item (3), applicants have submitted a statement of consent to the change of inventorship executed on behalf of the assignee, Medical Research Council. This consent is accompanied by copies of the relevant assignment documents. Item (3) is therefore satisfied.

Item (4) does not apply to the present application.

Accordingly, applicants have satisfied all the requirements for correction of inventorship under 37 CFR 1.497(d).

CONCLUSION

Applicants' request for correction of inventorship under 37 CFR 1.497(d) is **GRANTED**.

Stuart Angus MILNE is added as an inventor herein.

Based on the addition of this inventor, the declarations submitted by applicants on 21 October 2005 are in compliance with 37 CFR 1.497.

This application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 21 October 2005.

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26 APR 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of LETTKEMAN et al	:	
U.S. Application No.: 10/511,498	:	
PCT Application No.: PCT/US03/09569	:	DECISION
Int. Filing Date: 27 March 2003	:	
Priority Date Claimed: 27 March 2002	:	
Attorney Docket No.: 2033.67345	:	
For: SPRAYABLE MACHINABLE MEDIA	:	

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 15 October 2004.

BACKGROUND

On 27 March 2003, applicant filed international application PCT/US03/09569, which claimed priority of an earlier United States application filed 27 March 2002. The thirty-month period for paying the basic national fee in the United States expired on 27 September 2004.

International application PCT/US03/09569 became abandoned as to the United States for failure to timely pay the basic national fee.

On 15 October 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 27 March 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 15 October 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

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OFFICE OF PETITIONS

In re Application of
Dennis Mark Lettkeman, et al.
Application No. 10/511,498
Filed: October 15, 2004
Attorney Docket No. 2033.67345

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 25, 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 December 5, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed September 5, 2006. Accordingly, the date of abandonment of this application is December 6, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1400 and the publication fee of $300, (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

10 JUN 2005

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Lawrence J. Crain
300 South Wacker Drive, Suite 2500
Chicago, IL 60606

In re Application of Lettkeman et al. Serial No.: 10/511,499 PCT No.: PCT/US03/09397 Int. Filing Date: 27 March 2003 Priority Date: 27 March 2002 Attorney's Docket No.: 2033.67347 For: HIGH MOLECULAR WEIGHT ADDITIVES FOR CALCINED GYPSUM AND CEMENTITIOUS COMPOSITIONS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This decision is responsive to the "PETITION FOR REVIVIAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(b)" filed 15 Octoberr 2004.

BACKGROUND

On 27 March 2003, applicants filed international application PCT/US03/09397, which claimed priority of an earlier United States provisional application filed 27 March 2002. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 27 September 2004.

On 15 October 2004, applicants filed the current petition along with a transmittal letter for entry into the national stage in the United States. The transmittal letter was accompanied by, *inter alia*, the petition to revive, a check for the petition to revive and a check for the basic national fee. These papers were assigned Application No. 10/511,499.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional delay must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied (1) by a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," (2) by a proper reply, (3) by the petition fee required by law (37 CFR 1.17(m)), and (4) if the international filing date of the application is before June 8, 1995, any petition to revive under 37 CFR 1.137(b) must be accompanied by a terminal disclaimer and small entity fee of $55

Applicants have provided the required statement, a proper reply and the petition fee. Therefore, the petition to revive is GRANTED.

CONCLUSION

The petition to revive the application abandoned under 35 U.S.C. 371(d) is **GRANTED** as to the National Stage in the United States of America.

This application is being forwarded to the national stage office for preparation of a "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) having a date of 15 October 2004 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

Debra Brittingham
Office of PCT Legal Administration
DSB/RC:dsb

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

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

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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
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32ND FLOOR
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Andrew Robert Harvey	: DECISION ON REQUEST FOR
Patent Number	: 7649626	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/511,502	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/04/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **634** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

12 JUL 2005

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KLARQUIST SPARKMAN, LLP
One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, OR 97204-2988

In re Application of	:	DECISION ON
Emmert-Buck et al	:	
Application No. : 10/511,511	:	
PCT No.: PCT/US03/12734	:	PETITION UNDER
Int. Filing Date: 25 April 2003	:	
Priority Date: 26 April 2002	:	
Attorney's Docket No.: 4239-64816-02	:	
For: DIRECT CELL TARGET ANALYSIS	:	37 CFR 1.10 (c)

This decision is in response to the "PETITION TO CORRECT DATE ON FILING RECEIPT AND NOTICE OF ACCEPTANCE OF APPLICATION," filed on 13 May 2005, which is being treated as a petition under 37 CFR 1.10 (c) requesting that the 371(c)(1), (c)(2), and (c)(4) date of 14 October 2004 be changed to 15 October 2004 for the above identified application. No fee is required for this petition.

BACKGROUND

This petition is to correct the 371(c)(1), (c)(2), and (c)(4) date of the above application that was purported to have met the national stage requirements on 15 October 2004 since this is the date it was deposited with the USPS.

On 13 May 2005, petitioner filed the present petition. The petition includes, *inter alia*, a copy of the Track & Confirm shipment printout showing that "Express Mail" label EV35 2377 144US was deposited in a USPS Office on October 15, 2004.

DISCUSSION

37 CFR 1.10(c) provides:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

A review of the application papers reveals that "Express Mail" Label No. EV352377144US was placed, *inter alia*, on the PTO transmittal letter (PTO-1382). Although no copy of the customer receipt of "Express Mail" Label No. EV352377144US was filed with the present petition, petitioner has submitted a copy of the USPS "Track & Confirm" sheet, which shows that the international application with the "Express Mail" label EV 352377144US was submitted on October 15, 2004 at a Portland, Oregon USPS office.

Accordingly, the requirements under 37 CFR 1.10(c) have been satisfied.

CONCLUSION

The date of receipt of the above application is 15 October 2004. Accordingly, this is the date that all of the requirements under 35 U.S.C. 371 have been satisfied.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 28 April 2004 is **VACATED** with the mailing of this decision.

CONCLUSION

For reasons above, the petition under 37 CFR 1.10(c) is **GRANTED.**

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371 including the preparation and mailing of a Notification of Acceptance (Form PCT/DO/EO/903) and filing receipt. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **15 October 2004.**

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
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11 SEP 2006

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DECHERT LLP
P.O. BOX 10004
PALO ALTO CA 94303

In re Application of:	:	
BROWN, Jason, Peter	:	DECISION ON PETITION
U.S. Application No.: 10/511,515	:	
PCT No.: PCT/GB03/01650	:	
International Filing Date: 16 April 2003	:	
Priority Date: 17 April 2002	:	
Atty Docket No.: 376956-003US (368532)	:	
For: METHODS FOR PRODCING IMMORTALISED ANTIBODIES-SECRETING CELLS	:	

This decision is issued in response to the "Petition Under 37 CFR 1.181(a) To Withdraw Holding Of Abandonment" filed 27 July 2006. No petition fee is required.

BACKGROUND

On 16 April 2003, applicant filed international application PCT/GB03/01650. The international application claimed a priority date of 17 April 2002, and it designated the United States. On 30 October 2003, the International Bureau (IB) communicated a copy of the international application to the United States Patent And Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 17 October 2004.

On 15 October 2004, applicant filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 17 October 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497, the surcharge for filing the oath or declaration later than thirty months after the priority date, and sequence listing materials.

On 11 July 2006, the DO/EO/US mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to respond to the Notification Of Missing Requirements.

On 27 July 2006, applicant filed the "Petition Under 37 CFR 1.181(a) To Withdraw Holding Of Abandonment" considered herein. The petition asserts that the abandonment should be withdrawn based on the 19 December 2005 filing of a timely response to the Notification Of Missing Requirements. Attached to the petition is a copy of the materials filed on 19 December

2005 (including the executed declaration), as well as a copy of a return postcard that itemizes these materials and bears a USPTO receipt stamp dated 19 December 2005.

DISCUSSION

Based on the statements in the present petition, the attached return postcard, and a review of the application file, it is confirmed that applicant filed a timely response to the Notification Of Missing Requirements on 19 December 2005. This response included an executed declaration, payment of the required surcharge, and sequence listing materials.

The Notification of Abandonment mailed 11 July 2006, based as it was on applicant's purported failure to file a timely response to the Notification Of Missing Requirements, is appropriately vacated. A review of the declaration attached to the petition confirms that the declaration is in compliance with 37 CFR 1.497.

CONCLUSION

The petition to withdraw the holding of abandonment is **GRANTED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 11 July 2006 is hereby **VACATED**.

This application is being referred 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 19 December 2005.

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

09 MAY 2005

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Brown Raysman Millstein Felder & Steiner
900 Third Avenue
New York, NY 10022

In re Application of ADAMS, David S. Application No.: 10/511,530 PCT No.: PCT/US03/03425 Int. Filing Date: 03 February 2003 Priority Date: 04 February 2002 Docket No.: 6285-04US For: PEPTIDE-DEPENDENT UPREGULATION OF TELOMERASE EXPRESSION	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicant's "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 15 October 2004 is **GRANTED**.

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," satisfies 37 CFR 1.137(b)(3). The petition fee and basic national fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration has not yet been submitted.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision, including the mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

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OCT 0 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Beimel	:	
Application No. 10/511,555	:	DECISION ON PETITION
Filed: October 18, 2004	:	TO WITHDRAW
Attorney Docket No. 1033771-000006	:	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 7, 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 Martin A. Bruehs on behalf of all attorneys of record who are associated with customer No. 21839.

All attorneys/agents associated with the Customer Number 21839 have been withdrawn.

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

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: THOMAS D. BEIMEL
OPERATIONS MANAGER
KANKOTE CORPORATION
P.O. BOX 300
BROOKVILLE, PA 15825

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/511,555	09/30/2005	Thomas D Beimel	033771-006

CONFIRMATION NO. 2308

OC000000020630296

OC000000020630296

21839
BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Date Mailed: 09/28/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/07/2006.

- 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
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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Joseph S. Tripoli
Thomson Licensing, Inc.
Patent Department
P.O. Box 5312
Princeton, NJ 08543-5312

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MAR 2 5 2009

OFFICE OF PETITIONS

In re Application of	:	
Keith Robert Broerman et al.	:	
Application No. 10/511,560	:	DECISION ON PETITION
Filed: October 15, 2004	:	
Attorney Docket No. PU020131	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 24, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 18, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed September 18, 2008. Accordingly, the date of abandonment of this application is December 19, 2008. A Notice of Abandonment was mailed on January 14, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

Applicant should note that the issue fee payment applied on February 24, 2009 included an increase due to our fee changes that were effective as of October 2, 2008.

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

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

Carl Friedman
Petitions Examiner
Office of Petitions

14 MAR 2006

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LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, NJ 07090

In re Application of :
MUGNIER *et al* :
U.S. Application No.: 10/511,565 :
PCT No.: PCT/FR03/01197 :
Int. Filing Date: 15 April 2003 : **DECISION**
Priority Date: 17 April 2002 :
Attorney Docket No.: REGIM 3.3-040 :
For: METHOD FOR PRODUCTION OF A :
TUNABLE OPTICAL FILTER :

This decision is in response to applicants' "Petition Under 37 C.F.R. 1.47(a)" filed 23 September 2005.

BACKGROUND

On 23 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 English translation, processing fee, 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 respond with extensions of time available.

On 23 September 2005, applicants filed a response which was accompanied by, *inter alia*, the subject petition, a declaration signed by three of the four joint inventors; a declaration of David Pureur ("Decl."); a four-month extension and fee, the $130.00 processing fee, the $65.00 surcharge fee and authorization to charge the petition fee to Deposit Account No. 12-1095.

DISCUSSION

In their response to the Form PCT/DO/EO/905, applicants claim that co-inventor, Rachelle Leroux, cannot be located after a diligent effort. Hence, a petition under 37 CFR 1.47(a) was submitted as part of the response.

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 fee for a petition under 37 CFR 1.47 changed to $200.00 on 08 December 2004. The petition fee has been charged to Deposit Account No. 12-1095 as authorized.

With regards to item (3), the last known address of co-inventor Rachelle Leroux is listed as:

No. 15 Bel Air
PLEUMEUR-GAUTIER
France-22740

Concerning item (4), the 37 CFR 1.47(a) applicant submitted a declaration signed by three of the four co-inventors on behalf of themselves and the nonsigning joint inventor. This declaration meets the requirements of section 409.03(a) and is in compliance with 37 CFR 1.497(a) and (b).

Items (1), (3) and (4) of 37 CFR 1.47(a) are satisfied.

Regarding item (2), the 37 CFR 1.47(a) applicant included a declaration by David Pureur who stated that he has been unable to locate Ms. Leroux despite diligent efforts. Mr. Pureur wrote that "several attempts have been made to find the co-inventor Rachelle Leroux's current address and telephone number. In addition, we have tried to locate her at her last known address. We have also sent the declaration and other documents to her last known address, but these documents have been returned." Decl. at ¶ 4. No documentary evidence was provided.

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 documentary evidence to substantiate their claim. For example, postal receipts for the document delivery to the nonsigning inventor's last known address was not provided. Moreover, the statement of facts does not provide the detail required by the MPEP. Petitioners must explain the steps taken to locate the nonsigning inventor and provide documentary evidence of any internet or telephone searches. In addition, Mr. Pureur has not indicated that he has the firsthand knowledge of the facts as required by the MPEP.

For these reasons, item (2) of 37 CFR 1.47(a) is not satisfied.

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required.

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

16 JUN 2006

#10

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600 South Avenue West
Westfield, NJ 07090

In re Application of :
MUGNIER *et al* :
U.S. Application No.: 10/511,565 :
PCT No.: PCT/FR03/01197 :
Int. Filing Date: 15 April 2003 : **DECISION**
Priority Date: 17 April 2002 :
Attorney Docket No.: REGIM 3.3-040 :
For: METHOD FOR PRODUCTION OF A :
TUNABLE OPTICAL FILTER :

This is decision on the papers filed 05 May 2006 and 14 June 2006 which are treated as a renewed petition under 37 CFR 1.47(a).

BACKGROUND

On 14 March 2006, a decision dismissing applicants' 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 05 May 2006, applicants filed the subject response which was accompanied by an executed declaration signed by the nonsigning inventor. The two page declaration listed only two inventors in the subject application.

On 14 June 2006, applicants resubmitted a copy of the original declaration consisting of three pages and listing four inventors originally filed 23 September 2005 along with a copy of the two page declaration executed by the nonsigning inventor originally submitted 05 May 2006.

DISCUSSION

Applicants previously submitted a declaration signed by three of the four named inventors in compliance with 37 CFR 1.497(a) and (b).

In the response filed 05 May 2006, applicants provided a declaration signed by the nonsigning inventor, Rachelle Leroux. However, the declaration submitted was not in compliance with 37 CFR 1.497(a) and (b) as it fails to identify all four inventors. The declaration provided consists of only two pages. It appears that the third page of the declaration was not forwarded.

The two-page declaration was resubmitted on 14 June 2004. However, this declaration is also not in compliance with 37 CFR 1.497(a) and (b).

CONCLUSION

For the reason discussed above, 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

31 AUG 2006

#12

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LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK, LLP
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Westfield, NJ 07090

In re Application of :
MUGNIER *et al* :
U.S. Application No.: 10/511,565 :
PCT No.: PCT/FR03/01197 :
Int. Filing Date: 15 April 2003 : **DECISION**
Priority Date: 17 April 2002 :
Attorney Docket No.: REGIM 3.3-040 :
For: METHOD FOR PRODUCTION OF A :
TUNABLE OPTICAL FILTER :

This is decision on the papers filed 03 August 2006 which are treated as a renewed petition under 37 CFR 1.47(a).

BACKGROUND

On 16 June 2006, a decision dismissing applicant's renewed petition under 37 CFR 1.47(a) was mailed. The declaration executed by Rachelle Leroux did not identify all the named inventors and was not in compliance with 37 CFR 1.497(a) and (b). Applicants were given two-months to respond.

On 03 August 2006, applicants filed the subject response which was accompanied by an executed declaration signed by Rachelle Leroux.

DISCUSSION

The 37 CFR 1.47(a) applicants responded to the prior decision by providing a declaration executed by the nonsigning inventor, Rachelle Leroux. This declaration lists all four named inventors and 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 15 April 2003, under 35 U.S.C. 363, and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 03 August 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

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OFFICE OF PETITIONS

In re Application of :
Dettwiler :
Application No. 10/511,615 :
Filed: July 21, 2005 :
Attorney Docket No. 93134 :

ON PETITION

This is a decision on petition, filed July 21, 2008, requesting revival of the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

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

This application became abandoned on December 5, 2007 for failure to reply to the Notice of Non-Compliant Amendment (Notice), mailed December 4, 2007, which set an extendable one (1) month period for reply. A Notice of Abandonment was mailed on June 24, 2008.

Petitioner asserts that the December 4, 2007 Notice was not received. Therefore, the delay in responding to it was unavoidable.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by (1) the required reply, unless previously filed.; (2) the petition fee as set forth in § 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

This petition does not satisfy requirement (3).

With respect to (3), the showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

The Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to have been "unavoidable". 35 U.S.C. § 133. Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term 'unavoidable' "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

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

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

A review of the record indicates no irregularity in the mailing of the December 4, 2007 Notice, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicant at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received.

The showing in the instant petition is not sufficient to withdraw the holding of abandonment because (1) practitioner did not include a statement that a thorough and fruitless search of the file jacket was conducted and (2) practitioner did not include a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Regarding fees: Petitioner was charged a $770.00 petition fee, which is the small entity fee associated with filing a petition to revive under 37 CFR 1.137(b). As this petition was filed under

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

37 CFR 1.137(a), petitioner should have been charged $255.00, the small entity fee associated with filing a petition under 37 CFR 1.137(a). Deposit account no. 23-0920 will be credited the $515.00 balance due petitioner.

ALTERNATIVE VENUE

If petitioner is unable to provide documentary evidence that the December 4, 2007 Notice was not received, petitioner should strongly consider filing a petition under 37 CFR 1.137(b).

Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b).

A grantable petition pursuant to 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) ($770.00); (3) a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

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 revival under 37 CFR 1.137(b).

A revival petition fee must be submitted with a revival petition, as the fee is a statutory requirement.

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

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

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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www.uspto.gov

Husch Blackwell Sanders, LLP
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OCT 27 2008

In re Application of
Dettwiler
Application No. 10/511,615
Filed: July 21, 2005
Attorney Docket No. 93134

ON PETITION

This is a decision on petition under 37 CFR 1.137(a), filed October 3, 2008, requesting revival of the above-identified application.

This application became abandoned on December 5, 2007 for failure to reply to the Notice of Non-Compliant Amendment (Notice), mailed December 4, 2007, which set an extendable one (1) month period for reply. A Notice of Abandonment was mailed on June 24, 2008.

Petitioner has submitted an amendment to the drawings in reply to the December 5, 2007 Notice, an acceptable showing of the unavoidable nature of the delay in responding to the December 5, 2007 Notice, and the petition fee.

The petition under 37 CFR 1.137(a) is **granted.**

After the mailing of this decision, the application will be returned to Technology Center A.U. 3655 for consideration of the amendment, filed July 21, 2008 and re-submitted with the present petition on October 3, 2008.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

02 OCT 2006

#5

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Connolly Bove Lodge & Hutz, LLP
1007 North Orange Street, PO Box 2207
Wilmington, DE 19899

In re Application of CIRPUS et al. Application No.: 10/511,621 PCT No.: PCT/EP03/04297 Int. Filing Date: 25 April 2003 Priority Date: 29 April 2002 Atty. Docket No.: 53262-20092.00 For: METHOD FOR THE PRODUCTION OF POLYUNSATURATED FATTY ACIDS IN PLANTS OR	DECISION ON PETITION UNDER 37 CFR 1.181 & 37 CFR 1.137(b)

This decision is issued in response to applicant's "Request for Withdrawal of Holding of Abandonment or in the alternative, Petition to Revive" filed 19 May 2006, which is being treated as a Petition under 37 CFR 1.181 and 37 CFR 1.137(b).

BACKGROUND

On 25 April 2003, applicant filed international application no. PCT/EP03/04297 which claimed a priority date of 29 April 2002 . A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 13 November 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 29 October 2004.

On 19 October 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 copy of the international application; a declaration of inventorship; an assignment; and a preliminary amendment.

On 23 February 2005, the law firm of Morrison & Foerster filed a "Request for Withdrawal as Attorney or Agent."

On 31 May 2005, the United States Designated/Elected Office (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) indicating that a sequence listing in compliance with 37 CFR 1.821-1.825 had not been filed. The notification set a two-month time limit in which to respond.

On 03 June 2005, the law firm of Connolly Bove Lodge & Hutz submitted

"Transmittal of Power of Attorney" and a request to change the correspondence address.

On 08 May 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a complete response to the Notification to Comply with Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures (Form PCT/DO/EO/922) mailed 31 May 2005 within the time period set therein.

On 19 May 2006, applicant filed "Petition to Withdraw Holding of Abandonment and, in the alternative, Petition to Revive Unintentionally Abandoned Application" which included a submission in accordance with 37 CFR 1.821-1.825.

On 26 September 2006, the PALM Database indicated that a compliant computer readable form (CRF) had been submitted.

DISCUSSION

A. Request for Withdrawal of Attorney/Agent

Petitioner states in the present petition that "the lack of precessing of the change of Power of Attorney. . . has caused the application to now become abandoned." Section 402.06 of the Manual of Patent Examining Procedure (M.P.E.P.) states that the withdrawal of attorney is effective when approved rather than when received. Therefore, the USPTO mailed the Notification to Comply with Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures (Form PCT/DO/EO/922) to the appropriate correspondence address. Further, the USPTO mailed the "Notification to Comply with Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures (Form PCT/DO/EO/922) prior to the receiving the "Transmittal of Power of Attorney" filed by Connolly Bove Lodge & Hutz.

B. Petition to Withdraw Holding of Abandonment under 37 CFR 1.181

Petitioner states in their present petition that the Notification of Missing Requirements was not received by mail. With regards to applicants' request that the holding of abandonment be withdrawn, a proper showing in order to establish that papers were not received as set forth in the Official Gazette at 1156 OG 53 must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement 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).

Regarding item (1) above, a practitioner from the law firm of Morrison & Foerster has not attested that the Office action was not received.

Concerning item (2) above, applicants have not provided a first hand statement from

a practitioner from the law firm of Morrison & Foerster attesting that a search of the file jacket and docket records indicates that the papers were not received.

With regard to item (3) above, petitioner has not provided a copy of the Morrison & Foerster's docket record where the notification mailed 31 May 2005 would have been entered had it been received or referenced such copies in the statement by practitioner. Specifically, applicant must provide a copy of counsel's docket records for 31 July 2005 (ie, the date on which the response was due) showing all applications for which a response was due on that date.

Thus, applicants have not provided the proper showing necessary to withdraw the holding of abandonment and the petition may not be properly granted.

C. Petition to Revive Under 37 CFR 1.137(b)

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

With regard to Item (1), the proper response was the required sequence listing pursuant to 37 CFR 1.821-1.825.

As to Item (2), the appropriate petition fee of $1500.00 as required by 37 CFR 1.17) will be charged to Deposit Account No. 03-2775.

With regard to Item (3), applicant's statement that "the abandonment was unintentionally" does not comply with 37 CFR 1.137(b)(3). However, the statement will be accepted and construed 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." If this is an incorrect interpretation in view of the rules, Petitioner is required to provide a statement to that effect.

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

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

CONCLUSION

For the reasons above, the petition to withdraw the holding of abandonment under 37 CFR 1.181 is **DISMISSED** without prejudice.

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

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

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: 571-272-3298
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United States Patent and Trademark Office

#7

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23 NOV 2005

Sughrue Mion, PLLC
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Suite 800
Washington, DC 20037-3213

In re Application of
Nihei et al.
Application No.: 10/511,626
PCT No.: PCT/JP03/04924
Int. Filing Date: 17 April 2003
Priority Date: 17 April 2002
Attorney Docket No.: Q84237
For: Image Display Device

DECISION

This is with regard to the petition under 37 CFR 1.182 filed on 27 June 2005.

BACKGROUND

This international application was filed on 17 April 2003, designated the United States, and claimed an earliest priority date of 17 April 2002. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 18 October 2004 (since 17 October 2004 was a Sunday). Applicants filed *inter alia* the basic national fee on 18 October 2004.

On 01 March 2005, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(e).

On 02 May 2005, applicants filed a response, including a declaration and the $130.00 surcharge.

On 25 May 2005, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed to applicants, indicating that the declaration filed on 02 May 2005 was defective because "The first names of inventors 2,3, and 4 are entirely different than those which are printed on the IA..."

DISCUSSION

Inspection of the declaration of the inventors filed on 02 May 2005 reveals that it names three joint inventors, Hajime KITANO, Koji TAGAKI, and Gaku YAKUSHIJI, whose names do not appear in the published international application, and inspection of the published international application reveals that it lists three joint inventors, Sou KITANO, Mitsuharu TAGAKI, and Manabu YAKUSHIJI, whose names do not appear in the declaration filed on 02 May 2005. It is noted that the first name of inventor TAKAGI has been changed from "Mitsuharu" to "Koji" on the declaration document. In that these discrepancies are 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.

Applicants filed such a petition (and the associated $400.00 petition fee) on 27 June 2005. Petitioner states that each of the discrepancies in the names of the inventors arose "as an incorrect translation" from Japanese to English, and that the individuals named in the declaration are the same individuals as those nominated in the published international application. On the basis of all of the evidence now of record, it would be appropriate to accept the declaration as filed on 02 May 2005.

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 **02 May 2005**.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
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MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA VA 22182-3817

In re Application of	:	
Takanori SHIMIZU, et al.	:	
Application No. 10/511,630	:	
Filed: October 19, 2004	:	
Attorney Docket Number: NE297-	:	DECISION ON PETITION
PCT(US)	:	UNDER 37 C.F.R. §1.181
Title: OPTOELECTRONIC HYBRID	:	
INTEGRATED MODULE AND	:	
LIGHT INPUT/OUTPUT	:	
APPARATUS HAVING THE SAME	:	
AS COMPONENT	:	

This is a decision on the petition filed March 16, 2006, to enter the Amendment Under 37 C.F.R. §1.111 filed on November 30, 2005. Granting this petition would necessitate reversing the examiner's holding in the "Notice of Non-Responsive Amendment" mailed on February 28, 2006 that such amendment was not fully responsive to the prior Office action mailed August 31, 2005.

Petitioner states that the examiner relies upon MPEP §§818.01 and 818.02(a) for support and concludes that since the examiner never issued a restriction requirement, no designation of an elected invention was ever made. However, in conjunction with MPEP §§818.01 and 818.02(a), the examiner's "Notice of Non-Responsive Amendment" mailed on February 28, 2006 also relied upon MPEP §§821.03 entitled "Claims for a Different Invention Added After an Office Action" for the action taken in the "Notice of Non-Responsive Amendment" mailed on February 28, 2006.

MPEP §§821.03 is reproduced in full as follows:

821.03 [R-3] Claims for Different Invention Added After an Office Action

Claims added by amendment following action by the examiner, MPEP § 818.01, §818.02(a), to an invention other than previously claimed, should be treated as indicated by 37 CFR 1.145.

37 CFR 1.145. Subsequent presentation of claims for different invention.

If, after an office action on an application, the applicant presents claims directed to an invention distinct from and independent of the invention previously claimed, the applicant will be required to restrict the claims to the invention previously claimed if the amendment is entered, subject to reconsideration and review as provided in § § 1.143 and 1.144

The action should include form paragraph 8.04.

¶ *8.04 Election by Original Presentation*

Newly submitted claim **[1]** directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: **[2]**

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim **[3]** withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP §821.03.

>A< complete action on all claims to the elected invention should be given.

An amendment canceling all claims drawn to the elected invention and presenting only claims drawn to the nonelected invention should not be entered. Such an amendment is nonresponsive. Applicant should be notified by using form paragraph 8.26.

¶ *8.26 Canceled Elected Claims, Non-Responsive*

The amendment filed on **[1]** canceling all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because **[2]**.

Since the above-mentioned amendment appears to be *a bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

>The practice set forth in this section is not applicable where a provisional election of a single species was made in accordance with MPEP § 803.02 and applicant amends the claims such that the elected species is cancelled, or where applicant presents claims that could not have been restricted from the claims drawn to other elected invention had they been presented earlier.<

The examiner's "Notice of Non-Responsive Amendment" mailed on February 28, 2006 did not explicitly make reference to MPEP §§821.03 and furthermore did not use the language set forth therein which makes clear that when

> "… applicant has received an action on the merits for [the] an originally **presented** (emphasis added) invention, this invention has been constructively elected by original presentation for prosecution on the merits." (Form paragraph 8.04)

The preceding sets forth clearly that the absence of a designation of an elected invention as a result of a restriction requirement does not prevent a constructive election by original presentation for prosecution on the merits.

Petitioner asserts that originally filed claims 1 and 3-12 were generic to the invention in all of Figures 1-8 and that there was no implied election of Figures 7 and 8 as alleged by the examiner.

To support the holding of non-responsiveness, the examiner argued the following points:

1) Original claims 1 and 12 did not limit the location of the mounting of the flip-chip to "a surface of" the transparent base material and thus may have intervening layers.

2) Original dependent claims 7-9 further limit claim 1 by stating that the transparent base material is overlaid with "light coupling means" and is thus limited to the structure shown in Figure 7 and 8.

3) Amended claims 1 and 12 recite a flip-chip mounting directly to the transparent base material surface, which is limited to the structure of Figures 1-6, which invention was non-elected by action on the merits.

Referring to point one, the examiner incorrectly implies that mounting the flip-chip to "a surface of" the transparent base material excludes intervening layers; such exclusion is not supported by originally filed claim 1. Thus petitioner is correct in asserting that original claim 1 is generic to the invention in all of Figures 1-8.

Referring to point two, the examiner is correct with regards to claims 7-9, but again incorrectly implies that claim 1 would be limited accordingly.

Referring to point three, the examiner again incorrectly states that amended claims 1 and 12 are now limited to the structure of Figures 1-6; such exclusion is not supported by the claim since (for example) amended claim 1 does not either implicitly nor explicitly state that the surface in question is the entire surface of the transparent material or of the optical device, so as to exclude any other possible intervening layer.

Conclusion

For the reasons discussed above, the petition under 37 C.F.R. §1.181 must be **GRANTED**.

The examiner is hereby directed to enter the Amendment Under 37 C.F.R. §1.111 filed on November 30, 2005 and to subsequently issue an Office action in response thereto.

Janice A. Falcone

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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ROBERT D.SHEDD
THOMSON LICENSING LLC
PO BOX 5312
PRINCETON NJ 08543-5312

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MAR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Jill Macdonald Boyce	:	
Application No. 10/511,638	:	DECISION ON PETITION
Filed: October 18, 2004	:	
Attorney Docket No. PU020126	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 18, 2009, to revive the above-identified application.

The petition is **GRANTED**.

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

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 31, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2112 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROBERT D. SHEDD
THOMSON LICENSING LLC
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PRINCETON NJ 08543-5312

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OFFICE OF PETITIONS

In re Application of
Shaily Verma et al
Application No. 10/511,641
Filed: October 18, 2004
Attorney Docket No. PU020133

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 4, 2009, to revive the above-identified application.

The petition is **DISMISSED.**

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

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed April 9, 2008, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). No amendment *prima facie* placing the application in condition for allowance or Notice of Appeal (and appeal fee) was timely filed. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 10, 2008.

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) 272-8300
ATTN: Office of Petitions

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/511,641	Applicant(s) VERMA ET AL.	
	Examiner CHRISTOPHER M. BRANDT	Art Unit 2617	

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

THE REPLY FILED 04 February 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-15*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Christopher M Brandt/
Examiner, Art Unit 2617

Continuation of 3 and 11. Applicant's amendment to independent claims 1, 8, and 13 require the examiner to further consider the claims and to perform another search in the related fields of the claimed invention. Furthermore, Kallio teaches communications between a selected GSM and the WLAN (paragraph 28). Applicants note that Kallio is concerned with A-Interfaces that exist inside a single GSM network for connecting the MSC to other cell BSSs within the same network. The examiner does not disagree with this analysis. However, Ludwig cures this deficiency because Ludwig discloses an inter-PLMN backbone network interconnecting support nodes and intra-PLMN backbone networks in different public land mobile networks (column 5 lines 57-60, column 6 lines 23-29). Therefore, regardless of the network WLAN, public land mobile networks, etc., Kallio in view of Ludwig disclose applicant's claimed invention as currently written. Kallio discloses the WLAN network and Ludwig discloses the interconnection between different networks.

Chris Brandt
Art Unit 2617
03/05/2009

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ROBERT D. SHEDD
THOMSON LICENSING LLC
2 INDEPENDENCE WAY
PRINCETON NJ 08543-5312

MAILED

MAR 31 2009

OFFICE OF PETITIONS

In re Application of Shaily Verma et al Application No. 10/511,641 Filed: October 18, 2004 Attorney Docket No. PU020133	: : : : :	DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 24, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and a previously filed amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed April 9, 2008, 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 2617 for appropriate action by the Examiner in the normal course of business on the reply received March 24, 2009 and February 4, 2009.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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MERCK
P O BOX 2000
RAHWAY, NJ 07065-0907

Mail Date: 04/21/2010

Applicant	: Conrad P. Dorn	: DECISION ON REQUEST FOR
Patent Number	: 7589127	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/511,661	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **954** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,706	10/15/2004	Norimasa Furukawa	259934US6PCT	2833

22850 7590 07/14/2008
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
DUNN, DANIELLE N

ART UNIT	PAPER NUMBER
2875	

NOTIFICATION DATE	DELIVERY MODE
07/14/2008	ELECTRONIC

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

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

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

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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Oblon, Spivak, McClelland, Maier & Neustadt, PC
1940 Duke Street
Alexandria, VA 22314

JUL 11 2008

In re Application: Norimasa FURUKAWA Application No. 10/511,706 Filing Date: October 15, 2004 Attny Docket No. 259934US6PCT	Decision on Petition

This is a decision on a petition under 37 CFR 1.181(A)(3) filed May 16, 2008, requesting consideration and acknowledgement on the record of the Information Disclosure Statement (IDS) filed on February 26, 2007.

Applicant has requested that the Information Disclosure Statement (IDS) filed on February 26, 2007 be considered. The IDS contained Japanese Patent Publication No 64-29708 and No. 11-203925 and were accompanied by an English translation of the Japanese Patent Office Action in compliance with 37 CFR 1.98 (a)(3).

The examiner refused to consider the IDS stating there was no certification explaining the relevancy of the Japanese Patent Publications. However a review of the file indicates a Non-patent literature document filed on February 26, 2007, which is an English translation of the Japanese Patent Office Action. This document does explain the relevancy of both of the Japanese Patent Publications.

In light of the facts above, the 37 C.F.R. 1.181 petition to consider and acknowledge the Information Disclosure Statement filed on February 26, 2007 is **Affirmed**.

A supplemental office action acknowledging the IDS will follow.

for Sharon A. Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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SMITH, GAMBRELL & RUSSELL
SUITE 3100, PROMENADE II
1230 PEACHTREE STREET, N.E.
ATLANTA GA 30309-3592

COPY MAILED

MAY 1 6 2008

OFFICE OF PETITIONS

In re Application of
JANSEN, Klaus
Application No. 10/511,709
Filed: June 20, 2005
Attorney Docket No. **048137.00400**

DECISION ON PETITION
TO WITHDRAW
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 October 24, 2007.

The request is **NOT APPROVED**.

A review of the file record indicates that Charles Warner does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

#5

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04 JAN 2006

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

In re Application of LIU et al	:	
U.S. Application No.: 10/511,718	:	
PCT Application No.: PCT/CA03/00566	:	
Int. Filing Date: 16 April 2003	:	COMMUNICATION
Priority Date Claimed: 16 April 2002	:	
Attorney Docket No.: 9896-000053/NP	:	
For: TUBERCULOSIS VACCINES INCLUDING	:	
RECOMBINANT BCG STRAINS. . .	:	

This is in response to the declaration filed 02 May 2005.

BACKGROUND

On 16 April 2003, applicant filed international application PCT/CA03/00566, which claimed priority of an earlier United States application filed 16 April 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 30 October 2003. The thirty-month period for paying the basic national fee in the United States expired on 18 October 2004 (16 October 2004 was a Saturday).

On 18 October 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 01 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.

DISCUSSION

The declaration filed 02 May 2005 is improper. MPEP 605.04(a), Section II, states in relevant part:

> The oath or declaration required by 35 U.S.C. 115 must be signed by all of the actual inventors, except under limited circumstances. 35 U.S.C. 116 provides that joint inventors can sign on behalf of an inventor who cannot be reached or refuses to join. See MPEP § 409.03(a). 35 U.S.C. 117 provides that the legal representative of a deceased or incapacitated inventor can sign on behalf of the inventor. If a legal representative executes an oath or declaration on behalf of a deceased inventor, the legal representative must state that the person is a legal representative and provide the citizenship, residence, and mailing address of the legal representative. See 37 CFR 1.64, MPEP § 409.01 and § 409.02. 35 U.S.C. 118 provides that a party with proprietary interest in the invention claimed in an application can sign on behalf of the inventor, if the inventor cannot be reached or refuses to join in the filing of the application. See MPEP § 409.03(b) and § 409.03(f). The oath or declaration may not be signed by an attorney on behalf of the inventor, even if the attorney has been given a power of attorney to do so. Opinion of Hon. Edward Bates, 10 Op. Atty. Gen. 137 (1861). See also Staeger v. Commissioner of Patents and Trademarks, 189 USPQ 272 (D.D.C. 1976) and In re Striker, 182 USPQ 507 (PTO Solicitor 1973) (In each case, an oath or declaration signed by the attorney on behalf of the inventor was defective because the attorney did not have a proprietary interest in the invention.).

In the present case, applicant has not made a sufficient showing that inventors Jeffrey Chen and David Alexander cannot be reached, refuse to join, or are deceased/incapacitated.

CONCLUSION

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Defective Response (Form PCT/DO/EO/916), which should indicate that the declaration filed 02 May 2005 is improper.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

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

Mail Date: 04/21/2010

Applicant	: Jun Liu	: DECISION ON REQUEST FOR
Patent Number	: 7611720	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/511,718	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/28/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **611** 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 **1647 (1600)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/511,722** Patent No.: **7,416,730**
Attn: Cherie Woodward

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)
South Tower - 9A22
Palm Location 7580

***ATTN: Ok to enter Seq. Listing as requested in COCIN?**

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____ **SPE** — 1647 **Art Unit**

26 OCT 2005

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Raymond J. Harmuth
Bayer CropScience LP
100 Bayer Road
Pittsburgh, PA 15205-9741

In re Application of
DUNKEL et al.
U.S. App. No. 10/511,742
PCT No.: PCT/EP03/03894
Int. Filing Date: 15 April 2003
Priority Date: 24 April 2002
Attorney Docket No.: CS8372/LeA35,931
For: METHYLTHIOPHENE CARBOXANILIDES

DECISION ON PETITION UNDER 37 CFR 1.182

This decision is in response to applicant's "Petition under 37 CFR 1.182" filed 24 October 2005 to amend the International Application number listed on the Transmittal Letter (Form PTO-1390) filed 18 October 2004. The requisite $400 petition fee will be charged to Deposit Account no. 50-2510, as authorized.

BACKGROUND

On 15 April 2003, applicant filed international application no. PCT/EP03/03894 which claimed a priority date of 24 April 2002, and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 06 November 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 24 October 2004.

On 18 October 2004, applicant filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials: an authorization to charge deposit account the basic national fee of $950; a preliminary amendment; and a copy of the international application for PCT/EP03/03894. However, the Transmittal Letter (Form PTO-1390) submitted by the applicant misidentified the international application number as PCT/EP02/03894. It is noted that Transmittal Letter otherwise properly identified the title, inventors, international filing date, and priority date for the intended PCT application (PCT/EP03/03894).

Based on the erroneous international application number listed on the Transmittal Letter, the present national stage application file was created for PCT/EP02/03894, rather than for PCT/EP03/03894.

On 24 October 2005, applicant filed "Petition under 37 CFR 1.182."

DISCUSSION

In the present petition, applicant confirms that the listing of PCT/EP02/03894 in the original Transmittal Letter was an error, and that it was applicant's intent for the Transmittal Letter to refer to PCT/EP03/03894 as listed on the international application attached to the original Transmittal Letter. Applicant has provided the required $400 petition fee to correct the error on the Transmittal Letter filed 18 October 2004. Accordingly, the petition under 37 CFR 1.182 is granted. This national stage file (10/511,742) is the national stage of PCT/EP03/03894.

CONCLUSION

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

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for continued processing including: (1) correcting USPTO records so as to identify the present application as a national stage of PCT/EP03/03894; (2) removing all documents pertaining to PCT/EP02/03894; and (3) issuing a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration along with the $130 surcharge for filing the oath or declaration after the thirty-month period is required.

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

26 APR 2005

#2

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PEARL COHEN ZEDEK LATZER, LLP
10 Rockefeller Plaza, Suite 1001
New York, NY 10020

In re Application of :
PIPKO, Gregory *et al* :
Application No.: 10/526,502 :
PCT No.: PCT/IL03/00717 :
Int. Filing Date: 01 September 2003 : **DECISION**
Priority Date: 04 September 2002 :
Attorney's Docket No.: P-7083-US :
For: FUNGICIDE COMPOSITION :
CONTAINING TEA TREE OIL :

This application is before the Office of PCT Legal Administration for matters arising under 35 U.S.C. 371.

BACKGROUND

On 19 October 2004, an express request to begin national examination procedures under 35 U.S.C. 371(f) was filed for PCT/IL03/00717. The request was accompanied by, *inter alia*, an executed declaration and the basic national fee.

On 04 March 2005, counsel filed a duplicate national stage application for PCT/IL03/00717 using attorney docket number P-7083-US. This application was given U.S. application number 10/526,502.

On 24 March 2005, counsel filed an "Express Abandonment Under 37 CFR 1.138" (Form PTO/SB/24) for U.S. application number 10/526,502 filed under attorney docket number P-7083-US.

DISCUSSION

Petition for Express Abandonment

Mr. Leve has no authority to expressly abandon the national stage application filed under attorney docket number P-7083-US. There was no declaration or power of attorney filed for this application.

Two Sets of Papers to Enter National Stage

As is evident from the above recited facts, two sets of papers to enter the national stage were submitted for international application PCT/IL03/00717. The end result for an international application designating the United States of America is a

single U.S. national stage application. Therefore, the submission of two sets of national stage papers to enter the United States was improper.

The submission filed 19 October 2004 contained an executed declaration in compliance with 37 CFR 1.497(a) and (b).

CONCLUSION

For the reason discussed above, applicants' request to expressly abandon the above-captioned application under 37 CFR 1.138 is **DISMISSED**.

Applicants are advised that the above-captioned national stage application **10/526,502** is no longer a valid U.S. National stage application. The papers filed 04 March 2005 will be merged into the prior national stage application for PCT/IL03/00717. The $450.00 in fees paid in U.S. application No. 10/526,502 have been credited back to Deposit Account No. 50-3355.

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.

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

cc: Daniel J. Swirsky
AlphaPatent Associates Ltd.
P.O.B. 2345
Beit Shemesh, ISRAEL 99544

FACSIMILE
MAIN OFFICE

Date: March 24, 2005
To: Terry Johnson-Vessels
Company: United States Patent and Trademark Office
P/PCT
From: Guy Levy
Docket No.: P-7083-US
US Serial No: National Phase of PCT/IL03/000717
Title: FUNGICIDE COMPOSITION CONTAINING TEA TREE OIL
Fax No.: 703-746-6630
# of Pages:

Message:

Dear Ms. Vessels:

Further to our teleconference of March 23, 2005, please find attached the Petition for Express Abandonment under 37 CFR 1.138 as discussed.

Yours sincerely,

Guy Levy

Pearl Cohen Zedek Latzer, LLP
10 Rockefeller Plaza, Suite 1001
New York, New York 10020
Tel: (212) 632-3480
Fax: (212) 632-3489

Adjustment Date: 04/26/2005 CSMOOT
03/11/2005 MKAYPAGH 00000162 503355 10526502
03 FC:2633 100.00 CR

Adjustment Date: 04/26/2005 CSMOOT
03/11/2005 MKAYPAGH 00000162 503355 10526502
02 FC:2642 200.00 CR

Adjustment Date: 04/26/2005 CSMOOT
03/11/2005 MKAYPAGH 00000162 503355 10526502
01 FC:2631 150.00 CR

PTO/SB/24 (06-04)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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EXPRESS ABANDONMENT UNDER 37 CFR 1.138

Fax directly to the Pre-Grant Publication Division at (703) 305-8568; or mail to: Mail Stop Express Abandonment Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Application Number	PCT/IL03/000717
Filing Date	3/4/05
First Named Inventor	PIPCO, GREGORY
Art Unit	
Examiner Name	
Attorney Docket Number	P-7083-US

Please check only one of boxes 1 or 2 below:
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I am the:
- [ ] applicant.
- [ ] assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)
- [X] attorney or agent of record. Registration Number 55,376
- [ ] attorney or agent acting under 37 CFR 1.34 (may act under 37 CFR 1.34 only if box 2 above, stating that the application is expressly abandoned in favor of a continuing application, is checked). Attorney or agent registration number if acting under 37 CFR 1.34. _____ (Attorney or agent registration number)

Guy Levi — Signature

3/24/05 — Date

GUY LEVI — Typed or printed name

212-632-3570 — Telephone Number

Note: Signature of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.
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This collection of information is required by 37 CFR 1.138. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process an application). Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Express Abandonment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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PATENT APPLICATION SERIAL NO. _____

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE
FEE RECORD SHEET

03 FC:2633 100.00 CR

02 FC:2642 200.00 CR

Adjustment date: 04/26/2005 CSMOOT
03/11/2005 MKAYPAGH 00000162 503355 10526502
01 FC:2631 150.00 CR

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01 FC:2631 150.00 DA
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TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A FILING UNDER 35 U.S.C. 371

ATTORNEY'S DOCKET NUMBER: P-7083-US

U.S. APPLICATION NO. (If known, see 37 CFR 1.5): 10/526502

INTERNATIONAL APPLICATION NO.	INTERNATIONAL FILING DATE	PRIORITY DATE CLAIMED
PCT/IL03/00717	September 1, 2003	September 4, 2002

TITLE OF INVENTION: **FUNGICIDE COMPOSITION CONTAINING TEA TREE OIL**

APPLICANT(S) FOR DO/EO/US: **PIPKO, Gregory NEIFELD et a.**

Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:

1. ☒ This is a **FIRST** submission of items concerning a filing under 35 U.S.C. 371.
2. ☐ This is a **SECOND** or **SUBSEQUENT** submission of items concerning a filing under 35 U.S.C. 371.
3. ☒ This is an express request to promptly begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (21) indicated below.
4. ☐ The US has been elected (PCT Article 31).
5. ☒ A copy of the International Application as filed (35 U.S.C. 371(c)(2))
   - a. ☒ is attached hereto (required only if not communicated by the International Bureau).
   - b. ☐ has been communicated by the International Bureau.
   - c. ☐ is not required, as the application was filed in the United States Receiving Office (RO/US).
6. ☐ An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)).
   - a. ☐ is attached hereto.
   - b. ☐ has been previously submitted under 35 U.S.C. 154(d)(4).
7. ☐ Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3)).
   - a. ☐ are attached hereto (required only if not communicated by the International Bureau).
   - b. ☐ have been communicated by the International Bureau.
   - c. ☐ have not been made; however, the time limit for making such amendments has NOT expired.
   - d. ☐ have not been made and will not be made.
8. ☐ An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)).
9. ☐ An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)).
10. ☐ An English language translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)).

Items 11 to 20 below concern document(s) or information included:

11. ☐ An Information Disclosure Statement under 37 CFR 1.97 and 1.98.
12. ☐ An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.
13. ☒ A Preliminary Amendment.
14. ☐ An Application Data Sheet under 37 CFR 1.76.
15. ☐ A substitute specification.
16. ☐ A power of attorney and/or change of address letter.
17. ☐ A computer-readable form of the sequence listing in accordance with PCT Rule 13*ter*.2 and 35 U.S.C. 1.821 - 1.825.
18. ☐ A second copy of the published international application under 35 U.S.C. 154(d)(4).
19. ☐ A second copy of the English language translation of the international application under 35 U.S.C. 154(d)(4).
20. ☒ Other items or information: 1) Postcard

This collection of information is required by 37 CFR 1.414 and 1.491-1.492. The information is required to obtain or retain a benefit by the public, which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 15 minutes to complete, including gathering information, preparing, and submitting the completed form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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U.S. APPLICATION NO. (if known, see 37 CFR 1.5) 10/526502	INTERNATIONAL APPLICATION NO. PCT/IL03/00717	ATTORNEY'S DOCKET NUMBER P-7083-US

The following fees are submitted:			
☒ 21. Basic National Fee	$300.00	$ 300.00	
☒ 22. Examination Fee			
If International Preliminary Examination Report was prepared by the USPTO and all claims satisfy provisions of PCT Article 33(1)-(4)	$100.00	$ 200.00	
All other situations	$200.00		
☒ 23. Search Fee			
Search fee (37 CFR 1.445(a)(2)) has been paid on the International Application to the USPTO as an International Search Authority	$100.00		
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CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE		
Total claims	- 20 =		x $50.00	$	
Independent claims	- 3 =		x $200.00	$	
MULTIPLE DEPENDENT CLAIM(S) (if applicable)			+ $360.00	$	

TOTAL OF ABOVE CALCULATIONS =	$ 900.00
☒ Applicant claims small entity status. See 37 CFR 1.27. The fees indicated above are reduced by ½.	$ 450.00
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a. ☐ A check in the amount of $ to cover the above fees is enclosed.

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Note: Where an appropriate time limit under 37 CFR 1.494 or 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the application to pending status.

SEND ALL CORRESPONDENCE TO: **Customer Number 49443**

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55,376
REGISTRATION NUMBER

04 March 2005
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Attorney Docket No.: P-7083-US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	PIPKO, Gregory	Examiner:	TBD
Serial No.:		Group Art Unit:	TBD
Filed:	Herewith		
Title:	A NON PHYTOTOXIC BIOCIDE COMPOSITION CONTAINING TEA TREE OIL		

PRELIMINARY AMENDMENT

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

Sir:

Prior to Examination, kindly amend the above-identified application as follows:

Amendments to the Specification begin on page 2 of this Amendment.

Amendments to the Claims are reflected in the listing of claims which begins on page 3 of this paper.

Remarks/Arguments begin on page 5 of this paper.

AMENDMENTS TO SPECIFICATION

In the Specification:

On page 1, line 3, please insert the following:

--CROSS-REFERENCE TO RELATED APPLICATIONS

This application is a National Phase Application of PCT International Application No. **PCT/IL2003/000717**, International Filing Date **1 September 2003**, claiming priority of Patent Application **IL151594**, filed **4 Sptember 2002**.--

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AMENDMENTS TO THE CLAIMS

Please add or amend the claims to read as follows, and cancel without prejudice or disclaimer to resubmission in a divisional or continuation application claim 10 indicated as cancelled:

1. (Original) A fungicidal emulsion comprising tea tree oil and a water emulsion wherein the emulsifier is a water solution of a reaction product of high molecular weight organic fatty acid and an alkali or ammonium compound.
2. (Amended) The emulsion according to claim 1, ~~additionally~~ wherein said emlsion further comprises ~~comprising~~ an etheric oil.
3. (Amended) The emulsion according to claim 2, wherein ~~additional~~ said etheric oil is ~~selected among~~ lavender oil, pine oil, manuka oil, kanuka oil, eucalyptus oil, bergamot oil, clove oil, lemon oil, lemon grass oil, rosemary oil, or geranium oil.
4. (Amended) The emulsion according to claim ~~any of claims~~ 1[-3], wherein the concentration of said tea tree oil is between 0.01% [up to] and 10%.
5. (Amended) The emulsion according to claim 4, wherein the concentration of said tea tree oil is between 0.01% [to] and 1.5%.
6. (Amended) The emulsion according to ~~claims 4 or~~ claim 5, ~~wherein the concentration of the tea tree oil is between 0.1 to 1.5%,~~ wherein the concentration of the product is 0.1% to 1% and further wherein the remainder [being] is water.
7. (Amended) The emulsion according to claim ~~any of claims~~ 1 [to 6] wherein said [the] alkali ~~and ammonium~~ compounds are ~~selected among~~ sodium or potassium and[/or] said ammonium compounds are ammonium hydroxides, carbonates, bicarbonates or [any] mixtures thereof.
8. (Amended) The emulsion according to claim ~~any of claims~~ 2 [to 7], wherein the concentration of said ~~the additional~~ etheric oil is between 0.01% to 5%.
9. (Amended) The emulsion according to claim ~~any of claims~~ 1 [to 8], wherein [the] said high molecular weight fatty acid is ~~selected among~~ a. tall oil acids, naftenic acid, rosin acids [and] or any mixture thereof; b. saturated fatty acid selected [among] from lauric

acid, myristic acid, palmitic acid, stearic acid, ~~arahinoic~~ arachidonic acid, ~~behenic~~ behemic acid, lingocerinic acid or any mixture thereof; and c. unsaturated fatty acid selected [among] from ~~decenoic~~ decaenoic acid, ~~dodeceneoic~~ dodecaenoic acid, ~~palmitinoleic~~ palmitoleic acid, oleic acid, ~~lonoleic~~ linoleic acid, undecelenic acid, sorbic acid recinoleic acid or [any] mixture thereof.

10. (Cancelled) The emulsion according to claim 1, substantially as herein described with reference to the examples.

REMARKS

Applicants request entry of the Preliminary Amendment.

Applicants have cancelled claim 10 without prejudice or disclaimer. The subject Application is a national phase application of PCT Patent Application No. PCT/IL2003/000717, filed 1 Sept. 2003. Claim 1 corresponds to originally filed claim 1 of the parent application.

Should the Examiner have any question or comment as to the form, content or entry of this Amendment, the Examiner is requested to contact the undersigned at the telephone number below.

If any fee is due, the undersigned hereby authorizes the United States Patent and Trademark Office to charge the fees to Deposit Account 50-3355.

Respectfully submitted,

Guy Levi
Attorney for Applicant(s)
Registration No. 55,376

Dated: March 4, 2005

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Published:
— *with international search report*

For two-letter codes and other abbreviations, refer to the "Guidance Notes on Codes and Abbreviations" appearing at the beginning of each regular issue of the PCT Gazette.

(54) Title: FUNGICIDE COMPOSITION CONTAINING TEA TREE OIL

(57) Abstract: A novel fungicidal emulsion is presented. This emulsion comprising tea tree essential oil and a water emulsion wherein the emulsifier is a water solution of a reaction product of a high molecular weight organic fatty acid and an alkali or ammonium compound.

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10/526502

WO 2004/021792 PCT/IL2003/000717

BT01 Rec'd PCT/PTC 04 MAR 2005

FUNGICIDE COMPOSITION CONTAINING TEA TREE OIL

FIELD OF THE INVENTION

The present invention generally relates fungicide composition containing teat tree oil (hereinafter TTO) and more specifically to an etheric oil emulsion obtained from the tea tree, especially adapted for the control of wide range of fungal plant pathogens.

BACKGROUND OF THE INVENTION

Increasing intensive agriculture favors the epidemic development of many new and previously unknown plant pests. This development has in turn necessarily led to the use of increasing dosage of chemicals, which negatively affects environmental health. On the other hand, registered pesticides are not always available to control pests effectively and reliably, Therefore, health and environmental considerations dictate the need for alternative method of pest control, which can be promoted as possible strategies for inclusions in an Integrated Pest Management program. This program is a combination of crop protection practice, designed to maintain pests below a designated economic threshold; these practice fall into the categories of chemical; cultural and host-plant resistance.

The control and treatment of plant diseases in green houses and field-grown horticultural corps is a serious problem in agriculture. So far powdering or spraying compositions of mineral source, e.g., sulfur, cuprous hydroxide, calcium polysulfate etc. or compositions based on detergents or oils have been mainly used. However, the use of said compositions is very unsatisfactory as they have many drawbacks.

It has been shown that tea tree oil inhibits certain fungi (See for example Australian Journal of Experimental Agriculture 39:1, 86 -81, 1999). The treatment was satisfactory as it killed the fungi to a large extent, and mainly fungi that attack human, while in plants it caused phytotoxicity to attacked plants.

It was thus desirable to develop a composition adapted to the treatment of a wide range of fungal plant pathogens, e.g., which would not use any of the above known compositions, e.g., mineral oils, detergents and/or fats. However, it may comprise tea tree oil as one of its components. It should be convenient to use and be stable.

SUMMARY OF THE INVENTION

It is thus the core of the invention to provide a cost effective fungicidal emulsion comprising tea tree oil and a water emulsion, wherein the emulsifier is a water solution of a reaction product of a high molecular weight organic fatty acid and an alkali or ammonium compound. Preferably, the emulsion additionally comprising etheric oil. This etheric acid may be selected among lavender oil, pine oil, manuka oil, kanuca oil, eucalyptus oil, bergamot oil, clove oil, lemon oil, lemon grass oil, rosemary oil, geranium oil.

It is in the scope of the present invention wherein the concentration of the tea tree oil is between 0.01% up to 10%, and preferably between 0.1% to 1.5%. It is also in the scope of the present invention wherein the concentration of the tea tree oil is between 0.1% to 1.5%, wherein the concentration of the product is 0.1% to 1% and further wherein the remainder being water.

It is also in the scope of the present invention wherein the alkali and ammonium compounds are selected among sodium, potassium and/or ammonium hydroxides, carbonates, bicarbonates or any mixture thereof. Preferably, the concentration of the additional etheric oils is between 0.01% to 5%.

It is still in the scope of the present invention wherein the acid is selected among; (a) tall oil acids, naftenic acids, rosin acids and any mixture thereof; (b) saturated fatty acid selected among lauric acid, myristic acid, palmitic acid, stearicacid, arahinoic acid, behenic acid, lingocerinicacd or any mixture thereof; and, (c) unsaturated fatty acids selected among decenoic acid, dodecenoic acid, palamitinoleic acid, oleic acid, lonoleic acid, undecelenic acid, sorbic acid, recinoleic acid or any mixture thereof.

DETAILED DESCRIPTION OF THE INVENTION

The following description is provided, alongside all chapters of the present invention, so as to enable any person skilled in the art to make use of said invention and sets forth the best modes contemplated by the inventor of carrying out this invention. Various modifications, however, will remain apparent to those skilled in the art, since the generic principles of the present invention have been defined specifically to provide fungicide compositions containing teat tree oil (hereinafter 'fungicide composition'), and more specifically to provide an effective emulsion containing etheric components obtained from the tea tree, especially adapted for the control of wide range of fungal plant pathogens.

This fungicide composition is a fungicidal emulsion comprising tea tree oil and a water emulsion; wherein the emulsifier is a water solution of a reaction product of a high molecular weight organic fatty acid and an alkali or ammonium compound.

The term 'tea tree' (i.e., TT) is referring hereinafter to *Melaleuca alternifolia* known in the common name "tea tree." More generally, the term is referring to any of the laurel tree family, unusual variety indigenous to the east coast of New South Wales, Australia.

The term 'tea tree oil' (i.e., TTO) is generally referring hereinafter to any water miscible and water immiscible ingredient of the TT. More specifically, the term TTO is referring to terpinen-4-ol type oils consisting chiefly of terpinenes, cymenes, pinenes, terpineols, cineole, sesquiterpenes, and sequiterpene alcohols. The term TTO is also referring to any naturally obtained or chemically synthesized of purified composition comprising terpinen-4-ol oils, 29-45%; γ-terpinene, 10-28%, α-terpinene, 2.7-13%; 1,8,-cineole, 4.5-16.5%, and various terpenes, 1-5% selected yet not limited to α-pinene, limonene, ρ-cymene and terpinolene.

The term 'emulsion' is referring hereinafter to any water in oil (W/O); oil in water (O/W); W/O/W and/or O/W/O phases comprising the TTO inside, outside or at the surface of aggregates, vesicles, micelles, reversed micelles, nano-emulsions, micro-emulsion, liposomes or in any combination thereof.

The term 'emulsifier' is referring hereinafter to any material or molecule provided as a polymer, oligomer or monomer and is nonionic, anionic or cationic detergent and/or surfactant. The emulsifier is preferably comprises of both lypophilic and hydrophilic portions, such as in saturated or non saturated long chain alkyl comprising at least one polar or charged atom.

The terms 'water' and/or 'water solution' are specifically referring hereinafter to water or water solutions, and more generally to any natural or purified, distilled, filtered, de-ionized waters, water suspensions, water-miscible solvents or diluents, water miscible aqueous phase or water-miscible emulsion or any combination thereof.

This fungicide composition consists in a fungicidal emulsion comprising TTO and a water emulsion in which the emulsifier is a water solution of a reaction product of a high molecular weight organic fatty acid and an alkali or ammonium compound.

It is one embodiment of the present invention wherein the aforementioned fungicide composition additionally comprising etheric oils, selected yet not limited to at least one of the group of lavender oil, pine oil, manuka oil, kanuca oil, eucalyptus oil, bergamont oil, clove oil, limonene oil etc.

It is another embodiment of the present invention wherein the aforementioned high molecular weight fatty acid, fatty acids or a mixture of said acids is saturated, unsaturated or comprising a combination of the two, one or all referred hereto in the short term 'high molecular weight fatty acid'.

It is another embodiment of the present invention wherein the aforementioned high molecular weight fatty acid comprising linear or branched alkyl chains of $C > 12$ atoms per molecule. It is in the scope of the present invention wherein those high weight fatty acids are selected in a non-limiting manner from at least one of the following groups:

a. tall oil acids, naftenic acids, rosin acid or any combination thereof;

b. saturated fatty acids selected from the group of lauric acid, myristic acid, palmitic acid, stearic acid, arahinoic acid, behenic acid, lingocerinic acid or any combination thereof;

c. unsaturated fatty acids selected from the group of decenoic acid, dodecenoic acid, palamitinoleic acid, oleic acid, lonoleic acid, undecelenic acid, sorbic acid, recinoleic acid or any combination of thereof.

According to yet another embodiment of the present invention, those acids are treated with alkali hydroxides, carbonates, bicarbonates or any combination thereof to obtain a salt. Additionally or alternatively, the hereto-defined acids are admixed with sodium, potassium or ammonium compounds, e.g., hydroxides, carbonates, bicarbonates or any combination thereof to obtain a salt.

According to yet another embodiment of the present invention, the emulsion comprises from 0.01% to 10%, preferably from 0.1% to 1.5% TTO and from 0.02% to 10%, preferably between 0.1% to 1% of the aforementioned salt, wherein the remainder being water as defined above.

According to yet another embodiment of the present invention, the emulsion additionally comprises of etheric oil. The concentration of said etheric oil is between 0.01% to 5%, preferably 1% to 5%.

According to yet another embodiment of the present invention, the emulsion is prepared by admixing a water solution comprising alkali hydroxide, carbonate or bicarbonate with a liquid solution of organic acid; subsequently admixing a TTO or a TTO-etheric acid mixture. Said admixing step is provided in the manner homogeneous composition is obtained.

Freshly prepared salts solution in water give good emulsification of TTO in a wide concentration range. However, it is possible to use industrially prepared alkali salts of organic acid in powder or in granulated form to dissolve the salt obtained in hot water and to use the received solutions for the emulsification of the TTO.

The TTO containing fungicide composition and especially the fungicide compositions obtained by means of the aforementioned method are characterized with fungicide activity and by significant plants, corps and soil diseases such as those described in table 2 in a non limiting manner:

Table 1 An extractive list of corps pathogens affectively treated by means of the TTO containing fungicide composition according to the present invention.

Pathogen	Disease	Corp
Oomycetes	Downy mildews and Late blight	Grape, cucurbits, tomato, potato
Phytopthora infestans	Late blight	Tomato, potato
Plasmopara viticula	Downy mildews	Grape
Pseudoperonospora cubensis	Downy mildews	Cucurbits
Ascomycetes	Powdery mildews	Grape, cucurbits, tomato, pepper
Uncinula necator		
Spaerotheca fuliginea	Powdery mildews	
Levillula taurica		
Basidiomycetes	Rust diseases	Roses
Tranzschelia discolor	Rust	Prunes, plums, peaches
Fungi imperfecti	Alternaria	Various corps
Alternaria solani	Early blight	Tomato, potato
Alternaria alternata	Leaf and fruit decays and spots	Various corps
Aspergillus niger	Decays and spots	Various corps
Cladosporium spp.	Leaf spots, decays	Various corps, e.g., tomato and apple
Penecillium spp.	Decays	Various corps, e.g., citrus
Penecillium italicum	Decays	
Penecillium digitatum	Decays	
Botrytis cinerea	Fruit rots and decays	Various corps, e.g., vegetables flowers, grapes.
Stemphillium spp.	Leaf spots	Various corps
Trichoderma		Various corps
Fusarium	Decays, rots	Various corps
Rhizoctmia spp.	Decays, rots	Various corps
Helmintho spp.	Decays, rots	Potato

The TTO containing fungicide composition according to the present invention is useful for treating the pathogens located in the flowers, fruits, leaves, roots, tubers, bulbs, etc.

In order to understand the invention and to see how it may be implemented in practice, a plurality of preferred embodiments will now be described, by way of non-limiting example only, with reference to the following examples, wherein all percentages are denoted for weight percents.

Example 1

300 g of naftenic acid are mixed with 160 g of 1 25% solution of NaOH in water for 60 minutes at 70°C. 316 g TTO is admixed to the reaction product obtained by a means of a contentious stirring until full homogenization is obtained. From the composition obtained, which contains 50% TTO, a stable TTO O/W emulsion is prepared by contentiously admixing of water, in the manner an emulsion comprising from 0.001% to 49.9% of oil.

Example 2

Into a 25% water solution of 300 g $KHCO_3$, some 400 g of melted stearic acid is admixed at 75°C for 30 min. Subsequently, a mixture of 500 g of TTO and 200 g of lavender oil is admixed to the alkali admixture until a full homogenization is obtained. From the composition obtained, a stable TTO O/W emulsion comprising from 0.001% to 49.9% of etheric oil is obtained.

Example 3

30 g of Na_2CO_3 were dissolved in 100 g of water at 50°C for 30 min. This solution was admixed with 120 g of tall oil acid, comprising 25% of rosin acid for additional 30 min. The obtained mixture was dissolved in 500 g of TTO until a homogenized solution is obtained. A plurality of stable TTO-containing emulsions was subsequently obtained.

Example 4

280 g of oleic acid was admixed with 85 g of a 20% ammonia solution at 60°C. 400 g of TTO was admixed until a homogenized solution was obtained.

Example 5

30 g of Na_2CO_3 were dissolved in 100 g of water at 50°C for 30 min. This solution was admixed with 120 g of tall oil acid, comprising 25% of rosin acid for additional 30 min. The obtained mixture was dissolved in 250 g of TTO and 250g of pine oil until a homogenized solution is obtained. A plurality of stable TTO-containing emulsions was subsequently obtained.

Example 6

The stable TTO-containing emulsions obtained in examples 1-5 were proved useful for treating the corps against pathogens selected from *Oomycetes; Phytopthora infestans; Plasmopara viticula; Pseudoperonospora cubensis; Ascomycetes; Uncinula necator; Spaerotheca fuliginea; Levillula taurica; Basidiomycetes; Tranzschelia discolor; Fungi imperfecti; Alternaria solani; Alternaria alternata; Aspergillus niger; Cladosporium spp.; Penecillium spp. ; Penecillium italicum; Penecillium digitatum; Botrytis cinerea; Stemphillium spp. ; Trichoderma; Fusarium; Rhizoctomia spp.*, and *Helmintho spp.*

The stable TTO-containing emulsions obtained in examples 1-5 were proved useful for *in vitro* inhibiting spore germination and/or mycelia growth of the fungi. More specifically, the fungicide composition was proved useful prophylactic and local activity in intact plants and detached leaves. Foliar applications of the TTO compositions to field-grown grapevines and melons inhibit downy and powdery mildews development, respectively. The inhibitory effectiveness of TTO compositions makes it well suited for integration into control programs targeted against various diseases in agricultural organic-grown corps and as a replacement of sulfur and/or cupper containing pesticides.

The experiments were performed by one of the following methods:

Spore germination test of downy mildews late blight, Alternata and rust pathogens

Sporangial suspensions were mixed with various concentrations of TTO, which ranges from 0 to about 1%, and 0.1 mL droplets were transferred to depression glass slides (4 slides per each concentration). Slides were incubated in moist Petri dishes at 20°C in darkness for about 8 hours. The percentage of sporangia releasing zoospores and of zoospores producing germ tubes were counted under the microscope.

Effect of germination of conidia of powdery mildews pathogens

TTO was dissolved and admixed with sterile distilled water to give a stock solution of a known concentration. TTO was admixed with pre-autoclaved 1% water agar to give final concentrations of 0%, 0.001%, 0.01%, 0.1% and 1%. Conidia were shaken onto glass slides previously coated with water agar containing TTO. Slides were placed in Petri dishes containing wet filter paper and kept in the dark at 20°C for about 16 hours. The number of germinated conidia was counted under a microscope.

***In vitro* activity of mycelia growth of fungi**

3 mm diameter agar disks bearing the tested fungus were taken from freshly growing colony on potato dextrose agar, 39 g of Difco in 1 liter of distilled water, and placed on freshly amended with various concentrations of TTO in 9 cm diameter Petri dishes. Plates were incubated at 25°C for about 6 days in the dark, and the colony diameter was recorded every two days. Three Petri dishes, each containing three inoculum disks, were used for each treatment concentration. Experimented were carried on in duplicates.

***In vivo* (*in planta*) experiments**

Plants were sprayed with TTO at various concentrations ranges from 0 to 2% on both surfaces, and 24 hours later were inoculated on the lower surface with sporangial suspension of *Plasmopara viticula* (grape downy mildew). The lower surface of each of six to eight attached leaves on each of six plants of each treatment was uniformly sprayed with 2 mL of a sporangial suspension of $4x10^4$ sporangia per mL, delivered from a glass chromatography sprayer. After inoculation, plants were covered with plastic gages, lightly sprayed on the inside with water, and were incubated at 19°C for about 20 hours in

darkness. The plants were then uncovered and kept in a growth chamber for disease development. 9 days after inoculation, disease developed on each leaf of treated plant was evaluated. In some cases, plants were lightly sprayed with water, covered with plastic bags and incubated at 19°C for 24 hours in darkness, to induce sporulation to determine sporangial production. Leaves are bleached and the percent leaf area covered with sporangiophores and sporangia of *P. viticula* sere visually estimated and recorded. The number of sporangia produced per square centimeter of leaf tissue was calculated as described above for leaf disks.

Powdery mildew inoculations

Conidia were shaken onto leaves previously treated with TTO or with water. Plants were incubated in growth-room and percentage of leaf area covered with powdery, mildew was assessed.

Experiments were also performed to evaluate the biological activity of the compositions according to the present invention against fungal pathogens. The experiments were performed with the emulsion of the following composition: oleic acid, 150g; sodium hydroxide, 20g; TTO, 270 g, and water, 100 mL.

Example 7

The controlling effect of the TTO-containing emulsion on powdery mildew by *Spaerotheca fuliginea* in field-grown melon plants was studied:

Table 2 The inhibition of infected leaf area as to a control as function of treatment by TTO-containing emulsions. Analysis was studied at the upper side of the leaf.

Treatment and Concentration (%)	% Inhibition of infected least area as to a control
Control	—
0.25	50.0
0.50	75.5
1.00	84.5

Example 8

The effect of TTO-containing emulsions on the *in vivo* germination of grape powdery mildew pathogens was studied:

Table 3 The inhibition of conidial germination as a function of TTO concentration:

Treatment and Concentration (%)	% Inhibition of conidial germination
Control	—
0.1	100
0.01	96
0.001	63

Example 9

The effect of TTO-containing emulsions on grape downy mildew was studied:

Table 4 The inhibition of infected leaf area as a function of TTO concentration:

Treatment and Concentration (%)	% Inhibition of infected leaf area
Control	—
1.0	100
0.5	100
0.25	99

Example 10

The effect of TTO-containing emulsions on mycelia growth of *Alternaria alternaria* was studied:

Table 5 The inhibition of *A. alternaria* as a function of TTO concentration:

Treatment and Concentration (%)	% Inhibition of infected leaf area
Control	—
0.5	100
0.25	68
0.10	30

It is acknowledged in this respect that TTO-containing compositions are useful fungicides. It controls *S. fuliginea* in field-grown melon plants, inhibits germination of the grape powder mildew fungus *U. necator* in which a concentration of 0.1% completely inhibits germination at concentrations between 0.01% to 0.001% it provided 96% and 63 inhibition, respectively. It was also proven effective in controlling foliar disease on leaves of potted plants, for example by spraying of 0.25% of TTO, a complete inhibition of grape downy mildew was obtained. Lastly, it was also prove effective in inhibiting mycelia growth of various fungi.

CLAIMS

1. A fungicidal emulsion comprising tea tree oil and a water emulsion wherein the emulsifier is a water solution of a reaction product of a high molecular weight organic fatty acid and an alkali or ammonium compound.

2. The emulsion according to claim 1, additionally comprising etheric oil.

3. The emulsion according to claim 2, wherein additional etheric oil is selected among lavender oil, pine oil, manuka oil, kanuca oil, eucalyptus oil, bergamot oil, clove oil, lemon oil, lemon grass oil, rosemary oil, geranium oil.

4. The emulsion according to any of claims 1 –3, wherein the concentration of the tea tree oil is between 0.01% up to 10%.

5. The emulsion according to claim 4, wherein the concentration of the tea tree oil is between 0.1% to 1.5%.

6. The emulsion according to claims 4 or 5, wherein the concentration of the tea tree oil is between 0.1% to 1.5%, wherein the concentration of the product is 0.1% to 1% and further wherein the remainder being water.

7. The emulsion according to any of claims 1 to 6, wherein the alkali and ammonium compounds are selected among sodium, potassium and/or ammonium hydroxides, carbonates, bicarbonates or any mixture thereof.

8. The emulsion according to any of claims 2 to 7, wherein the concentration of the additional etheric oils is between 0.01% to 5%.

9. The emulsion according to any of claims 1 to 8, wherein the acid is selected among;
   a. tall oil acids, naftenic acids, rosin acids and any mixture thereof;

b. saturated fatty acid selected among lauric acid, myristic acid, palmitic acid, stearicacid, arahinoic acid, behenic acid, lingocerinicacd or any mixture thereof, and,

c. unsaturated fatty acids selected among decenoic acid, dodecenoic acid, palamitinoleic acid, oleic acid, lonoleic acid, undecelenic acid, sorbic acid, recinoleic acid or any mixture thereof.

10. The emulsion according to claim 1, substantially as herein described with reference to the examples.

INTERNATIONAL SEARCH REPORT

Internati[illegible]lication No
PCT/IL 03/00717

A. CLASSIFICATION OF SUBJECT MATTER
IPC 7 A01N65/00

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)
IPC 7 A01N

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)
EPO-Internal, PAJ, CHEM ABS Data, WPI Data

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	US 5 449 517 A (FITZJARRELL EDWIN A) 12 September 1995 (1995-09-12) claim 1 column 2, line 2-5 column 2, line 44 - line 46 ---	1-10
A	WO 02 21926 A (BARRIER BIOTECH LTD ;MORRIS SANDRA (GB); RYAN ROBERT EUGENE (GB)) 21 March 2002 (2002-03-21) page 4, line 14-20 page 5, line 22 - line 32 page 15 --- -/--	1-10

[X] Further documents are listed in the continuation of box C.

[X] Patent family members are listed in annex.

* Special categories of cited documents:

"A" document defining the general state of the art which is not considered to be of particular relevance
"E" earlier document but published on or after the international filing date
"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)
"O" document referring to an oral disclosure, use, exhibition or other means
"P" document published prior to the international filing date but later than the priority date claimed

"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.
"&" document member of the same patent family

Date of the actual completion of the international search	Date of mailing of the international search report
1 December 2003	16/12/2003
Name and mailing address of the ISA	**Authorized officer**
European Patent Office, P.B. 5818 Patentlaan 2 NL – 2280 HV Rijswijk Tel. (+31-70) 340-2040, Tx. 31 651 epo nl, Fax: (+31-70) 340-3016	Decorte, D

Form PCT/ISA/210 (second sheet) (July 1992)

INTERNATIONAL SEARCH REPORT

Intern cation No
PCT/IL 03/00717

C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
A	PATENT ABSTRACTS OF JAPAN vol. 016, no. 213 (C-0942), 20 May 1992 (1992-05-20) & JP 04 041407 A (HIROYUKI KOIKE;OTHERS: 01), 12 February 1992 (1992-02-12) abstract ---	
A	PATENT ABSTRACTS OF JAPAN vol. 014, no. 390 (C-0751), 23 August 1990 (1990-08-23) & JP 02 145502 A (UBE IND LTD), 5 June 1990 (1990-06-05) abstract ---	
A	DATABASE CA 'Online! CHEMICAL ABSTRACTS SERVICE, COLUMBUS, OHIO, US; MARKHAM, JULIE L.: "Biological activity of tea tree oil" retrieved from STN Database accession no. 131:120639 XP002263358 abstract & MEDICINAL AND AROMATIC PLANTS—INDUSTRIAL PROFILES (1999), 9(TEA TREE), 169-190 , ---	

INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No
PCT/IL 03/00717

Patent document cited in search report		Publication date	Patent family member(s)		Publication date
US 5449517	A	12-09-1995	NONE		
WO 0221926	A	21-03-2002	AU	8608001 A	26-03-2002
			CA	2421935 A1	21-03-2002
			WO	0221926 A2	21-03-2002
			GB	2369052 A	22-05-2002
JP 04041407	A	12-02-1992	NONE		
JP 02145502	A	05-06-1990	NONE		

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 10/29/08

TO SPE OF : ART UNIT 1656

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/511756 Patent No.: 7413850B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

SPE

1656
Art Unit

#4

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10 FEB 2006

Dara L Dinner
GLAXOSMITHKLINE
Corporate Intellectual Property - UW2220
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King of Prussia, PA 19406-0939

In re Application of	:	
BOEHM, Jeffrey C. et al.	:	
Application No.: 10/511,770	:	NOTIFICATION
PCT No.: PCT/US03/12127	:	
Int. Filing Date: 18 April 2003	:	OF A
Priority Date: 19 April 2002	:	
Docket No.: P51339	:	DEFECTIVE RESPONSE
For: NOVEL COMPOUNDS	:	

This decision is in response to applicants' "Response to Notification of Missing Requirements," filed in the United States Patent and Trademark Office on 21 September 2005.

On 23 June 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) was required. It indicated that the declaration submitted by applicants did not identify the application to which it was directed and required the fee for late submission of the oath or declaration.

Applicants argue that they submitted a declaration in the international phase and it is therefore identified by the international application number and filing date. Applicants are not correct. The fee for late furnishing of the oath or declaration will be charged to deposit account no. 19-2570, as authorized.

The declaration submitted in the international phase under Rule 4.17 does not satisfy 37 CFR 1.497(a)-(b), as it was submitted under Rule 26*ter*, but did not identify the application to which it was directed. The text of the declaration reads "This application is directed to international application No. PCT/ (If furnishing the declaration pursuant to Rule 26*ter*)." Applicants submitted the declaration pursuant to Rule 26*ter*, but did not fill out the declaration for submission under Rule 26*ter*.

An oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) is required within a time limit of **ONE (1) MONTH** from the mail date of this Notification or within the time remaining in the response set forth in the Notification of Missing Requirements (Form PCT/DO/EO/905), whichever is longer. No extension of this time limit may be granted under 37 CFR 1.136(a), but the period for response set in the Notification of Missing Requirements may be extended up to a maximum of five months. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT. Any request for reconsideration of this decision should include a cover letter entitled "Response to Notification of Defective Response."

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
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#6

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13 SEP 2006

Dara L Dinner
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Post Office Box 1539
King of Prussia, PA 19406-0939

In re Application of	:	
BOEHM, Jeffrey C. et al.	:	
Application No.: 10/511,770	:	
PCT No.: PCT/US03/12127	:	DECISION
Int. Filing Date: 18 April 2003	:	
Priority Date: 19 April 2002	:	
Docket No.: P51339	:	
For: NOVEL COMPOUNDS	:	

This decision is in response to applicants' "Response to Notification of Defective Response," filed in the United States Patent and Trademark Office on 03 March 2006.

On 10 February 2006, the Office mailed Notification of Defective Response indicating that applicants had to provide a declaration in compliance with 37 CFR 1.497(a)-(b) within one month of the mail date.

The 03 March 2006 declaration of the inventors complies with 37 CFR 1.497(a)-(b).

This application is being forwarded to the National Stage Processing Branch of PCT Operations for further processing consistent with this decision. The application has 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 03 March 2006.

Erin P. Thomson

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Attorney Advisor
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21 DEC 2005

Osha & May, LLP
1221 McKinney Street
Suite 2800
Houston, Texas 77010

In re Application of
BOUILLOUX-LAFONT et al.
U.S. Application No.: 10/511,772
PCT No.: PCT/EP03/50120
Int. Filing Date: 22 April 2003
Priority Date: 23 April 2002
Attorney Docket No.: 11345/049001
For: CHAT FOR TELEVISION NETWORK

DECISION ON PETITION
UNDER 37 CFR 1.47(a)

This decision is in response to applicants' "Response to Notification of Missing Requirements under 35 U.S.C. 371" filed 07 November 2005, which is being treated as a Petition under 37 CFR 1.47(a) to accept the application without the signature of joint-inventors, Helene Bouilloux-Lafont, Issam Aglan, and Herve Lamaitre. The required petition fee of $200.00 has been submitted.

BACKGROUND

On 22 April 2003, applicants filed international application PCT/EP03/50120 which claimed a priority date of 23 April 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 23 October 2004.

On 19 October 2004, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a copy of the international application.

On 06 April 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration. The notification set a two-month time limit in which to respond.

On 07 November 2005, applicants filed a Petition under 37 CFR 1.47(a) and a five-month extension of time.

DISCUSSION

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

missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the nonsigning joint inventor. Items (1), (3) and (4) have been satisfied.

Regarding item (2) above, petitioner states that Helene Bouilloux-Lafont, Issam Aglan, and Herve Lamaitre have 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.

Regarding item 2 above, a review of the present petition and the accompanying papers reveal that applicant has not satisfied item (2) above, in that petitioner has not provided sufficient proof that the inventor refuses to execute the application. Petitioner has provided a chronological proof of pertinent facts outlining the efforts to reach Helene Bouilloux-Lafont, Issam Aglan, and Herve Lamaitre and copies of the letters sent to the nonsigning inventors. However, the statements made with regards to the efforts to reach nonsigning inventors constitute secondhand knowledge, at best, in that the majority of the actions to which petitioner is averring to were conducted by Isabelle Thibaudeau.

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 Helene Bouilloux-Lafont, Issam Aglan, and Herve Lamaitre, and when such

papers were sent.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Helene Bouilloux-Lafont, Issam Aglan, and Herve Lamaitre under 37 CFR 1.47(a) at this time.

CONCLUSION

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

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

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

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28 FEB 2006

#8

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Osha & May, LLP
1221 McKinney Street
Suite 2800
Houston, Texas 77010

In re Application of
BOUILLOUX-LAFONT et al.
U.S. Application No.: 10/511,772
PCT No.: PCT/EP03/50120
Int. Filing Date: 22 April 2003
Priority Date: 23 April 2002
Attorney Docket No.: 11345/049001
For: CHAT FOR TELEVISION NETWORK

DECISION ON PETITION
UNDER 37 CFR 1.47(a)

This decision is in response to applicants' "Renewed Petition under 37 CFR 1.47(a)" filed 03 February 2006 to accept the application without the signature of joint-inventors, Helene Bouilloux-Lafont, Issam Aglan, and Herve Lamaitre. The required petition fee of $200.00 has been submitted.

BACKGROUND

On 22 April 2003, applicants filed international application PCT/EP03/50120 which claimed a priority date of 23 April 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 23 October 2004.

On 19 October 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 an application data sheet.

On 06 April 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration. The notification set a two-month time limit in which to respond.

On 07 November 2005, applicants filed a Petition under 37 CFR 1.47(a) and a five-month extension of time. In a decision dated 21 December 2005, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 03 February 2006, applicants filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

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

As to item (2), petitioner states that Helene Bouilloux-Lafont, Issam Aglan, and Herve Lamaitre cannot be found or reached after diligent effort. Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

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

A review of the present petition reveals that petitioner has not provided an acceptable showing that a diligent effort was made to locate the nonsigning inventor, Helene Bouilloux-Lafont, Issam Aglan, and Herve Lamaitre. The declaration of Isabelle Thibaudeau states that she attempted to contact Helene Bouilloux-Lafont, Issam Aglan, and Herve Lamaitre by registered mail and all attempts were unsuccessful. However, multiple mailings to the nonsigning inventor's last known address does not constitute a "diligent" effort to locate the nonsigning inventor(s). Applicant must show that alternative means were employed, such as a search of telephone and/or Internet directories, in an attempt to locate Helene Bouilloux-Lafont, Issam Aglan, and Herve Lamaitre. As stated above, copies of documentary evidence such as internet searches, certified mail return receipt, cover letter of instructions, telegrams, etc., should be supplied by a person having firsthand knowledge of the facts. All documents should be translated into English.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Helene Bouilloux-Lafont, Issam Aglan, and Herve Lamaitre under 37 CFR 1.47(a) at this time.

CONCLUSION

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

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

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

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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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12 JUL 2006

Osha & May, LLP
1221 McKinney Street
Suite 2800
Houston, Texas 77010

In re Application of
BOUILLOUX-LAFONT et al.
U.S. Application No.: 10/511,772
PCT No.: PCT/EP03/50120
Int. Filing Date: 22 April 2003
Priority Date: 23 April 2002
Attorney Docket No.: 11345/049001
For: CHAT FOR TELEVISION NETWORK

DECISION ON PETITION
UNDER 37 CFR 1.47(a)

This decision is in response to applicants' "Renewed Petition under 37 CFR 1.47(a)" filed 27 April 2006 to accept the application without the signature of joint-inventors, Helene Bouilloux-Lafont, Issam Aglan, and Herve Lamaitre.

BACKGROUND

On 22 April 2003, applicants filed international application PCT/EP03/50120 which claimed a priority date of 23 April 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 23 October 2004.

On 19 October 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 an application data sheet.

On 06 April 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration. The notification set a two-month time limit in which to respond.

On 07 November 2005, applicants filed a Petition under 37 CFR 1.47(a) and a five-month extension of time. In a decision dated 21 December 2005, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 03 February 2006, applicants filed a renewed petition under 37 CFR 1.47(a). In a decision dated 28 February 2006, applicants' renewed petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 27 April 2006, applicants filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

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

As to item (2), petitioner states that Helene Bouilloux-Lafont, Issam Aglan, and Herve Lamaitre cannot be found or reached after diligent effort. Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

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

A review of the present petition reveals that petitioner has not provided an acceptable showing that a diligent effort was made to locate the nonsigning inventors, Helene Bouilloux-Lafont, Issam Aglan, and Herve Lamaitre. The declaration of Frederique Dersoir states that "in an attempt to locate the nonsigning inventors, I contacted NDS. . .to indicate whether any of the non-signing inventors were employed by NDS. . .I received a response from Frederique Durand that none of the nonsigning inventors worked for NDS." However, the statements made with regards to the efforts to reach the nonsigning inventors constitute secondhand knowledge, in that the actions to which the declarant is averring to were conducted by Frederique Durand. Further, the declaration of Frederique Dersoir fails to include evidence to determine the possible whereabouts of the missing inventors. In this case, a diligent effort may be a search of the Internet and/or telephone directories to determine if Helene Bouilloux-Lafont, Issam Aglan, and Herve Lamaitre have a forwarding correspondence address, electronic-mail address; and/or telephone number.

As stated above, copies of documentary evidence such as internet searches, certified mail return receipt, cover letter of instructions, telegrams, etc., should be supplied by a person having firsthand knowledge of the facts. All documents should be translated into English.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Helene Bouilloux-Lafont, Issam Aglan, and Herve Lamaitre under 37 CFR 1.47(a) at this time.

CONCLUSION

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

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

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

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07 NOV 2006

#12

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Osha & May, LLP
1221 McKinney Street
Suite 2800
Houston, Texas 77010

In re Application of
BOUILLOUX-LAFONT et al.
U.S. Application No.: 10/511,772
PCT No.: PCT/EP03/50120
Int. Filing Date: 22 April 2003
Priority Date: 23 April 2002
Attorney Docket No.: 11345/049001
For: CHAT FOR TELEVISION NETWORK

DECISION ON PETITION
UNDER 37 CFR 1.47(a)

This decision is in response to applicants' "Renewed Petition under 37 CFR 1.47(a)" filed 12 October 2006 to accept the application without the signature of joint-inventors, Helene Bouilloux-Lafont, Issam Aglan, and Herve Lamaitre.

BACKGROUND

On 22 April 2003, applicants filed international application PCT/EP03/50120 which claimed a priority date of 23 April 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 23 October 2004.

On 19 October 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 an application data sheet.

On 06 April 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration. The notification set a two-month time limit in which to respond.

On 07 November 2005, applicants filed a Petition under 37 CFR 1.47(a) and a five-month extension of time. In a decision dated 21 December 2005, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 03 February 2006, applicants filed a renewed petition under 37 CFR 1.47(a). In a decision dated 28 February 2006, applicants' renewed petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 27 April 2006, applicants filed a renewed petition under 37 CFR 1.47(a). In a decision dated 12 July 2006, applicants' renewed petition under 37 CFR 1.47(a) was

dismissed without prejudice.

On 12 October 2006, applicants filed a renewed petition under 37 CFR 1.47(a).

DISCUSSION

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

A review of the present petition and the accompanying papers reveal that applicants have satisfied item (2), in that the applicants have shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Helene Bouilloux-Lafont, Issam Aglan, and Herve Lamaitre . The steps are sufficient to show that Helene Bouilloux-Lafont, Issam Aglan, and Herve Lamaitre have refused to execute the application.

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

CONCLUSION

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

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

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

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

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

07 NOV 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Helene Bouilloux-Lafont
12 rue Jean Baptiste Potin
92170 VANVES
France

In re Application of
BOUILLOUX-LAFONT et al.
U.S. Application No.: 10/511,772
PCT No.: PCT/EP03/50120
Int. Filing Date: 22 April 2003
Priority Date: 23 April 2002
Attorney Docket No.: 11345/049001
For: CHAT FOR TELEVISION NETWORK

Dear Helene Bouilloux-Lafont:

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.

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Attorney-Advisor
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Counsel of Record:
Osha & May, LLP
1221 McKinney Street
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Houston, Texas 77010

07 NOV 2006

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Herve Lemaitre
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8 rue Gonin
06800 Cagnes Sur Mer
France

In re Application of
BOUILLOUX-LAFONT et al.
U.S. Application No.: 10/511,772
PCT No.: PCT/EP03/50120
Int. Filing Date: 22 April 2003
Priority Date: 23 April 2002
Attorney Docket No.: 11345/049001
For: CHAT FOR TELEVISION NETWORK

Dear Herve Lemaitre:

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

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Houston, Texas 77010

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LADAS & PARRY
5670 WILSHIRE BOULEVARD, SUITE 2100
LOS ANGELES, CA 90036-5679

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OFFICE OF PETITIONS

In re Application of	:	
Wang Han YAP	:	
Application No. 10/511,774	:	DECISION ON PETITION
Filed: October 18, 2004	:	
Attorney Docket No. B-5555OCT 622252-9	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 27 2007, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 15, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 16, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item three (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (two years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on September 16, 2005. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). As Richard Berg (Berg) was the party having the right to reply at the date of abandonment, Berg should explain why this application became abandoned while it was under his control and what efforts were made to further reply and with whom this matter was discussed. When did Berg and Wang Han Yap (Yap) become aware of the abandonment of this application? Additionally, Berg and Yap must explain the circumstances surrounding the discovery of the abandonment of this application almost two years after the mailing of the Notice of Abandonment.

Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), Wang Han Yap and whoever else was involved with this application at the time of abandonment. Statements are required from the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent

abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, two years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

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 $510 extension of time fee submitted with the petition on September 27, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Any renewed petition may be addressed as follows:

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

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

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

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	**Wang Han YAP**	Examiner:	Vanessa Mary GIRARDI
Serial No.:	**10/511,774**	Art Unit:	2833
Filed:	October 18, 2004	Our Ref:	B-5555PCT 622252-9/RPB/RP
For:	"EXTENSION SOCKET DEVICE WITH A CORD STORAGE AND DISPENSING SYSTEM"	Re:	***Petition under 37 C.F.R. §1.137(b)***

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

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

Sir:

Applicant respectfully petitions under 37 C.F.R. §1.137(b) to revive the above-referenced application which unintentionally went abandoned in February of 2006 for failure to submit a response to the last issued Office Action.

The present petition includes a response to the last Office Action issued in the case together with a petition for a three month extension of time pursuant to 37 C.F.R. 1.136(a). The amount of $510.00 for the fee set forth in 37 C.F.R.1.17(a)(3) has been paid concurrently with this electronic submission.

Pursuant to 37 C.F.R. §1.137(b), Applicant states that the abandonment of the above-referenced application was unintentional. Grant of the present petition and revival of the above-referenced application are therefore respectfully requested. The amount of $750.00 for the petition fee set forth in 37 C.F.R. §1.17(m) has also been paid concurrently with this electronic submission.

Adjustment date: 02/04/2008 CKHLOK
09/27/2007 INTEFSW 00006053 120415 10511774
02 FC:2253 510.00 CR

The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 12-0415. In particular, if this response is not timely filed, the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136(a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 12-0415.

I hereby certify that this document is being transmitted to the Patent and Trademark Office via electronic filing.

September 27, 2007
(Date of Transmission)

Respectfully submitted,

Wang Han YAP

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

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 2-1-08

2 Serial/Patent # 10/511,724

3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
X	Extension of Time			$ 510.00
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ ~~0.00~~ 510.00

8 TO BE REFUNDED BY:

	Treasury Check
	Credit Deposit A/C #:
	9 1 2 -- 0 4 1 5

10 REASON:

	Overpayment
X	Duplicate Payment
	No Fee Due (Explanation):

Maximum extendable time has passed

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Michelle R. Eason TITLE: Paralegal ~~Petitions Examiner~~

SIGNATURE: Michelle R. Eason PHONE: 571-272-4231

OFFICE: Office of Petitions

****

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APPROVED: CKhd DATE: 2/4/08

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5670 WILSHIRE BOULEVARD, SUITE 2100
LOS ANGELES, CA 90036-5679

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OCT 1 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Wang Han YAP	:	
Application No. 10/511,774	:	DECISION ON PETITION
Filed: October 18, 2004	:	
Attorney Docket No. B-5555OCT 622252-9	:	

This is a decision on the renewed petitions under the unintentional provisions of 37 CFR 1.137(b), filed April 08, 2008 and resubmitted April 21, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 15, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 16, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item three (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (two years and nine (9) days) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on September 16, 2005. That party, in turn must explain what effort(s) was

made to further reply to the outstanding Office action and further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). As Ladas & Parry was the party having the right to reply at the date of abandonment, Ladas & Parry should explain why this application became abandoned while it was under their control and what efforts were made to further reply and with whom this matter was discussed. When did Ladas & Parry and Wang Han Yap (Yap) become aware of the abandonment of this application? Additionally, Ladas & Parry and Yap must explain the circumstances surrounding the discovery of the abandonment of this application here two years and nine (9) days after the mailing of the Notice of Abandonment.

Likewise, as registered practitioners from Ladas & Parry were counsel of record at the time of abandonment, Ladas & Parry should explain why this application became abandoned while it was under their control and what efforts they made to further reply of itself and with whom this matter was discussed outside of Ladas & Parry. Petitioner is therefore reminded that the USPTO must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant. Link v. Wabash, 370 U.S. 626, 633-34; Irwin v. Department of Veterans Affairs, 498 U.S. 89, 93; Huston v. Ladner, 973, F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987). Petitioner is likewise bound by the actions or inactions of his counsel. See Gemveto Jewelry Co. v. Lambert Bros., Inc., 542 F. Supp. 933 at 943, 216 USPQ 976, at 985. (S.D.N.Y. 1982). It is also noted that the USPTO is not the proper forum for resolving a dispute between an applicant and his duly appointed representative(s) with respect to a failure to take a timely action before the USPTO. See Ray v. Lehman, 55 F.3d 606, 610, 34 USPQ2d 1786, 1789 (Fed. Cir.1989).

Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), Wang Han Yap and whoever else was involved with this application at the time of abandonment.

Statements are required from the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent

abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, two years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S. District

LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any renewed petition may be addressed as follows:

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Alexandria, VA 22313-1450

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

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

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

Cc: **WANG HAN YAP**
13 JALAN MP 7
MELAKA PERDANA RESORT HOMES
75450 AIR KEROH HEIGHTS
MELAKA, MALAYSIA

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17 JAN 2006

OPPEDAHL & LARSON LLP
P.O. Box 5068
Dillon, CO 80435-5068

In re Application of	:	
HEASMAN, John *et al*	:	
U.S. Application No.: 10/511,775	:	
PCT No.: PCT/GB03/01466	:	**DECISION**
Int. Filing Date: 02 April 2003	:	
Priority Date: 18 April 2002	:	
Attorney Docket No.: URQU.P-012	:	
For: INTRUSION DETECTION SYSTEM	:	

Applicants' "Request to Correct Filing Receipt" filed via facsimile on 29 November 2005 is treated as a petition under 37 CFR 1.181 and hereby **GRANTED** as follows:

The filing receipt mailed 12 October 2005 recorded the town of the second applicant as "New Hinksev." The correct spelling is "New Hinksey."

Accordingly, the filing receipt mailed 12 October 2005 is **VACATED**.

A new filing receipt will be mailed with this decision. This application is being forwarded to Tech Center 2600 for further processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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ILYA ZBOROVSKY
6 SCHOOLHOUSE WAY
DIX HILLS NY 11746

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MAY 2 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Akaro et al.	:	
Application No. 10/511,779	:	ON PETITION
Filed: October 15, 2004	:	
Title: AERODYNAMIC LIFTING-THRUSTING PROPULSION DEVICE	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 13, 2009, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center AU 3641 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP
1100 SUPERIOR AVENUE, SEVENTH FLOOR
CLEVELAND OH 44114

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OFFICE OF PETITIONS

In re Application of	:	
Law et al.	:	
Application No. 10/511,782	:	ON PETITION
Filed: May 2, 2005	:	
Attorney Docket No. MBNZ 2 00021	:	

This is a decision on the petition under 37 CFR §1.102(d), filed May 22, 2006, to make the above-identified application special. The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section II: Infringement.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

(A) That there is an infringing device or product actually on the market or method in use;

(B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3754 for expedited prosecution.

David Bucci
Petitions Examiner
Office of Petitions

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FAY SHARPE LLP
1100 SUPERIOR AVENUE, SEVENTH FLOOR
CLEVELAND OH 44114

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FEB 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Brian Robert Law et al	:	
Application No. 10/511,782	:	DECISION GRANTING PETITION
Filed: October 15, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MBNZ 2 00021	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 12, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 8, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

---

[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.*

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

This application is being referred to Technology Center AU 3754 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

cc:

CHARLES P. SCHMAL
WOODARD, EMHARDT, MORIARTY, MCNETT & HENRY
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS, INDIANA 46204-5137

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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

Mail Date: 04/28/2010

Applicant	: Aurelio Orjales Venero	: DECISION ON REQUEST FOR
Patent Number	: 7612095	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/511,822	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **843** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Antti Pietilainen, et al.	:	
Application No.: 10/511,825	:	ON PETITION
Filed: October 20, 2004	:	
Attorney Docket No. 59643.00507	:	

This is a decision on the petition under 37 CFR 1.182, filed, September 8, 2006, to change the name of joint inventor "Olli-Pekka Hiironen" to -- Olli-Pekka Pohjola --.

The petition is **GRANTED**.

Office records have been updated to reflect the inventor's name change. A corrected Filing Receipt, which reflects the inventor's name change, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204. Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2136 for appropriate action by the Examiner in the normal course of business.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/511,825	10/20/2004	2136	950	59643.00507	1	12	1

CONFIRMATION NO. 8850
CORRECTED FILING RECEIPT
OC000000022699343
OC000000022699343

32294
SQUIRE, SANDERS & DEMPSEY L.L.P.
14TH FLOOR
8000 TOWERS CRESCENT
TYSONS CORNER, VA 22182

Date Mailed: 03/01/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Antti Pietilainen, Espoo, FINLAND;
Olli-Pekka Pohjola, Helsinki, FINLAND;

Power of Attorney: The patent practitioners associated with Customer Number **32294**.

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/IB02/02825 05/03/2002

Foreign Applications

If Required, Foreign Filing License Granted: 02/28/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/511,825

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method and system in a communication network for allocaring and changing link-level addresses

Preliminary Class

726

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).

28 AUG 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Application of	:	
ANGELE et al.	:	
Application No.: 10/511,833	:	DECISION ON
PCT No.: PCT/FR03/01240	:	
Int. Filing Date: 17 April 2003	:	SUBMISSION
Priority Date: 19 April 2002	:	
Attorney's Docket No.: REGIM 3.3-042	:	
For: A BISTABLE LIQUID CRYSTAL DISPLAY	:	
DEVICE INCLUDING IMPROVED ADDRESSING	:	
MEANS	:	

This decision is in response to applicants' submission filed 06 January 2006 requesting reinstatement and resubmitted on 16 June 2006, which includes a declaration of inventors filed under PCT 4.17and a statement attesting to the accuracy of the translation of the declaration.

BACKGROUND

On 17 April 2003, applicants filed international application PCT/FR03/01240, which claimed a priority date of 19 April 2002 and designated the U.S. A copy of the international application was communicated to the USPTO from the International Bureau on 30 October 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 19 October 2004.

On 19 October 2004, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and an English translation of the international application as filed.

On 14 April 2005, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required. This NOTIFICATION set a two month extendable period for reply.

On 10 November 2005, applicants filed a communication in response to the "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" which was accompanied by, *inter alia*, a copy of the Request, including the declaration of inventorship filed under PCT Rule 4.17(iv).

On 13 December 2005, a Notification of Abandonment was mailed to applicant indicating that applicant had not timely filed an executed declaration.

On 06 January 2006, applicants submitted a "Request for Reinstatement" which was accompanied by, *inter alia*, a copy of the declaration of inventors filed with the international application. On 16 June 2006, applicant refiled the 06 January 2006 communication.

DISCUSSION

The declaration of inventors filed with the international application on 17 April 2003 is in compliance with 37 CFR 1.69(b) since applicants used one of the pre-approved foreign language forms under PCT Rule 4.17.

The NOTIFICATION OF MISSING REQUIREMENTS mailed 14 April 2005 and the Notification of Abandonment mailed on 13 December 2005 are hereby **VACATED**.

CONCLUSION

The Notification of Missing Requirements mailed 14 April 2005 is hereby VACATED. The Notification of Abandonment mailed on 13 December 2005 is hereby **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application. The 35 U.S.C. §371(c)(1), (c)(2), and (c)(4) date is **19 October 2004**.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3286
Facsimile: (571) 273-0459

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JOSEPH S. TRIPOLI
THOMSON LICENSING INC.
PO BOX 5312
PRINCETON NJ 08543-5312

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MAR 0 3 2006

OFFICE OF PETITIONS

In re Application of	:	
John Barrett George	:	
Application No. 10/511,836	:	ON PETITION
Filed: October 19, 2004	:	
Attorney Docket No. PU030041	:	

This is a decision on the petition, filed March 1, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on January 26, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2821 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

MAILED

AUG 3 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Kaoru Seno, et al.	:	
Application No.: 10/511,840	:	ON PETITION
Filed: September 23, 2005	:	
Attorney Docket No.: 003824-0011-101	:	

This is a decision on the petition, filed August 31, 2009, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 29, 2009, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 1624 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.*

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WOLF, BLOCK, SCHORR & SOLIS-COHEN LLP
250 PARK AVENUE
NEW YORK NY 10177

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NOV 2 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Fredy Ornath	:	
Application No. 10/511,869	:	DECISION ON PETITION
Filed: October 18, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 367/04208	:	37 CFR 1.102(c)(2)(iii)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(2)(iii), filed August 14, 2006, to make the above-identified application special based on the invention materially contributing to countering terrorism as set forth in M.P.E.P. § 708.02, Section XI.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(iii) and MPEP § 708.02, Section XI: Countering Terrorism, must state that special status is sought because the invention materially contributes to countering terrorism. No fee is required for such a petition. See 37 CFR 1.102(c). If the application disclosure is not clear on its face that the claimed invention is materially directed to countering terrorism, the petition must be accompanied by a statement under 37 CFR 1.102 by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the invention materiality contributes to countering terrorism. No fee is required.

Petitioner's submission fails to meet the criteria set out with respect to countering terrorism in M.P.E.P. § 708.02 (XI). The specification and claims as originally filed indicate that the invention is directed to a method and system of collecting vapors from an inspected item. A vapor collecting system or a method of vapor collection does not equate to "countering". Vapor collection in itself does not materially contribute to countering terrorism. Further steps would be required to actually offset or nullify terrorism. As a result, no advancement in the technology of countering terrorism has been persuasively shown.

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

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

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions

Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to 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 1743 for action in its regular turn.

David Buccei
Petitions Examiner
Office of Petitions

20

OIPE JC73
FEB 2 4 2005
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:	1764
Lorrie Hunt, Jim McKinley and Rod McElroy	
Application No. 10/511,878	
Filing Date: October 19, 2004	Atty. Docket:2313-112
Title: SONICATION TREATMENT OF POLYCHLORINATED BIPHENYL CONTAMINATED MEDIA	

The Honorable Commissioner of
Patents and Trademarks
Washington, D.C.
U.S.A. 20231

Dear Sir/Madam:

PETITION PURSUANT TO 37 CFR 1.102

Applicant hereby petitions that the present application be accorded special status pursuant to 37 CFR 1.102(c).

The present invention is directed to the treatment and restoration of soils and water contaminated with Polychlorinated Biphenyls (PCB's). PCB's are powerful and persistent toxins, which are difficult to remove and destroy.

By effectively and economically removing PCB's from soil and water, the present invention materially enhances the quality of the environment.

In support of this petition, a declaration by the Inventor ROD McELROY is attached.

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700 APR 2 6 2005

PAGE 3/5 * RCVD AT 12/2/2008 3:00:19 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/12 * DNIS:2709892 * CSID: * DURATION (mm-ss):01-56

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/9/08

Paper No.: —

TO SPE OF : ART UNIT 3616

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/511917 Patent No: 7357419 B2

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

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

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

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

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

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

SPE

3616
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

12/02/08 TUE 14:58 FAX 003

10/511917

COFC

OIPE IAP83
APR 29 2008
PATENT & TRADEMARK OFFICE

ROBERT W. BECKER & ASSOCIATES
PATENT AND TRADEMARK LAW
707 State Highway 333, Suite B
Tijeras, NM 87059-7507
Telephone: (505) 286-3511
Telefax: (505) 286-3524
E-mail: mail@rwbecker.com

April 23, 2008

Attention Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RE: Certificate of Correction – U.S. Patent No 7,357,419 dated April 15, 2008

Dear Commissioner,

Please find enclosed herewith a Form PTO/SB/44 in duplicate, indicating the corrections which should be effected for the referenced U.S. Patent.

It is respectfully requested that the enclosed Certificate of Correction be granted in accordance with Rule 322, 35 USC 254.

Respectfully Submitted,

Robert W. Becker

Robert W. Becker

RWB:meg
Enclosure

Certificate
MAY 01 2008
of Correction

Please Enter the Amendment
TTo
December 2, 2008

RECEIVED-USPTO
Patent Application
MAY - 1 2008

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,357,419

APPLICATION NO.: 10/511,917

ISSUE DATE : April 15, 2008

INVENTOR(S) : Kock et al

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

Title Page,

Item [54] should read as follows:

[54] Title: FASTENING ARRANGEMENT, FOR A SAFETY BELT BUCKLE, EQUIPPED FOR MEASURING THE BELT FORCE

MAILING ADDRESS OF SENDER (Please do not use customer number below):

ROBERT W. BECKER & ASSOCIATES
707 Highway 333, Suite B
Tijeras, NM 87059-7507

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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JASON R. BOND
CASIMIR JONES, S.C.
440 SCIENCE DR, SUITE 203
MADISON, WI 53711

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JUN 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Mi et al.	:	DECISION ON PETITION
Application No. 10/511,918	:	TO WITHDRAW
Filed: October 11, 2005	:	FROM RECORD
Attorney Docket No. AVIOR-09657	:	

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 29, 2005.

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

A review of the file record indicates that the power of attorney to practitioners associated with the above identified application has been revoked by the assignee of the patent application on April 26, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: THE NATH LAW GROUP
112 SOUTH WEST STREET
ALEXANDRIA, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

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BOREALIS TECHNICAL LIMITED
23545 NW SKYLINE BOULEVARD
NORTH PLAINS, OR 97133-9204

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SEP 2 0 2006
OFFICE OF PETITIONS

In re Application of	:	
Edelson, Jonathan Sidney	:	
Application No. 10/511,935	:	ON PETITION
Filed: October 19, 2004	:	
Attorney Docket No. 12084.PCT.US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 16, 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 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.

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 request to change the address of record should be filed. 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.

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) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

Cc:

JONATHAN SIDNEY EDELSON
37 KIDDER AVENUE
SOMMERVILLE, MA 02144-2005

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

Mail Date: 06/30/2010

Applicant	: Alistair Royse	: DECISION ON REQUEST FOR
Patent Number	: 7666136	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/511,967	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1099** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

24 MAR 2005

-13

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Michael A. Masse
KRATON Polymers U.S. LLC
3333 Highway 6 South, CA-110
Houston, Texas 77082

In re Application of	:	
HANDLIN et al.	:	
Application No.: 10/511,992	:	DECISION ON PETITION
PCT No.: PCT/NL03/00098	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 07 February 2003	:	
Priority Date: 07 February 2002	:	
Attorney Docket No.: THI768SE/US	:	
For: SOLVENT-FREE, HOT MELT ADHESIVE COMPOSITION COMPRISING A CONTROLLED DISTRIBUTION BLOCK COPOLYMER	:	

The petition to revive under 37 CFR 1.137(b) filed 21 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 basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

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

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

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POWELL GOLDSTEIN
ONE ATLANTIC CENTER
FOURTEENTH FLOOR
1201 WEST PEACHTREE STREET NW
ATLANTA, GA 30309-3488

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JUN 19 2006
OFFICE OF PETITIONS

In re Application of	:	
Jennifer K. White	:	
Application No. 10/512,005	:	DECISION ON PETITION
Filed: October 18, 2004	:	TO WITHDRAW
Attorney Docket No. 141613.00046	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 21, 2005.

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

A review of the file record indicates that the power of attorney to Jason A. Bernstein and all attorneys/agents of record have been revoked by the assignee of the patent application on October 11, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

This application is being referred to Technology Center AU 3738.

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: FISH & RICHARDSON
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO CA 94304-1018

In re Application of

HAJ-YEHIA
Application No. 10/512,024
Filed: May 9, 2005
Attorney Docket No. YISS2000100

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 21, 2006.

The rêquest 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.

There is an outstanding Office action mailed August 28, 2006 that requires a reply from the applicant. Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ABDULLAH I. HAJ-YEHIA**
47, P.O. Box 168
NEVE SHALOM, ISRAEL 99761

cc: **KEVIN D. MCCARTHY**
ROACH BROWN MCCARTHY & GRUBER PC
162 LIBERTY BUILDING, 420 MAIN STREET
BUFFALO, NY 14202-3616

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/512,024	05/09/2005	Abdullah Ibrahim Haj-Yehia	YISS2000100

CONFIRMATION NO. 2208

OC000000021645154

25226
MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

Date Mailed: 12/18/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/21/2006.

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

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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FOLEY & LARDNER LLP
1530 PAGE MILL ROAD
PALO ALTO CA 94304

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In re Application of	:	
LINGAPPA	:	
Application No. 10/512,025	:	DECISION ON PETITION
Filed: October 4, 2005	:	TO WITHDRAW
Attorney Docket No. UCSF.004.01US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 25, 2006.

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

A review of the file record indicates that the power of attorney to Karen E. Flick of FOLEY & LARDNER LLP has been revoked by the assignee of the patent application on October 26, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.**
P O BOX 458
ALAMEDA, CA 94501

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/512,025	10/04/2005	Vishwanath R. Lingappa	UCSF.004.01US

CONFIRMATION NO. 6909

OC000000021564557

38706
FOLEY & LARDNER LLP
1530 PAGE MILL ROAD
PALO ALTO, CA 94304

Date Mailed: 12/12/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/26/2006.

- 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).

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/512,025	10/04/2005	Vishwanath R. Lingappa	UCSF.004.01US

CONFIRMATION NO. 6909

OC000000021564578

22798
QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA, CA 94501

Date Mailed: 12/12/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/26/2006.

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

MONICA A GRAVES
OP (571) 272-7253

ATTORNEY/APPLICANT COPY

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

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OFFICE OF PETITIONS
ON PETITION

In re Application of :
Jay Wohlgemuth, et al. :
Application No. 10/512,028 :
Filed: October 19, 2004 :
Attorney Docket No. 506612000103 :

This is a decision on the petition, filed December 8, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to a Notification to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosure mailed February 15, 2006, which set a period for reply of two-months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. On November 24, 2006, a Notice of Abandonment was mailed. In response, the present petition was filed.

The petition is found to comply with the requirements of the 37 CFR 1.137(b). Accordingly, the application is being referred to the Office of Initial Patent Examination for further review of the response filed December 8, 2006.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4000.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO, CA 94105-2482

Mail Date: 04/21/2010

Applicant	: Jay Wohlgemuth	: DECISION ON REQUEST FOR
Patent Number	: 7604936	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/512,028	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **830** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJR.: 08-07

Paper No:__

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OFFICE OF PETITIONS

PEARL COHEN ZEDEK LATZER, LLP
1500 BROADWAY 12TH FLOOR
NEW YORK NY 10036

In re Application of	:	
Magal	:	DECISION
Application No. 10/512,042	:	
Filing Date: 21 October, 2004	:	
Attorney Docket No.: P-5247-US	:	

This is a decision on the petition filed on 17 October, 2006, and properly considered as a request under 37 C.F.R. §1.181 for the withdrawal of the holding of abandonment.

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

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

BACKGROUND

The record indicates that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 8 March, 2006, with reply due absent extension of time on or before 8 June, 2006;

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

- the application went abandoned by operation of law after midnight 8 June, 2006;
- the Office mailed the Notice of Abandonment on 21 September, 2006;
- on 17 October, 2006, Petitioner filed the instant petition, recited that a reply was timely submitted, and provided a copy of that reply in the form of an amendment with a statement complying with the practice set forth in the Commentary at MPEP §711.03 (c) (discussed below), including a copy of the reply and a copy of the date-stamped (7 September, 2006) receipt card (see: MPEP §503[2]) evidencing receipt by the Office of, *inter alia*, the reply and a request and fee for extension of time to make timely the reply–however that fee was not charged at the time, and now is so charged to Deposit Account 50-3355 as authorized–and, notably, that reply is evident in the record.

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

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[2] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. 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 should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the

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

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

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

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

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

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

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

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

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

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

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4]

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

Delays in responding properly raise the question whether delays are unavoidable.[6] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[7] And the Petitioner must be diligent in attending to the matter.[8] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

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

Allegations as to the Request to
Withdraw the Holding of Abandonment

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

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[4] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

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

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

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

The commentary at MPEP §711.03(c) provides:

* * *

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

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.
>
> * * *

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

Petitioner appears to have satisfied the showing requirement described above and satisfied his burden herein.

CONCLUSION

The instant petition under 37 C.F.R. §1.181 hereby is **granted**; and the 21 September, 2006, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center 3700 for further processing in due course.

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

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

---

[11] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

10 AUG 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DYKEMA GOSSETT PLLC
FRANKLIN SQUARE, THIRD FLOOR WEST
1300 I Street, NW
Washington, DC 20005

In re Application of	:	
ISHERWOOD, Roland *et al*	:	
Application No.: 10/512,055	:	
PCT No.: PCT/GB03/01768	:	**DECISION**
Int. Filing Date: 24 April 2003	:	
Priority Date: 25 April 2002	:	
Attorney Docket No.: 66307-325-7	:	
For: IMPROVEMENTS IN SUBSTRATES	:	

This decision is in response to the "Request for Corrected Filing Receipt" filed via facsimile on 25 March 2005. This is treated as a petition under 37 CFR 1.181. No fee is required.

Applicants' request for a corrected filing receipt is **DISMISSED** without prejudice.

Petitioners' request a corrected filing receipt indicating a filing date of 21 October 2004. Petitioners argue that an executed declaration was filed with the PCT Request pursuant to PCT Rule 4.17(iv) and a copy of this declaration was submitted on 21 October 2004.

A review of the international application shows that the declaration filed was not in compliance with PCT Rule 4.17(iv). The international application was filed 24 April 2003 with an unexecuted declaration. The executed declaration was not filed until 28 May 2003 pursuant to PCT Rule 26 *ter*. As such, the declaration must be specifically directed to the international application (PCT/GB03/01768). *See* PCT Administrative Instructions § 214 (a). In this case, the declaration filed 28 May 2003 was not properly directed to the international application. Accordingly, the declaration is not effective.

This application is being forwarded to Technology Center, AU 3723 for further processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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

Mail Date: 04/20/2010

Applicant	: Yoshio Tokuhashi	: DECISION ON REQUEST FOR
Patent Number	: 7620713	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/512,057	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/21/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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

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

Mail Date: 05/07/2010

Applicant	: Vassilios Papadopoulos	: DECISION ON REQUEST FOR
Patent Number	: 7615355	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/512,060	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **973** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

30 SEP 2005

United States Patent and Trademark Office

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P.O. Box 1450
Alexandria, VA 22313-1450
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Armstrong, Kratz, Quintos,
Hanson & Brooks, LLP
1725 K Street, NW
Suite 1000
Washington, DC 20006

In re Application of	:	
Takahashi et al.	:	
Application No.: 10/512,076	:	
PCT No.: PCT/JP03/05729	:	
Int. Filing Date: 07 May 2003	:	PETITION
Priority Date: 07 May 2002	:	
Attorney Docket No.: 040577	:	
For: Medical Cockpit System	:	

This is in response to the "Submission of Fees Under 37 CFR 1.28(c)" filed on 04 February 2005.

BACKGROUND

This international application was filed on 07 May 2003, claimed an earlier priority date of07 May 2002, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 20 November 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 07 November 2004. Applicants filed *inter alia* the small entity basic national fee on 05 November 2004.

DISCUSSION

Applicants indicate that "certain fees paid to the U.S. Patent and Trademark Office, through no deceptive intent or intent to deceive, were in good faith but incorrectly paid at the small entity rate, even though the subject application was not entitled to small entity fees." 37 CFR 1.28(c) provides that

> (c) How errors in small entity status are excused . If status as a small entity is established in good faith, and fees as a small entity are paid in good faith, in any application or patent, and it is later discovered that such status as a small entity was established in error, or that through error the Office was not notified of a loss of entitlement to small entity status as required by § 1.27(g)(2), the error will be excused upon: compliance with the separate submission and itemization requirements of paragraphs (c)(1) and (c)(2) of this section, and the deficiency payment requirement of paragraph (c)(2) of this section:
>
> (1) Separate submission required for each application or patent . Any paper submitted under this paragraph must be limited to the deficiency payment (all fees paid in error), required by paragraph (c)(2) of this section, for one application or one patent. Where more than one application or patent is involved, separate submissions of deficiency payments (e.g., checks) and itemizations are required for each application or patent. See § 1.4(b).

(2) Payment of deficiency owed . The deficiency owed, resulting from the previous erroneous payment of small entity fees, must be paid.

(i) Calculation of the deficiency owed . The deficiency owed for each previous fee erroneously paid as a small entity is the difference between the current fee amount (for other than a small entity) on the date the deficiency is paid in full and the amount of the previous erroneous (small entity) fee payment. The total deficiency payment owed is the sum of the individual deficiency owed amounts for each fee amount previously erroneously paid as a small entity. Where a fee paid in error as a small entity was subject to a fee decrease between the time the fee was paid in error and the time the deficiency is paid in full, the deficiency owed is equal to the amount (previously) paid in error;

(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 a 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.

(3) Failure to comply with requirements . If the requirements of paragraphs (c)(1) and (c)(2) of this section are not complied with, such failure will either: be treated as an authorization for the Office to process the deficiency payment and charge the processing fee set forth in § 1.17(i), or result in a requirement for compliance within a one-month non-extendable time period under § 1.136(a) to avoid the return of the fee deficiency paper, at the option of the Office.

Applicant paid the small entity basic national fee in the amount of $475.00. The current large entity basic national fee is $300.00. As the "fee paid in error as a small entity was subject to a fee decrease between the time the fee was paid in error and the time the deficiency is paid in full, the deficiency owed is equal to the amount (previously) paid in error;" therefore, the deficiency amount owed for the basic national fee is $475.00. Applicants paid the small entity multiple dependent claim fee in the amount of $150.00. The current large entity multiple dependent claim fee is $360.00, so the deficiency amount owed for the multiple dependent claims fee is $210.00. Applicants paid the small entity excess claims fee in the amount of $54.00. The current large entity excess claims fee is $50.00, for a total of $200.00 (since there are 24 claims, 4 more than 20), so the deficiency amount owed for excess claims over 20 is $146.00. Therefore, the total shortfall due is $831.00. Applicants remitted $679.00 with the instant "Submission of Fees Under 37 CFR 1.28(c)." Therefore, the $152.00 shortfall is being charged to counsel's Deposit Account No. 01-2340, as authorized by the instant "Submission..."

DECISION

The submission under 37 CFR 1.28(c) is **ACCEPTED** as described above.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **05 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

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

JAN 0 3 2007

In re Application of: TAKIGUCHI
Serial No.: 10/512,087
Filed: April 7, 2005
Title: METHOD OF DETECTING BIOLOGICAL PATTERN, BIOLOGICAL PATTERN DETECTOR, METHOD OF BIOLOGICAL CERTIFICATE AND BIOLOGICAL CERTIFICATE APPARATUS

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on August 25, 2006 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.
5. The petition must be filed with the application.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because the petition was not filed with the application. As noted in the policy

statement referenced above, any petition to make special filed on or after the effective date must meet the new requirements set forth in the 71 Fed. Reg. 36323 notice. Applications filed before the effective date will not be eligible for the revised accelerated examination program. The effective date of the change in practice was August 25, 2006. Thus the instant petition must be reviewed under the revised practice and the instant application is ineligible.

The petition appears on its face to have been filed without recognition of the August 25, 2006 policy change to the petition to make special program. The changes to the program are substantial. A copy of Federal Register on June 26, 2006 (71 Fed. Reg. 36323) is being attached to the mailed decision for petitioner's review. Further guidance may be found at www.USPTO.gov under the accelerated examination link.

For the above-stated reasons, the petition is **DENIED**. The application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to J. Harrison, TC 3700 Special Program Examiner, at (571) 272-4449.

J. Harrison
Special Program Examiner
Technology Center 3700

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OFFICE OF PETITIONS

MICHAELSON & ASSOCIATES
P.O. BOX 8489
RED BANK NJ 07701-8489

In re Application of	:	
VAN BEENEN, MARTIJN	:	DECISION GRANTING PETITION
Application No. 10/512,105	:	
Filed: 08/22/2005	:	
Attorney Docket No. vanBeenen-1(P60583US00)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 25, 2008, to revive the above-identified application.

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

This application became abandoned on December 22, 2007, for failure to file a timely response to the nonfinal Office action mailed September 21, 2007, which set a three (3) month statutory period for reply.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply, paid the petition fee, and made the proper statement of unintentional delay.

This matter is being referred to Technology Center Art Unit 1625.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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MARSHALLTOWN IA 50158-5759

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JAN 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Zhide Feng	:	DECISION ON PETITION
Application No. 10/512111	:	
Filed: 10/21/2004	:	
Attorney Docket No. 0601007-001	:	

This is a decision on the petition filed on 24 October, 2006, under 37 CFR 1.137(b) [1] to revive the above-identified application.

The petition is **granted**.

The application became abandoned on 18 February, 2006, for failure to timely submit a response to the Office communication mailed on 17 January, 2006, which set a one (1) month shortened statutory period for reply. Notice of Abandonment was mailed on 4 August, 2006.

Receipt of the corrected Information Disclosure Statement (IDS) and response to the Office communication is acknowledged.

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

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

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

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

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

The application will be forwarded to Technology Center Art Unit 3683 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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TECHNOLOGY CENTER 3600

LADAS & PARRY
26 WEST 61ST STREET
NEW YORK, NY 10023

In re application of Wayne Austin Application No. 10/512,121 Filed: May 12, 2005 For: DEVICE FOR, AND METHOD OF, SUPPORTING A GLASS PANEL FOR FORMING A FRAMELESS GLASS PANEL FENCE	**DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 CFR 1.102**

This is a decision on the petition filed on April 27, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The petition to make special under accelerated examination under 37 C.F.R. § 1.102(d) is not acceptable because it was not filed with the application as required in the above Federal Register Notice of June 26, 2006. It appears that the petition was filed under the guidelines for making an application special that were in effect prior to August 25, 2006. As of August 25, 2006 the new guidelines replaced the old guidelines. Since applicant's petition was received on April 27, 2007 the petition must be considered under the new guidelines and thus is properly **DENIED**.

For the above-stated reasons, the petition is denied. The application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to Kenneth J. Dorner, Quality Assurance Specialist, at (571) 272-6587.

Kenneth J. Dorner
Quality Assurance Specialist
Technology Center 3600

KJD/dew: 05/10/07

22 APR 2005

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John V. Moriarty
Woodward, Embardt, Moriarty, McNett & Henry LLP
Bank One Center/Tower
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137

In re Application of	:	
MASLEN, Desmond Jay	:	
Application No.: 10/512,122	:	DECISION ON PETITION
PCT No.: PCT/AU02/00513	:	
Int. Filing Date: 24 April 2002	:	
Priority Date: 27 April 2001	:	
Attorney Docket No.: 5754-2	:	
For: RADIAL ENGINE		

This decision is in response to applicant's "Petition Requesting Withdrawal of Notice of Abandonment under 37 CFR 1.181" filed 14 April 2005. No petition fee is required.

BACKGROUND

On 24 April 2002, applicant filed the above-captioned international application which claimed a priority date of 27 April 2001. Pursuant to 37 CFR 1.495, the thirty-month time period for submitting the requisite basic national fee in the United States of America expired at midnight on 27 October 2004.

On 21 October 2004, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia: an authorization to charge a credit card $605.00; a copy of the international application; and an authorization to charge deposit account any additional fees which may be required.

On 01 April 2005, the United States Elected Office mailed a NOTIFICATION OF ABANDONMENT UNDER 37 CFR 1.495 (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to provide the full U.S. Basic National Fee by 30 months.

On 14 April 2005, applicant filed "Petition Requesting Withdrawal of Notice of Abandonment under 37 CFR 1.181."

DISCUSSION

The above-identified application was **ABANDONED** for failure to pay the full basic national fee 30 months from the priority date for international application PCT/AU02/00513. The basic national fee for a small entity whose international search

report was conducted by the Australian Patent Office is $555. (See 37 Code of Federal Regulation 1.492(a)). A review of the finance record reveals that applicant's credit card was charged the following fees: $555 (basic national fee) and $50 (oath/declaration surcharge). Since the applicant gave authorization to charge any additional fees to deposit account no. 23-3030, applicant was charged an additional $15 for the oath/declaration surcharge on 21 October 2004. Therefore, the payment of the basic national fee was timely and the Notification of Abandonment was mailed in error.

CONCLUSION

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

The Notification of Abandonment mailed 01 April 2005 is hereby **VACATED** and the holding of Abandonment is withdrawn.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration is required.

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

#6

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29 DEC 2005

Clark G. Sullivan
King & Spalding
191 Peachtree Street, N.E.
45th Floor
Atlanta GA 30303

In re Application of	:	
STICE et al.	:	
Application No.: 10/512,153	:	DECISION
PCT No.: PCT/US03/13088	:	
Int. Filing Date: 24 April 2003	:	
Priority Date: 24 April 2002	:	
Attorney Docket No.: 04342.105057(US)	:	
For: PRODUCTION OF CLONED OFFSPRING FROM	:	
COOLED CARCASSES	:	

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 08 September 2005 in the United States Patent and Trademark Office (USPTO). Petitioner's request for a three month extension of time is granted.

BACKGROUND

On 22 October 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 04 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 an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. The NOTIFICATION set a two-month extendable period for response.

On 08 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), a statement of facts by Teri Bonica, a copy of a letter and e-mails sent to nonsigning joint inventor and a request for a three month extension of time.

DISCUSSION

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

As to item (1), the petition fee of $200 under 27 CFR 1.17(g) has been paid. Thus, item (1) has been satisfied. Item (3) has been satisfied with the non-signing inventor's last known address.

Item (2) has not been satisfied. MPEP § 409.03(d) states in part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. . . . It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Here, it is clear that a complete copy of the application papers including the specification, claims and drawings was not sent to Mr. Gibbons. A statement of first hand knowledge was prepared by Teri Bonica, paralegal for the law firm. Ms. Bonica states that attempted to secure the signature of Mr. Gibbons on an assignment in late 2004. (¶ 5) Ms. Bonica also states that she sent emails to Mr. Gibbons on at least three occasions and left numerous voice messages for him and has been unsuccessful in contacting him. (¶8) Ms. Bonica's e-mails indicate that only a copy of the declaration/power of attorney were attached. (A copy of the e-mails were attached to the statement).

Ms. Bonica does not provide details regarding the date, time and place of the telephone calls. It may be that Mr. Gibbons was out of town or unavailable at the time of the call (i.e. at work or at home). As noted above, a complete copy of the application must be provided to the inventor to assure that the non-signing inventor is apprised of the application to which the declaration is directed. Furthermore, the attorney of record's letter to Mr. Gibbons indicates that only a copy of the *assignment* for the above-identified application was sent to him, not a complete copy of the application. Thus, in light of the MPEP §409.03(d) instruction regarding an inventor's refusal to sign, applicant has not established a refusal to sign.

Item (4) has not been satisfied. The declaration filed 08 September 2005 is not in

compliance with 37 CFR 1.497(a)-(b). Each declaration is comprised of one pages, identifies one inventor and is executed by that inventor. The declaration does not identify all of the inventors and their respective citizenship, residency and mailing addresses in compliance with 37 CFR 1.497(a) and (b). Each executed declaration must identify all of the inventors and state the citizenship, residency and mailing addresses for all of the inventors. Also, each submitted declaration must be complete, even if executed by only one of the inventors.

Items (2) and (4) have not been satisfied and thus, the petition under 37 CFR 1.47(a) is dismissed without prejudice.

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

13 APR 2006

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King & Spalding
191 Peachtree Street, N.E.
45th Floor
Atlanta GA 30303

In re Application of	:
STICE et al.	:
Application No.: 10/512,153	: DECISION ON
PCT No.: PCT/US03/13088	:
Int. Filing Date: 24 April 2003	: RENEWED PETITION
Priority Date: 24 April 2002	:
Attorney Docket No.: 04342.105057(US)	: UNDER 37 CFR 1.47(a)
For: PRODUCTION OF CLONED OFFSPRING FROM	:
COOLED CARCASSES	:

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed 30 January 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 08 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), a statement of facts by Teri Bonica, a copy of a letter and e-mails sent to nonsigning joint inventor and a request for a three month extension of time.

On 29 December 2005, a decision dismissing applicant's petition was mailed indicating that applicant had not provided factual proof that the missing joint inventor refused to execute the application or could not be reached after diligent effort and that the declaration was not in compliance with 37 CFR 1.497(a)-(b).

On 30 January 2006, applicant filed a Renewed Request under 37 CFR 1.47(a) along with a newly executed declaration including the signature of previously nonsigning inventor John Gibbons.

DISCUSSION

Applicant has obtained the signature of previously nonsigning inventor John Gibbons and thus, the petition under 37 CFR 1.47(a) is DISMISSED AS MOOT.

The declaration submitted with the renewed petition on 30 January 2006 is comprised of

four pages, containing one page 1 and three duplicate page 2 signature pages. Each page 2 is executed by a different inventor. It appears to be a composite declaration created from the combination of separately executed declarations. The declaration is not properly executed. It appears that either the attorney pieced together separate complete declarations into one composite declaration or that the inventors were presented with an incomplete declaration. While it is acceptable for applicants to execute separate copies of the declaration, the entire declaration, as executed by the inventor, must be submitted. "Where individual declarations are executed, they must be submitted as individual declaration rather than combined into one declaration." See MPEP 201.03. What is required is one declaration where all inventors have signed or separate complete declarations. The requirements of 37 CFR 1.497 (a) and (b) have not been met and the declaration is unacceptable as filed.

CONCLUSION

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

What is required is one declaration where all inventors have signed or separate complete declarations in compliance with 37 CFR 1.497(a) and (b). Applicant is required to correct the above-noted defects including the furnishing of an oath/declaration in compliance with 1.497(a) and (b) within **TWO (2) MONTHS** from the mail date of this Decision or the time remaining under the 29 December 2005 decision.

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

Cynthia M. Kratz

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04 SEP 2006

#10

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Atlanta GA 30303

In re Application of	:	
STICE et al.	:	
Application No.: 10/512,153	:	DECISION
PCT No.: PCT/US03/13088	:	
Int. Filing Date: 24 April 2003	:	
Priority Date: 24 April 2002	:	
For: PRODUCTION OF CLONED OFFSPRING FROM	:	
COOLED CARCASSES	:	

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed 25 May 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 08 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), a statement of facts by Teri Bonica, a copy of a letter and e-mails sent to nonsigning joint inventor and a request for a three month extension of time.

On 29 December 2005, a decision dismissing applicant's petition was mailed indicating that applicant had not provided factual proof that the missing joint inventor refused to execute the application or could not be reached after diligent effort and that the declaration was not in compliance with 37 CFR 1.497(a)-(b).

On 30 January 2006, applicant filed a Renewed Request under 37 CFR 1.47(a) along with a newly executed declaration including the signature of previously nonsigning inventor John Gibbons. The petition was dismissed as moot because a declaration executed by the previously non-signing inventor was submitted. However, the declaration was not in compliance with 1.497(a) and (b) and was unacceptable.

On 25 May 2006, applicant submitted three separate, complete declarations.

DISCUSSION

Applicant submitted three complete declarations. Upon review, each declaration is in compliance with 37 CFR 1.497(a) and (b) and signed by one of the inventors. Thus, the declarations are now acceptable.

CONCLUSION

The declarations submitted on 25 May 2006 are in compliance with 37 CFR 1.497(a) and (b) and are 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 **25 May 2006**.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3286
Facsimile: (571) 273-0459

#3

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YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON, VA 22202

In re Application of GIROD et al	:	
U.S. Application No.: 10/512,158	:	
PCT Application No.: PCT/FR03/00798	:	
Int. Filing Date: 13 March 2003	:	DECISION
Priority Date Claimed: 25 March2002	:	
Attorney Docket No.: 0518-1116	:	
For: BICYCLE CARRIER WHICH CAN BE ATTACHED TO A VEHICLE	:	

This is in response to applicant's "Petition to Revive Unintentionally Abandoned Application Under 37 CFR 1.137(b)" filed 22 October 2004.

BACKGROUND

On 13 March 2003, applicant filed international application PCT/FR03/00798, which claimed priority of an earlier France application filed 25 March2002. 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 25 September 2004.

International application PCT/FR03/00798 became abandoned as to the United States for failure to timely pay the basic national fee.

On 22 October 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 a translation of the international application into English must be filed.

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

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

14 SEP 2005

#5

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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

In re Application of	:	
NAKAHAMA, Shuhei et al.	:	DECISION ON
Application No.: 10/512,160	:	
PCT No.: PCT/JP03/05271	:	PETITION
Int. Filing Date: 24 April 2003	:	
Priority Date: 24 April 2002	:	UNDER 37 CFR 1.42
Attorney Docket No.: 042848	:	
For: ARC SPRAYING TORCH HEAD	:	

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 Shuhei Nakahama is deceased. Applicants' submission has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 24 April 2003, applicants filed international application PCT/JP03/05271, which claimed a priority date of 24 April 2002. A copy of the international application was transmitted to the Office by the International Bureau on 06 November 2003. The deadline for entry into the national stage in the United States was 24 October 2004.

On 22 October 2004, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 23 June 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) was required.

On 23 August 2005, applicants submitted the instant request for status under 37 CFR 1.42.

DISCUSSION

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

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 Shuhei Nakahama, but does not list the required information for the legal representative, Kazuko Nakahama. As such, the declaration does not satisfy 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 **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

26 JUN 2006

#7

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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

In re Application of	:	
NAKAHAMA, Shuhei et al.	:	DECISION ON
Application No.: 10/512,160	:	
PCT No.: PCT/JP03/05271	:	REQUEST
Int. Filing Date: 24 April 2003	:	
Priority Date: 24 April 2002	:	UNDER 37 CFR 1.42
Attorney Docket No.: 042848	:	
For: ARC SPRAYING TORCH HEAD	:	

This decision is in response to applicant's "Submission of a Supplemental Declaration and Power of Attorney," filed in the United States Patent and Trademark Office on 30 November 2005.

BACKGROUND

On 14 September 2005, the Office mailed Decision On Petition Under 37 CFR 1.42, dismissing applicant's request without prejudice.

On 30 November 2005, applicants submitted a renewed request under 37 CFR 1.42, accompanied by the fee for a one month extension of time.

DISCUSSION

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

The supplemental declaration and the declaration of 23 August 2005, in combination, satisfy the requirements of 37 CFR 1.42 and 37 CFR 1.497(a)-(b). The declarations list the inventors and their citizenships and the legal representative and the legal representative's citizenship, residence and postal address.

CONCLUSION

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including accordation of a 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) date of **30 November 2005**.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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OFFICE OF PETITIONS

NXP, B.V.
NXP INTELLECTUAL PROPERTY & LICENSING
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE CA 95131

In re Application of	:	
AMTMANN	:	
Application No. 10/512,166	:	DECISION ON PETITION
Filed: 10/20/2004	:	
Attorney Docket No. AT02 0020 US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 7, 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 7, 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 January 8, 2009. A Notice of Abandonment was mailed on May 28, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply, (2) the petition fee, and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 2612 for appropriate action by the Examiner in the normal course of business on the reply received on August 7, 2009.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

7/16/08

Patent No. :7379748
Inventor(s) : Jansen
Issued : 5/27/2008
Title : METHOD FOR SPEEDING UP SYNCHROIZATION BY HAVING A SEARCH FREQUENCY LIST COMPRISING A LIMITED NUMBER OF SEARCH FREQUENCIES
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals that col. 7 line 33 claim 6 is printed in accordance with the record. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

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

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

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

WARE FRESSOLA VAN DER SLUYS & ADOLPHSON
755 MAIN STREET, P.O. BOX 224
MONOROE, CONNECTICUT 06468

HR/CBN

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MILLEN, WHITE, ZELANO AND BRANIGAN, P.C.
C/O BERLEX BIOSCIENCES
2200 CLARENDON BOUEVARD
SUITE 1400
ARLINGTON VA 22201

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OCT 27 2008

OFFICE OF PETITIONS

In re Application of	:	
Light et al.	:	
Application No. 10/512,215	:	DECISION ON PETITION
Filed: January 12, 2005	:	
Attorney Docket No. 52295AUSM2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 20, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 28, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is December 29, 2007.

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

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 $1050.00 extension of time fee submitted with the petition on August 20, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

There is no indication that Petitioner herein was ever empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation and change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

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

This application is being referred to Technology Center AU1644 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: Lisa Hemmendinger
Banner& Witcoff, Ltd.
1100 13th Street., N.W.
Washington, D.C. 20005

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OFFICE OF PETITIONS

FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO, CA 94304

In re Application of	:	
David R. Bundle et al	:	
Application No. 10/512,216	:	DECISION ON PETITION
Filed: July 22, 2005	:	TO WITHDRAW
Attorney Docket No. 355904-1051	:	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 14, 2009.

The request is **APPROVED**.

The request was signed by Antoinette F. Konski on behalf of the practitioners of record associated with Customer Number 38706.

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

All future correspondence will be directed to inventor David R. Bundle 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: David R. Bundle
18 Marlboro Road
Edmonton
Alberta T6J 2C6
Canada

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Heller Ehrman, LLP
4350 La Jolla Village Drive
7th Floor
San Diego, CA 92122

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SEP 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Robert Lee Fahner et al.	:	
Application No. 10/512,233	:	DECISION ON PETITION
Filed: February 15, 2006	:	TO WITHDRAW
Attorney Docket No. 39766-0121	:	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 8, 2008.

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

A review of the file record indicates that the power of attorney to Leslie B. Overman and all attorneys/agents associated with customer number 25213 has been revoked by the assignee of the patent application on July 21, 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 Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Goodwin, Proctor, LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park, CA 94025-1105

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/512,233	02/15/2006	Robert Lee Fahner	39766-0121 APC

CONFIRMATION NO. 2057

POWER OF ATTORNEY NOTICE

25213
HELLER EHRMAN LLP
4350 La Jolla Village Drive, 7th Floor
San Diego, CA 92122

OC000000031893461

Date Mailed: 09/30/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/21/2008.

- 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).

/pafennell/

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

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John S. Pratt, Esq.
Kilpatrick Stockton, LLP
1100 Peachtree Street
Suite 2800
Atlanta, GA 30309

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OFFICE OF PETITIONS

In re Application of	:	
Walter McKinley	:	
Application No. 10/512,234	:	DECISION ON PETITION
Filed: October 21, 2004	:	TO WITHDRAW
Attorney Docket No. 40431/275907	:	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 22, 2006.

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

A review of the file record indicates that the power of attorney to Kristin J. Doyle and all attorneys/agents of record has been revoked by the assignee of the patent application on June 7, 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: Bent, Inc.
Attn: Mark Boomershine
Suite D, No. 626
2221 Peachtree Road
Atlanta, GA 30309

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FRIEDRICH KUEFFNER
317 MADISON AVENUE, SUITE 910
NEW YORK NY 10017

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OFFICE OF PETITIONS

In re Application of :
HORMANN et al. :
Application No. 10/512,239 : DECISION ON PETITION
Filed: 04/14/2005 :
Attorney Docket No. LZ-94PCT :

This is a decision on the petition under 37 CFR 1.181, filed October 15, 2007, to withdraw the holding of abandonment for the above-identified application.

On March 8, 2007, the Office mailed a nonfinal Office Action, which set a three-month shortened statutory period for reply. In the absence of a timely filed response, the application was held abandoned on June 9, 2007. A Notice of Abandonment was mailed on October 2, 2007.

In the present petition, the practitioner requested that the Office withdraw the holding of abandonment due to non-receipt of the nonfinal Office Action.

A review of the record indicates no irregularity in the mailing of the nonfinal Office Action, and in the absence of any irregularity in the mailing, there is a strong presumption that the nonfinal Office Action was properly mailed to the address of record. This presumption may be overcome by a showing that the nonfinal Office action 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 practitioner did not receive the Office communication 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)(I)(A). For example, if a three-month period for reply was set in the non-received Office communication, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office communication must be submitted as documentary proof of non-receipt of the Office communication. 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 (*e.g.* if the practitioner has a history of not receiving Office communications).

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. The practitioner for applicants submitted copies of docket records where the nonfinal Office Action would have been entered had it been received and docketed. The practitioner attested to the fact that a search of the file jacket and docket records indicated that the nonfinal Office Action was not received. Accordingly, applicants presented the required showing under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**. No petition fee is required.

Technology Center Art Unit 3634 has been advised of this decision. The matter is being referred to the Technology Center's technical support staff for mailing of a new nonfinal Office action. The three (3) month shortened statutory time period for responding to the nonfinal Office action will be set to run from the mailing date of the new nonfinal Office action.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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JAN 07 2008

OFFICE OF PETITIONS

In re Patent No. 7,279,293	:	
KOTANI et al.	:	
Issued: October 9, 2007	:	LETTER REGARDING PATENT
Application No. 10/512,240	:	TERM ADJUSTMENT and
Filed: June 8, 2005	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No.: 14871-090US1	:	CERTIFICATE OF CORRECTION
	:	

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT," filed September 28, 2007. Pursuant to patentees' duty of good faith and candor to the Office, patentees request 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 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 **NINETY-ONE (91)** days.

On September 28, 2007, patentees submitted the instant comment. On October 9, 2007, the above-identified application matured into U.S. Patent No. 7,279,293, with a revised patent term adjustment of 98 days.

Patentees request that the Office recalculate the period of patent term adjustment. Specifically, patentees direct the Office's attention to the Information Disclosure Statement (IDS) received by the USPTO on April 20, 2007.

A review of the application history confirms that patentees should have been assessed a delay of seven (7) days pursuant to 37 CFR 1.704(c)(8). It is undisputed that after filing the initial response on April 13, 2007, patentee filed the IDS on April 20, 2007. The record does not support a conclusion that the examiner expressly requested the IDS. Further, a review of the IDS, filed April 20, 2007, reveals that patentees did not include a § 1.704(d) statement[4]. Thus, patentees failed to engage in reasonable efforts to conclude prosecution of the application. The period of adjustment should have been reduced by 7 days, the number of days beginning on the day after the date the initial reply was filed, April 14, 2007, and ending on the date that the supplemental reply was filed, April 20, 2007. See 37 CFR 1.704(c)(8).

In view thereof, the patent should have issued with a revised patent term adjustment of **NINETY-ONE (91)** days.

As this letter was submitted as an advisement to the Office of an error in patentees' favor, the Office will not assess the $200.00 fee as set forth in 37 CFR 1.18(e). The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

This matter is being referred to the Certificate of Correction Branch for issuance of a certificate of correction to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **NINETY-ONE (91)** days.

---

[4] Pursuant to 37 CFR 1.704(d):

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

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Nancy Johnson
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 : 7,279,293 B2

DATED : Oct. 9, 2007

INVENTOR(S) : Kotani 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 (91) days

Delete the phrase "by 98 days" and insert – by 91 days--

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/512,248	10/20/2004	Albert Kudzovi Amegadzie	X-15595	9507

25885 7590 10/27/2006

ELI LILLY & COMPANY
PATENT DIVISION
P.O. BOX 6288
INDIANAPOLIS, IN 46206-6288

EXAMINER
GRAZIER, NYEEMAH

ART UNIT	PAPER NUMBER
1626	

DATE MAILED: 10/27/2006

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
Alexandria, VA. 22313-1450
WWW.USPTO.GOV

Eli Lilly and Company
Patent Division
P.O. Box 6288
Indianapolis, Indiana 46206-6288

Date: October 10, 2006	:	
Application No. 10/512,248	:	
Filed: October 20, 2004	:	**ON PETITION**
Subject: **Tachykinin Receptor Antagonists**	:	**37 CFR 1.48(a)**

Receipt is acknowledged of the petition filed October 8, 2006 under 37 CFR 1.48(a) for correction of inventorship. The petition has been **GRANTED**.

In view of the papers filed, it has been found that during the prosecution of the instant application a name of an inventor was omitted through error without any deceptive intention on the part of this inventor. Accordingly, this application has been changed by the **DELETION of Brian Stephen MUEHL and David Michael REMICK.** The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

JOSEPH K. MCKANE
United States Patent and Trademark Office
Technology Center 1600
SPE, ART UNIT 1626
Remsen 5A05
571-272-0699

Joseph K. McKane
JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

13 OCT 2005

#9

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www.uspto.gov

Michael J. McGovern
QUARLES & BRADY LLP
411 E. Wisconsin Ave.
Milwaukee, WI 53202

In re Application of	:	DECISION ON
Juergen BUSCH	:	
PCT No.: PCT/EP03/04011	:	
Application No.: 10/512,251	:	PETITION UNDER
Int. Filing Date: 17 April 2003	:	
Priority Date: 24 April 2002	:	
Attorney's Docket No.: 411076.00013	:	37 CFR 1.47(b)
For: METHOD AND DEVICE FOR A	:	
SYNCHRONIZING ... ASYNCHRONOUS NETWORK	:	

This decision is in response to applicant's "PEITTION UNDER 37 CFR 1.47(b) WHERE SOLE INVENTOR REFUSES TO SIGN" submitted on 18 August 2005 that seeks the acceptance of the application without the signature of the inventor Juergen BUSCH. Applicant has been charged the requisite $130 petition fee to Deposit Account No. 17-0055 as authorized in the petition.

BACKGROUND

On 17 April 2003, applicant filed international application PCT/EP03/04011, which claimed priority of an earlier application filed 24 April 2002.

On 20 October 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). However, no executed declaration or oath was submitted at such time.

On 05 August 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 indicating, *inter alia*, that "the oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. The notification set two months from the date of this notice or 32 months from the priority date for the application, whichever is later. Failure to properly respond will result in abandonment."

In an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4), applicant filed on 18 August 2005, the following:

1) a petition under 37 CFR 1.47(b);

2) a Declaration for U.S. Patent Application executed by Mr. Jeurgen Proell;

3) Declaration by Mr. Jeurgen Proell;

4) the required petition fee.

DISCUSSION

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

Applicant has satisfied items (1), (3), and (5) but not items (2), (4) and (6); thus not completing the requirements under 37 CFR 1.47(b).

Applicant has satisfied item (1) since the petition fee has been provided by applicant.

Regarding requirement (2), although applicant has concluded that Mr. Busch refuses to sign the declaration the petition does not include sufficient proof to establish this conclusion. The standards for proof are set forth in MPEP § 409.03(d), which provides:

> 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....
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the non - signing inventor, or, if the non - signing inventor is represented by counsel, to the address of the non - signing 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.

Mr. Proell states that Mr. Busch refused to signed the declaration, however in the present instance, it is not clear whether a complete set of application papers were presented to him to sign. The documents forwarded to him do not appear to include a copy of the application papers (specification, including claims, drawings, and oath or declaration) as required under MPEP 409.03(d) because only the declaration and assignment (¶ 7) were mentioned as being sent to Mr. Busch's last known address. Consequently, the evidence does support a bona fide attempt by Mr. Proell to present the application papers to Mr. Busch.

Moreover, Mr. Proell is not the person who performed the actions listed in paragraph 7 of his declaration, and does not have first hand knowledge of those facts as required by MPEP Section 409.03(d). Because Mr. Proell was not the person who performed the actions listed in paragraph 7, applicant will need to submit statements, with specific facts on the actions referred to by paragraph 7 by the person, Birgit Koestler, who has first-hand knowledge of such facts.

Furthermore, although documentary evidence to support this assertion has been provided such as the letter, the letter is in German and no English translation has been provided. Therefore, it is unclear what is said in this document. Also, no copy of the registered returned envelope, a certified mail return receipt, and etc., as required by MPEP Section 409.03 to support his allegation about the correspondence sent to Mr. Busch has been provided. Therefore, it is unclear if he actually received the documents.

Consequently, the petition does not include sufficient factual proof that Mr. Busch refuses to sign the required papers.

Regarding item (3), applicant has stated the last known address of the inventor:

Mr. Juergen Busch
Nemetkerstrasse 25
91186 Buechenbach, Germany

Regarding item (4) a declaration has been provided which is executed by Juergen Proell, Patent counsel for Applicant signing on behalf of the corporation for the non-signing sole inventor, Mr. Busch. The declaration, however, only sets forth Mr. Proell as an attorney and it is unclear if he is an appropriate corporate officer to sign on behalf of the corporation. Note MPEP 1820. In addition, the declaration is defective because it does not state the relationship of the person signing to the inventor, as required by 37 CFR 1.497(b)(2), and it unclear why Proell is signing for Grundig Intermedia GmbH and not for Grundig Multimedia B.V., which is how the entity is listed on the U.S. Patent Assignment.

Regarding item (5) applicant has submitted proof that applicant has sufficient proprietary interest in the application. A copy of the employment agreement and the assignment signed by Mr. Busch have been provided.

Regarding item (6) applicant has not presented an adequate showing that the granting of this petition is necessary to preserve the rights of the parties or to prevent irreparable damage if the response to the missing parts of the application is not timely.

Accordingly, because items (2), (4) and (6) under 37 CFR 1.47(b) have not been met, it is not appropriate to accord the national stage application status at this time.

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." 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

#6

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Michael J. McGovern
QUARLES & BRADY LLP
411 E. Wisconsin Ave.
Milwaukee, WI 53202

In re Application of	:	DECISION ON
Juergen BUSCH	:	
PCT No.: PCT/EP03/04011	:	
Application No.: 10/512,251	:	
Int. Filing Date: 17 April 2003	:	PETITION UNDER
Priority Date: 24 April 2002	:	
Attorney's Docket No.: 411076.00013	:	
For: METHOD AND DEVICE FOR A	:	
SYNCHRONIZING ... ASYNCHRONOUS NETWORK	:	37 CFR 1.47(b)

This decision is in response to applicant's " SECOND REPLY TO NOTICE OF MISSING REQUIREMENTS" filed on 07 November 2005, which is being treated as a renewed petition under 1.47(b).

BACKGROUND

The decision by this Office dated 13 October 2005 indicated that items (2), (4), and (6) had not been satisfied.

On 07 November 2005, petitioner filed this renewed petition accompanied, inter alia, an executed declaration by inventor, Juergen BUSCH.

DISCUSSION

The renewed petition states subsequent to the date of the Decision, Juergen BUSCH, executed a declaration. The declaration is now signed by sole the inventor.

Accordingly, the declaration submitted on 07 November 2005 complies with 37 CFR 1.497(a) and (b).

CONCLUSION

The petition under 37 CFR 1.47(b) is **MOOT.**

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 **07 November 2005**

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

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HOWSON & HOWSON LLP
501 OFFICE CENTER DRIVE
SUITE 210
FORT WASHINGTON PA 19034

MAILED

JUN 08 2009

OFFICE OF PETITIONS

In re Patent No. 7,516,829	:
Shoichi Ishida	:
Issue Date: April 14, 2009	:
Application No. 10/512,254	: DECISION ON REQUEST FOR
Filed: October 21, 2004	: RECONSIDERATION OF
Attorney Docket No. HAY2USA	: PATENT TERM ADJUSTMENT
Title: Vending Machine of	:
Encapsulated Article of	:
Commerce	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed May 1, 2009. This matter is being properly treated under 37 CFR 1.705(d) as an application for patent term adjustment.

The application for reconsideration of patent term adjustment is **DISMISSED**.

The above-identified application matured into U.S. Patent No. 7,516,829 on April 14, 2009. The patent issued with a patent term adjustment of 850 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See, 37 CFR 1.705(d). Patentees request that the patent term adjustment determination for the above-identified patent be changed from 850 days to 1324 days.

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

The petition submitted by patentee sets forth a period of adjustment for Office delays totaling 1391 days (Three Year Delay under 37 CFR 1.703(b) of 541 days *plus* a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a) of 850 days). The petition also sets forth an overlap of 67 days. The petition reflects a reduction of patent term adjustment totaling "0" days for applicants' failure to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. Thus, patentee asserts entitlement to an overall adjustment of 1324 days (1391(541+850)days for Office delays *less* 67 days for overlap).

Patentee's petition does not dispute the adjustments under 37 CFR 1.702(a) totaling 850 days. Patentee's petition acknowledges the 0 reductions for applicant's failure to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. These reductions total 0 days.

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

The Office agrees that as of the issuance of the patent on April 14, 2009, the application was pending three years and 541 days after its filing date. The Office agrees that because certain actions were not taken within specified time frames, the patent is entitled to an adjustment of 850 days pursuant to 37 CFR 1.702(a). At issue is whether patentees should accrue an additional 541 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 850 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 541 days overlap. Patentee's calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 35 CFR 1.703(f) provides that:

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

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

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

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees.

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

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

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

[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, October 21, 2004, to the date the patent issued on April 14, 2009. Prior to the issuance of the patent, 850 days of patent term adjustment were accorded for the Office failing to respond within specified time frames during the pendency of the application. The 850 days accorded pursuant to 37 CFR 1.702(a) overlap with the 541 days of Office delay under 37 CFR 1.702(b).

The application actually issued three years and 541 days after its filing date. The Office did not delay 850 days and then delay an additional 541 days. Accordingly, 850 days of patent term adjustment (not 850 days and 541 days) was properly entered because the period of delay of 541 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 850 days attributable to grounds specified in § 1.702(a). Entry of both periods is not warranted. Thus, 850 days, which includes the 541 days pursuant to 37 CFR 1.702(a), is determined to be the actual number of days that the issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered an overall adjustment of 850 days of patent term adjustment for the Office taking in excess of three years to issue the patent.

In view thereof, no adjustment to the patent term will be made because the correct adjustment of 850 days is properly set forth in the Letters Patent.

Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

The Office acknowledges submission of the required $200.00 application fee. See, 37 CFR 1.18(e).

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

Kery A Fries

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration

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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

Mail Date: 04/21/2010

Applicant	: Oemer Uensal	: DECISION ON REQUEST FOR
Patent Number	: 7625652	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/512,264	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1245** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

Mail Date: 05/18/2010

Applicant : Oemer Uensal
Patent Number : 7625652
Issue Date : 12/01/2009
Application No : 10/512,264
Filed : 12/08/2004

: 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 **1279** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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PTO/SB/83 (04-05)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
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REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS		
	Application Number	10/512,276
	Filing Date	(Int'l) April 24, 2003
	First Named Inventor	Deodorus Jacobus GROEN
	Art Unit	1761
	Examiner Name	M. Cano
	Attorney Docket Number	246152023400

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

Approved
Jacqueline M. Stone, Director
Technology Center 1700/2900
2-16-07

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

- [x] all the attorneys/agents of record.
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [ ] the attorneys/agents associated with Customer Number [ ]

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

The reasons for this request are:
This transfer is being made at the request of the client.

CORRESPONDENCE ADDRESS

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

[ ] The address associated with Customer Number: [ ]

OR

[x] Firm or Individual Name	Bryan H. Davidson, Esq. Nixon & Vanderhye P.C.				
Address	111th Floor, 901 North Glebe Road				
City	Arlington	State	VA	Zip	22203-1808
Country	US				
Telephone	(703) 816-4026	Email	bhd@nixonvan.com		
Signature	Kate H. Murashige				
Name	Kate H. Murashige	Registration No.	29,959		
Date	January 5, 2007	Telephone No.	(858) 720-5112		

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.

sd-352569

25 MAY 2005

#3

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BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

In re Application of SMITH	:	
U.S. Application No.: 10/512,278	:	
PCT Application No.: PCT/AU03/00078	:	DECISION
Int. Filing Date: 29 January 2003	:	
Priority Date Claimed: 11 April 2002	:	
Attorney Docket No.: PIP0111PUSA	:	
For: A STABILISER DEVICE	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 22 October 2004.

BACKGROUND

On 29 January 2003, applicant filed international application PCT/AU03/00078, which claimed priority of an earlier Australia application filed 11 April 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 23 October 2003. The thirty-month period for paying the basic national fee in the United States expired on 11 October 2004.

International application PCT/AU03/00078 became abandoned as to the United States for failure to timely pay the basic national fee.

On 22 October 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 29 January 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 22 October 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

29 AUG 2005

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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, NW
SUITE 1200
WASHINGTON, DC 20006-1109

In re Application of FICHT, Reinhold Application No.: 10/512,280 PCT No.: PCT/DE03/01442 Int. Filing Date: 06 May 2003 Priority Date: 15 May 2002 Docket No.: 60291.26 For: MOTOR-DRIVEN INFLATABLE ... PROPELLER PROPULSION DEVICE	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicant's "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 13 July 2005 is **GRANTED**.

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," satisfies 37 CFR 1.137(b)(3). The petition fee and basic national fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

The declaration submitted in the international phase does not identify the international application by number and did not accompany the originally filed papers. As such, it does not satisfy 37 CFR 1.497(a)-(b). An oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required.

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), an English translation of the application, the processing fee for late furnishing of the translation and the surcharge for late filing of the oath or declaration are required.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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BASF Performance Products LLC
Patent Department
540 White Plains Road
P.O. Box 2005
Tarrytown, NY 10591

Mail Date: 04/20/2010

Applicant	: Jean-Pierre Wolf	: DECISION ON REQUEST FOR
Patent Number	: 7588880	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/512,300	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/21/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **278** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-16-09

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/512311 Patent No.: 7565107

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

A Green

Angela Green 703-756-1541

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: ok to enter

/Matthew Anderson/ — **SPE**

2618 — **Art Unit**

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THOMSON LICENSING, LLC
2 INDEPENDENCE WAY, PATENT OPERATIONS
P.O. BOX 5312
PRINCETON, NJ 08543

COPY MAILED

JUL 10 2008

OFFICE OF PETITIONS

In re Application of	:	
GIGER, et al.	:	
Application No. 10/512,317	:	DECISION ON PETITION
Filed: October 22, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **PU020141**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 10, 2008, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely pay the issue and publication fees on or before February 15, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed November 15, 2007. Accordingly, the date of abandonment of this application is February 16, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700 and publication fee of $300, (2) the petition fee of $1540; and (3) an adequate statement of unintentional delay.

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

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

Brian W. Brown
Petitions Examiner
Office of Petitions

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Thomas Kayden Horstemeyer & Risley
600 Galleria Parkway SE
Suite 1500
Atlanta, GA 30339-5910

Mail Date: 04/21/2010

Applicant	: Nelya Okun	: DECISION ON REQUEST FOR
Patent Number	: 7655594	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/512,336	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/21/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1463** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

24 JUN 2005

#3

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

In re Application of LEIF U.S. Application No.: 10/512,337 PCT No.: PCT/US03/11394 Int. Filing Date: 14 April 2003 Priority Date: 13 April 2002 Attorney Docket No.: 26208 For: CENTRIFUGAL CYTOLOGY SYSTEM, CHAMBER BLOCK AND METHOD FOR THE PREPARATION OF TREATED MONOLAYERS OF SAMPLE MATERIAL	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 21 October 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing this entry into the national phase due 14 October 2004, until the filing of this statement and the attached Petition under 37 CFR 1.137(b), is unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National fee 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 inventor is required.

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

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NATH & ASSOCIATES
112 SOUTH WEST STREET
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
LEIF, Robert C.	:	
Application No. 10/512,337	:	DECISION ON PETITION
Filed: July 26, 2005	:	TO WITHDRAW
Attorney Docket No. **90014**	:	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 08, 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 Tredelle Jackson at 571-272- 2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **KIMSEY PATENT SERVICES**
804 SHAMROCK AVENUE
BOONVILLE, MO 65233

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

Mail Date: 04/20/2010

Applicant	: Akira Hatayama	: DECISION ON REQUEST FOR
Patent Number	: 7655804	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/512,348	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/10/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1060** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SMITH MOORE LEATHERWOOD LLP
P.O. BOX 21927
GREENSBORO, NC 27420

Mail Date: 04/20/2010

Applicant	: Jorg Harren	: DECISION ON REQUEST FOR
Patent Number	: 7625957	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/512,351	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/04/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **824** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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21 DEC 2005

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Lawrence J Crain
GREER BURNS & CRAIN, LTD.
300 South Wacker Drive
Suite 2500
Chicago, IL 60606

In re Application of CAI
Application No.: 10/512,353
PCT No.: PCT/CN03/00089
Int. Filing: 20 January 2003
Priority Date: 25 November 2002
Attorney Docket No.: 1991-71805
For: SEALED FOOD BOX

DECISION ON

PETITION UNDER

37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 22 October 2004 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that the basic national fee of $555 has been provided. The required petition fee of $685 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 English translation of the international application, the surcharge for filing the oath or declaration and the processing fee for filing the English translation after the thirty month period is required.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

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Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton, NJ 08543-5312

Mail Date: 04/21/2010

Applicant	: Janghwan Lee	: DECISION ON REQUEST FOR
Patent Number	: 7646431	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/512,366	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **660** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ALIX YALE & RISTAS LLP
750 MAIN STREET
SUITE 1400
HARTFORD CT 06103

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AUG 2 4 2009

OFFICE OF PETITIONS

In re Application of
Law, et al.
Application No. 10/512,368
Filed: October 25, 2004
Attorney Docket No. GIPAC/108/PC/US
For: AIR CLEANER FILTER SYSTEM CAPABLE OF NANO-CONFINED CATALYTIC OXIDATION

ON PETITION

This is a decision on the petition, filed June 19, 2009 (certificate of mailing date June 17, 2009), 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 February 4, 2008 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 May 5, 2008. A Notice of Abandonment was mailed on October 1, 2008.

Applicants have submitted an amendment in reply to the February 4, 2008 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the February 4, 2008 non-final Office action, and the $810.00 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 1795 for consideration of the amendment filed on June 19, 2009 (certificate of mailing date June 17, 2009).

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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22 SEP 2006

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In re Application of MAZIERS et al. Serial No.: 10/512,393 PCT App. No.: PCT/EP03/04398 Int'l Filing Date: 24 April 2003 Priority Date: 26 April 2002 Attorney Docket No.: 31223.00058(F-846) For: HIGH DIMENSION STABILITY AND HIGH PROCESSABILITY POLYETHYLENE IN INJECTION MOULDING	DECISION ON RENEWED PETITION UNDER 37 CFR 1.137(b)

This is a decision on applicants' " Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)", filed on 11 September 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 19 April 2005, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants indicating that the oath or declaration in compliance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the 20 or 30 month period, was required.

On 17 July 2006, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicant.

On 11 September 2006, applicants responded to the Notification of Abandonment with a petition to revive along with a 3 page executed declaration.

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)), and (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".

With regard to Item (2), the petition fee of $1500 is paid. With respect to Item (3), applicant has made the 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".

Regarding Item (1), an executed declaration, was submitted. Upon review, the declaration appears to contain duplicate signature pages (Page 2). Each page is signed by different inventors and combined into one declaration. The declaration is not properly executed. It appears that either the

attorney pieced together separate complete declarations into one composite declaration or the inventors were presented with an incomplete declaration. What is required is one declaration where all inventors have signed or separate complete declarations. Thus, the requirements of 37 CFR 1.497 (a) and (b) have not been met and the declaration is unacceptable as filed.

Section 201.03 of the MPEP states, in pertinent part,:

> An oath or declaration under 37 CFR 1.63 by each actual inventor must be presented. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. For example, where the inventive entity is A and B, a declaration may not be executed only by A naming only A as the inventor and a different declaration may not be executed only by B naming only B as the inventor, which two declarations are then combined into one declaration with a first page of boiler plate, a second page with A's signature, and a second page with B's signature (so that it appears that the declaration was executed with the entire inventive entity appearing in the declaration when it did not).

(Emphasis added.)

CONCLUSION

The petition under 37 CFR §1.137(b) is **DISMISSED WITHOUT PREJUDICE.** The application remains abandoned.

The declaration submitted on 11 September 2006 is unacceptable as filed. What is required is one declaration where all inventors have signed or two separate complete declarations in compliance with 37 CFR 1.497. Applicant is required to correct the above-noted defects including the furnishing of an oath/declaration in compliance with 1.497(a) and (b) within **ONE (1) MONTH** from the mail date of this Decision.

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

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In re Application of MAZIERS et al. Serial No.: 10/512,393 PCT App. No.: PCT/EP03/04398 Int'l Filing Date: 24 April 2003 Priority Date: 26 April 2002 Attorney Docket No.: 31223.00058(F-846) For: HIGH DIMENSION STABILITY AND HIGH PROCESSABILITY POLYETHYLENE IN INJECTION MOULDING	DECISION ON RENEWED PETITION UNDER 37 CFR 1.137(b)

The renewed petition to revive under 37 CFR 1.137(b) filed 20 October 2006 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that the declaration submitted on 20 October 2006 is in compliance with 37 CFR 1.497(a) and (b) and is acceptable. Thus, the requirements of 37 CFR 1.137(b) have now been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) date is 20 October 2006.

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#5

UNITED STATES PATENT AND TRADEMARK OFFICE

01 DEC 2005

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In re Application of	:	
FACCHI, et al.	:	DECISION ON PETITION
Serial No.: 10/512,395	:	
PCT No.: PCT/EP03/04207	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 23 April 2003	:	
Priority Date: 23 April 2002	:	
Atty Docket No.: 267.181	:	
For: MEMBRANE ELECTROCHEMICAL	:	
GENERATOR	:	

This decision is in response to applicant's "PETITION UNDER RULE 47(a)" filed 25 May 2005 to accept the application without the signatures of joint inventors Eduardo Trifoni and Matteo Lenardon.

BACKGROUND

On 23 April 2003, applicant filed international application PCT/EP03/04207 which claimed priority to a previous application filed 23 April 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 23 October 2004.

On 22 October 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the international application; a preliminary amendment; an assignment document for recording and an Information Disclosure Statement. In addition, applicant filed combined declaration and power of attorney executed by three of the six inventors listed on the published international application: Daniele Facchi, Antonio Toro and Luca Merlo.

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 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 25 May 2005, applicant filed the present petition under 37 CFR 1.47(a) to accept the application without the signatures of joint inventors Eduardo Trifoni and Matteo Lenardon.

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 items1 and 4.

Regarding item (1), applicant has only provided payment of $130.00 for the petition fee. Applicant is 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.: 02-2275.

As to item (2), as stated in the Manual of Patent Examination Procedure (MPEP), Section 409.03(d) Proof of Unavailability or Refusal, "Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature." 409.03(d) also states that:

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

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.

In the present case, Ms. Tuosto states that she mailed a copy of the application and an assignment document to Mr. Trifoni on 08 July 2004 and Mr. Lenardon on 09 September 2004. Both sets of papers were mailed prior to applicant entering the national stage in the United States and don't appear to have contained a declaration for the purposes of entering the national stage in the United States but merely an assignment document. As detailed above, the inventors must be presented with an oath or declaration for execution. In addition, both the petition and declaration of Ms. Tuosto reference a letter and English translation from Mr. Trifoni stating his refusal to sign without adequate compensation; however, said documents were not included in the filing. As to Mr. Lenardon his silence can not be constituted as a refusal in the immediate circumstances as it is unclear whether he received the papers and whether they did in fact contain an oath or declaration for execution. In cases where it is argued that the non-action of an inventor should be considered a refusal to cooperate it is especially important to provide proof of delivery of the papers, as well

as, a firsthand statement of the preparation and mailing of the papers.

Regarding item (3), applicant has not provided the last known addresses for inventors Trifoni and Lenardon.

In light of the above, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(a) is **DISMISSED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a). Applicant is advised that in order for the renewed petition to be considered applicant must provide payment of the remaining $70.00.

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

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08 JUN 2006

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In re Application of	:	
FACCHI, et al.	:	DECISION ON RENEWED
Serial No.: 10/512,395	:	
PCT No.: PCT/EP03/04207	:	PETITION UNDER
Int. Filing Date: 23 April 2003	:	
Priority Date: 23 April 2002	:	37 CFR 1.47(a)
Atty Docket No.: 267.181	:	
For: MEMBRANE ELECTROCHEMICAL	:	
GENERATOR	:	

This decision is in response to applicant's "RENEWED RULE 47(a) PETITION" filed 07 February 2006 to accept the application without the signatures of joint inventors Eduardo Trifoni and Matteo Lenardon.

BACKGROUND

On 01 December 2005, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(a). Applicant was afforded two months to file any request for reconsideration and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 07 February 2006, applicant filed the present renewed petition accompanied by a petition for a one-month extension of time. The response is considered timely filed.

DISCUSSION

As detailed in the decision mailed 01 December 2005, a petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant previously satisfied items 1 and 4.

With the filing of the renewed petition and accompanying documentation applicant has satisfied the two additional items and it is proper to grant applicant's renewed petition at this time.

CONCLUSION

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

The application has an international filing date of 23 April 2003 under 35 U.S.C. 363, and will be given a date of **25 May 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Kagawa, et al.	:	
Application No. 10/512,413	:	DECISION
Filed: 9 February, 2007	:	
Attorney Docket No. KAGAWA1/Q103205	:	

This is a decision on the petition filed on 26 November, 2008, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay. (The Revocation/Power of Attorney filed on 12 November is acknowledged and accepted.)

The petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 14 September, 2007, with reply due absent extension of time on or before 14 December, 2007.

The application went abandoned by operation of law after midnight 14 December, 2007.

The Office mailed the Notice of Abandonment on 2 June, 2008.

On 12 November, 2008, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), averring unintentional delay, with fee, a reply in the form of an amendment, and made a statement of unintentional delay.

It is noted that it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. As a result, the Office may treat such a statement as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1] *In the event that such an inquiry has not been made, a Petitioner* ***must*** *make such an inquiry—and if such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional, a Petitioner* ***must*** *notify the 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.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[4]))

---

[1] See 37 C.F.R. §10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

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

[3] 35 U.S.C. §133 provides:

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

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

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

As to Allegations of
Unintentional Delay

It appears that the requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center/AU 1794 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

28 OCT 2005

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In re Application of	:	DECISION ON
TAKAGI, Koji et al	:	
Application No.: 10/512,421	:	
PCT No.: PCT/JP03/04923	:	
Int. Filing Date: 17 April 2003	:	PETITION UNDER
Priority Date: 26 April 2002	:	
Attorney Docket No.: Q84383	:	
For: PARTICLES AND DEVICE FOR	:	
IMAGE DISPLAY	:	37 CFR 1.182

This is in response to applicants' submission "PETITION UNDER 37 CFR 1.182 TO CORRECT INVENTOR'S NAMES" filed on 08 July 2005. This submission states that the correct inventors' name for the first listed inventor, " Mitsuharu TAKAGI," is "Koji TAKAGI" and the name of the fifth inventor, "Sou KITANO," is "Hajime KITANO." The petition fee of $400.00 has been paid by check.

BACKGROUND

On 25 October 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 19 April 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by International application number and international filing date." The notice also indicated that 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.

On 08 July 2005 applicants submitted a "RESPONSE TO MISSING REQUIREMENTS UNDER 35 U.S.C. 371," which included an executed Declaration and a petition under 37 CFR 1.182.

DISCUSSION

The correct name of the first joint-inventor is "Koji TAKAGI" and the correct name of the fifth joint-inventor is "Hajime KITANO." Applicants indicate that their names were erroneously translated from Japanese to English in the published International Application PCT/JP03/04923. However, the correct translation of their names appears in the declaration filed to the USPTO. The correct names, Koji TAKAGI and Hajime KITANO, will be reflected in the US national stage processing.

Applicants' response is accepted as a sufficient response to the Notification of Missing Requirements (FORM PCT/DO/EO/905) mailed on 19 April 2005.

DECISION

For the reasons above, the petition under 37 CFR 1.182 is **GRANTED.** The application will be granted a 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) date of **08 July 2005.**

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

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09 JAN 2006

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In re Application of
NISHIO et al.
U.S. Application No. 10/512,432
PCT No.: PCT/JP03/05392
Int. Filing Date: 25 April 2003
Priority Date: 26 April 2002
Attorney Docket No.: 1600-0154PUS1
For: MATERIAL FOR SOLID POLYMER ELECTROLYTE, AND POLYETHER POLYMER AND PROCESS FOR PRODUCING SAME

DECISION ON REQUEST

This decision is in response to applicants' "Amendment, Petition and Fee to Delete and/or Add to Original Erroneously Named of Not Named Inventor(s) in - Nonprovisional Application - Declaration (37 CFR 1.48(a)" filed 16 September 2005, which is being treated as a Petition to Correct Inventorship under 37 CFR 1.497(d).

BACKGROUND

On 25 April 2003, applicants filed international application PCT/JP03/05392 which claimed a priority date of 26 April 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 06 November 2003. The international application named Hideyuki Nishio and Hidenori Onishi as applicants/inventors. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 26 October 2004.

On 25 October 2004, applicants filed a transmittal letter for entry into the national stage accompanied by, *inter alia:* the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 16 May 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 16 September 2005, applicants "Amendment, Petition and Fee to Delete and/or Add to Original Erroneously Named of Not Named Inventor(s) in - Nonprovisional Application - Declaration (37 CFR 1.48(a)."

DISCUSSION

As defined in 37 CFR 1.9(a)(3), a U.S. national stage application must first comply with the requirements of 35 U.S.C. 371(c) to constitute a "nonprovisional" application, therefore, applicants' request will be treated under 37 CFR 1.497(d). In the instant case, the international application named Hideyuki Nishio and Hidenori Onishi as applicants/inventors. Applicants request to add Richard Laliberte and Paul-Andre Lavoie as applicants/inventors. In order to correct an error in naming the inventor(s) made during the international stage in the national stage, a submission under 37 CFR 1.497(d) is required.

A submission under 37 CFR 1.497(d) to correct an error in naming inventorship requires: (1) a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part; (2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.497(a); (3) the fee set forth in 37 CFR 1.17(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). Items (1), (2), and (3) have been satisfied.

In regard to item (4) above, applicants have provided an "Assent of Assignee to Correction" which states that "assignee Zeon Corporation assents to the correction of inventorship, however, the assignee has not established its ownership to the application in accordance with 37 CFR 3.73. (See Manuel of Patent Examining Procedure (MPEP) §324 and Statement under 37 CFR 3.73(b). Therefore, applicants must provide a copy of the assignment or indicate that the assignment has been recorded in the United States Patent and Trademark Office (e.g., reel and frame number).

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

CONCLUSION

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

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

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

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

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17 FEB 2006

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In re Application of
NISHIO et al.
U.S. Application No. 10/512,432
PCT No.: PCT/JP03/05392
Int. Filing Date: 25 April 2003
Priority Date: 26 April 2002
Attorney Docket No.: 1600-0154PUS1
For: MATERIAL FOR SOLID POLYMER ELECTROLYTE, AND POLYETHER POLYMER AND PROCESS FOR PRODUCING SAME

DECISION ON REQUEST

This decision is in response to applicants' "Response to Decision" filed 30 January 2006, which is being treated as a Renewed Request under 37 CFR 1.497(d).

BACKGROUND

On 25 April 2003, applicants filed international application PCT/JP03/05392 which claimed a priority date of 26 April 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 06 November 2003. The international application named Hideyuki Nishio and Hidenori Onishi as applicants/inventors. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 26 October 2004.

On 25 October 2004, applicants filed a transmittal letter for entry into the national stage accompanied by, *inter alia:* the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 16 May 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 16 September 2005, applicants filed "Amendment, Petition and Fee to Delete and/or Add to Original Erroneously Named of Not Named Inventor(s) in - Nonprovisional Application - Declaration (37 CFR 1.48(a)." In a decision on petition dated 09 January 2006, applicants' request under 37 CFR 1.497(d) was refused.

On 30 January 2006, applicants filed the present renewed request under 37 CFR 1.497(d).

DISCUSSION

In the instant case, the international application named Hideyuki Nishio and Hidenori Onishi as applicants/inventors. Applicants request to add Richard Laliberte and Paul-Andre Lavoie as applicants/inventors. In order to correct an error in naming the inventor(s) made during the international stage in the national stage, a submission under 37 CFR 1.497(d) is required.

A submission under 37 CFR 1.497(d) to correct an error in naming inventorship requires: (1) a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part; (2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.497(a); (3) the fee set forth in 37 CFR 1.17(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).

Items (1) - (4) have been satisfied.

CONCLUSION

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

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

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In re Application of	:
Oliver Wagner et al	:
Serial No.: 10/512,451	: PETITION DECISION
Filed: October 25, 2004	:
Attorney Docket No.: PF++53467	:

This is in response to the petition under 37 CFR 1.144, filed November 24, 2006, requesting withdrawal of an improper restriction requirement. The delay in acting on this petition is regretted, however it was only brought to the attention of the deciding official recently.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 371 and was accepted on October 25, 2004, and contained claims 1-9, as amended by preliminary amendment. In a first Office action, mailed November 4, 2005, the examiner set forth a Lack of Unity requirement, as follows:

> Group I, the instance where X is pyridine;
> Group II, the instance where X is pyridazine;
> Group III, the instance where X is pyrimidine;
> Group IV, the instance where X is pyrazine;
> Group V, the instance where X is a triazine;
> Group VI, the instance where X is a tetrazine;
> Group VII, any compound not set forth above;
> Group VIII, claims 2-3 and 7, drawn to multiple processes of making;
> Group IX, claim 4, drawn to an intermediate; and
> Group X, claim 5, drawn to an intermediate.

(It is presumed that claims 1, 6 and 8 are the claims of Groups I-VII.) The examiner held claim 9 as drawn to non-statutory matter. The examiner reasoned that Groups I-VII and VIII were drawn to products and processes of making and subject to Lack of Unity as the products could be made by many different processes. Groups I-VII and IX-X are related as final products and intermediates and the intermediates were alleged to have other uses. An election of species was

required for whichever group was elected. The examiner also set forth the criteria for establishing Lack of Unity between products and processes.

Applicants replied on December 12, 2005, canceling claim 9 and amending claim 3, and electing, with traverse, Group I and a species. Applicants argued that the Lack of Unity set forth did not follow the guidelines set forth in the PCT Rules and that Lack of Unity should not be found where a process is specially adapted to making of the product, irrespective of whether the product can be made other ways or the process can be used to make other products. Applicants also argued that whether an intermediate has other uses than for making the final product is not a ground for holding Lack of Unity. Applicants also argued that the examiner's holding that pyridine was known in the art and could not be the special technical feature, was not understood since X which represents pyridine and other variables could not be the basis for the special technical feature.

In the next Office action mailed to applicants on February 14, 2006, the examiner maintained the Lack of Unity requirement for the reasons set forth, and responded to applicants' arguments with similar reasoning as in the previous Office action. Claims 1, 6 and 8 were rejected under 35 U.S.C. 103(a), as unpatentable over Rheinheimer et al or Munro et al and under 35 U.S.C. 112, second paragraph, as indefinite.

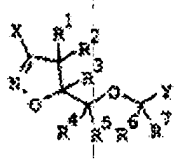
Applicants replied on May 15, 2006, amending claims 1 and 6-8 and canceling claim 2. New claims numbered 9-15 were also added. However since there was a previous claim 9, which was canceled, these claims should have been numbered 10-16 (see 37 CFR 1.121). Applicants again presented arguments traversing the Lack of Unity requirement and responded to the rejections of record.

The examiner mailed a Final Office action to applicants on July 24, 2006, maintaining the Lack of Unity for reasons of record and maintaining the rejections under 35 U.S.C. 103(a) over Rheinheimer et al and Munro et al for reasons of record.

Applicants replied on November 24, 2006, by filing an argument against the Final Office action, a Notice of Appeal and this petition. The examiner mailed an Advisory action to applicants on December 5, 2006, entering the argument, but maintaining the rejections of record. Applicants filed supplemental remarks on December 7, 2006 and an Appeal Brief on January 24, 2007.

DISCUSSION

Applicants argue that the examiner has failed to properly follow PCT guidelines in determining Lack of Unity by failing to recognize the proper significant structural element common to all compounds, and how the intermediate compounds also encompass the significant structural element. A review of the claims shows that all compounds are based on Formula I, as shown.



In the above structure R^1-R^7 are similarly defined as hydrogen, C_1-C_6 alkyl or haloalkyl. The major variables are X and Y, X being a 6-membered-heteroaryl, partially or fully substituted by a plethora of moieties and having one to four nitrogen atoms; Y being an aryl or 5-membered-heteroaryl. Under PCT guidelines, the significant structural element here would be the above structure excluding the X and Y variables. (X cannot be part of the significant structural element, as argued by applicants, since it defines a large number of nitrogen heterocyclic rings.) This structure is shown to old and well known by both references applied as well as others cited during the prosecution of this application and cannot be considered a special technical feature. In view of this, the examiner's holding of Lack of Unity among the various compounds claimed is proper. (It is noted that a similar Lack of Unity was set forth by the EPO in the International Search Report even though additional search fees were not required.)

Applicants' arguments that the examiner's reasoning or justification for holding Lack of Unity between the product claims and process of making claims – that the products could be made by other processes – is improper, is correct. However, the examiner did correctly state that there was no special technical feature and provided evidence supporting this correct reason for holding Lack of Unity. Likewise, applicants' argument that the examiner's reasoning for holding Lack of Unity between the intermediate and final products – that the intermediates could be used for other purposes – is improper, is correct. However, in the absence of a proper special technical feature a Lack of Unity holding is proper.

In the absence of a special technical feature, the examiner grouped the claimed compounds according to a natural division based on the values of X, although not all possible values are shown or defined. Each of these groups of compounds is different from the others and would be classified and searched differently. However, the examiner may, but is not required to, examine all compounds together as was done by the EPO in the International Search Report and International Preliminary Examination Report.

DECISION

The petition is **DENIED.**

The application will be forwarded to the examiner for consideration of applicants' Appeal Brief filed January 24, 2007, and further action not inconsistent with this decision.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

John LeGuyader
Director, Technology Center 1600

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KRUMHOLZ & MENTLIK
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WESTFIELD NJ 07090

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OFFICE OF PETITIONS

In re Application of	:	
Noritaka Sato et al	:	
Application No. 10/512,491	:	DECISION GRANTING PETITION
Filed: October 26, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SONYJP 3.3-999	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 15, 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 April 5, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

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Hahn Loeser & Parks, LLP
One GOJO Plaza
Suite 300
Akron, OH 44311-1076

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OFFICE OF PETITIONS

In re Application of

Brad Levy et al.
Application No. 10/512,502
Filed: April 15, 2005
Attorney Docket No. 116876.00007

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 September 19, 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 John J. Cunniff on behalf of all attorneys of record who are associated with Customer No. 21324.

All attorneys/agents associated with the Customer No. 21324 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 Brad Levy at the address indicated below.

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Brad Levy**
Fragrance International, Inc.
398 Rayen Avenue
Youngstown, OH 44505

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/512,502	04/15/2005	Brad Levy	116876.00007

CONFIRMATION NO. 8334

OC000000021841992

OC000000021841992

21324
HAHN LOESER & PARKS, LLP
One GOJO Plaza
Suite 300
AKRON, OH 44311-1076

Date Mailed: 01/04/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/19/2006.

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

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

10 MAY 2005

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In re Application of	:	
ROTHERMEL, John, David	:	
PCT No.: PCT/EP03/04581	:	DECISION ON PETITION
U.S. Application No: 10/512,504	:	UNDER 37 CFR 1.47(b)
International Filing Date: 30 April 2003	:	
Priority Date: 01 May 2002	:	
Attorney's Docket No.: ON/4-32470A	:	
For: EPOTHILONE DERIVATIVE FOR THE	:	
TREATMENT OF HEPATOMA AND OTHER	:	
CANCER DISEASES	:	

This decision is issued in response to the "Response To Notice To File Missing Parts" filed 20 April 2005, treated herein as a petition under 37 CFR 1.47(b) for acceptance of the application without the signature of the sole inventor. Deposit Account No. 19-0134 will be charged the required petition fee.

BACKGROUND

On 30 April 2003, applicant filed international application PCT/EP03/04581 which claimed a priority date of 01 May 2002 and which designated the United States. On 13 November 2003, a copy of the international application was communicated to the United States Patent Office ("USPTO") by the International Bureau ("IB"). The deadline for filing the basic national fee was thirty months from the priority date, i.e., 01 November 2004.

On 26 October 2004, petitioner filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee.

On 07 April 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that an executed oath or declaration, the surcharge for filing the oath or declaration later than thirty months after the priority date, and sequence listing materials were required.

On 20 April 2005, petitioner filed the "Response To Notice To File Missing Parts" considered herein. The submission included payment of the required surcharge and a statement that the present application does not contain an amino acid or nucleotide sequence; based on this statement, the sequence listing requirement in the Notification Of Missing Requirement is withdrawn.

The 20 April 2005 submission also seeks acceptance of the application without the signature of the sole inventor, whom petitioner asserts has refused to execute the application. That portion of the 20 April 2005 submission is treated as a 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; (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 submission here satisfies item (1).

Regarding item (2), petitioner asserts that the nonsigning inventor has refused to execute the application. However, before a refusal to execute the application can be claimed, MPEP § 409.03(d) requires that the nonsigning inventor be provided with a copy of the complete application, including specification, drawings, and claims. The MPEP also requires "a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made." Petitioner here has supplied a statement from Oona A. Jackson with respect to the inventor's purported refusal to sign the application. However, this statement does not provide specific details regarding the attempts to obtain the inventor's signature and his purported refusal. In addition, it is not clear whether Oona A. Jackson is the proper person to provide this statement in that the statement does not assert that Ms. Jackson is the person who made the attempt to obtain the inventor's signature and to whom the inventor made his statement of refusal. Finally, petitioner has not provided the required firsthand evidence confirming that the inventor has been provided with a copy of the complete application papers. Based on the above, item (2) is not satisfied on the present record.

Regarding item (3), petitioner has not provided an express statement of the last known address of the non-signing inventor.

Regarding item (4), petitioner has not provided an oath or declaration in compliance with 37 CFR 1.497 that is executed on behalf of the nonsigning inventor by the 37 CFR 1.47(b) applicant.

Regarding item (5), petitioner here has not submitted sufficient evidence of proprietary interest with respect to the 37 CFR 1.47(b) applicant, Novartis. MPEP § 409.03(f) states:

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that:

(A) the invention has been assigned to the applicant, or
(B) the inventor has agreed in writing to assign the invention to the applicant, or
(C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.

The present petition does not include or refer to a specific assignment of the invention from the inventor to Novartis. Rather, petitioner has submitted a copy of an employee agreement executed by the nonsigning inventor in which the inventor agrees that a company identified as "SANDOZ-WANDER, INC." is entitled to inventions made during the course of the inventor's employment. However, petitioner has provided no evidence to confirm that the invention underlying the present application was conceived by the inventor during the course of his employment, nor has petitioner provided any evidence demonstrating a chain of title from SANDOZ-WANDER, INC. to Novartis, the apparent 37 CFR 1.47(b) applicant. The 37 CFR 1.47(b) applicant must submit a statement from a person with firsthand knowledge of the inventor's employment and the context of the invention within that employment (see MPEP section 409.03(h)) before it can be concluded that the submitted employment agreement provides SANDOZ-WANDER, INC. with the required proprietary interest in the present application. Petitioner must then provide acceptable evidence of the chain of title from SANDOZ-WANDER, INC to the 37 CFR 1.47(b) applicant. Until such materials are provided, item (5) is not satisfied on the present record.

With regard to item (6), petitioner has not provided a statement that granting the present petition is necessary to preserve the rights of the parties or to prevent irreparable damages.

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)" and must be accompanied by the materials needed to satisfy the outstanding requirements for a grantable petition, as discussed above and in the section 409.03 of the MPEP.

No additional petition fee is required.

Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450,

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

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Office Of PCT Legal Administration
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Facsimile: (571) 273-0459

19 JUL 2005
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In re Application of	:	
ROTHERMEL, John, David	:	
PCT No.: PCT/EP03/04581	:	DECISION ON RENEWED
U.S. Application No: 10/512,504	:	PETITION UNDER
International Filing Date: 30 April 2003	:	37 CFR 1.47(b)
Priority Date: 01 May 2002	:	
Attorney's Docket No.: ON/4-32470A	:	
For: EPOTHILONE DERIVATIVE FOR THE	:	
TREATMENT OF HEPATOMA AND OTHER	:	
CANCER DISEASES	:	

This decision is issued in response to the submission entitled "Decision On Petition Under 37 CFR 1.47(b) Is Moot" filed 11 July 2005, treated herein as a renewed petition under 37 CFR 1.47(b). No additional petition fee is required.

BACKGROUND

The procedural background for this petition is set forth in detail in the decision mailed by this Office on 10 May 2005. That decision dismissed without prejudice the petition under 37 CFR 1.47(b) filed herein; such petition had sought acceptance of this application without the signature of inventor John David ROTHERMEL.

On 11 July 2005, applicant filed a submission entitled "Decision On Petition Under 37 CFR 1.47(b) Is Moot," treated herein as a renewed petition under 37 CFR 1.47(b). This submission included a declaration executed by the previously non-signing inventor.

DISCUSSION

As noted above, the renewed petition was accompanied by a copy of the declaration executed by previously nonsigning inventor John David ROTHERMEL, the subject of the earlier petition under 37 CFR 1.47(b). Accordingly, applicant's petition under 37 CFR 1.47(b) is now moot. Applicant has now submitted a fully executed declaration in compliance with 37 CFR 1.497.

CONCLUSION

Applicant's petition under 37 CFR 1.47(b) is **MOOT.** The executed declaration filed 11 July 2005 satisfies the requirements of 37 CFR 1.497.

This application is being forwarded 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) date is 11 July 2005.

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9 FEB 2006

Janet M. MacLeod
Dorsey & Whitney, LLP
250 Park Avenue
New York, NY 10177-1500

In re Application of	:	
John Arthur Smith	:	
Application No.: 10/512,512	:	
PCT No.: PCT/GB03/01439	:	DECISION
Int. Filing Date: 02 April 2003	:	
Priority Date: 24 April 2002	:	
Attorney Docket No.: 185912/US	:	
For: PEPTIDE COMPOSITION	:	

This decision is issued in response to applicant's "Request for Corrected Filing Receipt" filed 04 November 2005. No petition fee is due.

BACKGROUND

On 25 October 2004, applicant 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, a translation of the international application; and an information disclosure statement.

On 19 April 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements (PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge under 37 CFR 1.492(e). Furthermore, the Notification indicated that a Sequence Listing had not been filed as required by 37 CFR 1.821-1.825.

On 05 July 2005, applicant submitted an executed declaration

On 16 March 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 07 July 2005.

On 04 November 2005, applicant filed "Request for Corrected Filing Receipt" which included a copy of the declaration and power of attorney and a postcard receipt dated 05 July 2005.

DISCUSSION

Applicant requests a corrected filing date (or 371(c) date) from 07 July 2005 to 05 July 2005. The actual filing date of the present application is the international filing date, i.e., 02 April 2003. (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 05 July 2005, 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 05 July 2005 is proper since applicants completed the requirements set forth in 35 U.S.C. 371(c) on 05 July 2005. (See MPEP section 1893.03(b)).

CONCLUSION

Applicant's petition under 37 CFR 1.181 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 21 October 2005 is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision, that is, for mailing of a NOTIFICATION OF ACCEPTANCE OF APPLICATION (Form PCT/DO/EO/903) and Official Filing Receipt which identifies a date of 05 July 2005 under 35 U.S.C. 371(c).

Anthony Smith

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OFFICE OF PETITIONS

Applicant: Takasugi et al.
Appl. No.: 10/512,522
International Filing Date: April 25, 2003
Title: APPARATUS FOR DISCRIMINATING OPTICAL RECORDING MEDIUM AND METHOD FOR DISCRIMINATING OPTICAL RECORDING MEDIUM
Pub. No.: US 2005/0237913 A1
Pub. Date: October 27, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on January 10, 2006, for the above-identified application

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains a material error on the front page of the publication, as the title "Apparatus For Discriminating Optical Recording Medium and Method For Discriminating Optical Recording Medium" is misprinted as "Device For Discriminating Optical Recording Medium and Method For Discriminationg Optical Recording Medium."

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 request for corrected publication received on January 10, 2006, was not timely filed under 37 CFR 1.221(b).

The error in the title is an Office mistake but it is not a material mistake 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

[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).

determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

On June 3, a Filing Receipt was mailed by the Office, which listed the title as "Device For Discriminating Optical Recording Medium and Method For Discriminationg Optical Recording Medium." To avoid this type of problem in the future, applicant's representative should make request a corrected filing receipt along with a supplemental application data sheet. The request for a Corrected Filing Receipt received on July 14, 2005, was received too late for the information to be used in the publication.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton, NJ 08543-5312

Mail Date: 04/21/2010

Applicant	: Michael Anthony Pugel	: DECISION ON REQUEST FOR
Patent Number	: 7668519	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/512,525	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/26/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1333** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/512,540	10/22/2004	David K. Friday	71619-0023	2405

20915 7590 05/22/2007
MCGARRY BAIR PC
32 Market Ave. SW
SUITE 500
GRAND RAPIDS, MI 49503

EXAMINER
TURNER, SONJI

ART UNIT	PAPER NUMBER
1724	

MAIL DATE	DELIVERY MODE
05/22/2007	PAPER

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

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

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 23313-1450
WWW.USPTO.GOV

Mailed:
In re Application of
David K. Friday et al.
Serial No.: 10/512,540
Filed: October 22, 2004

DECISION ON PETITION UNDER *37 CFR 1.48(b)*

For: GAS MASK FILTER CANISTER

This is a decision on the request for CORRECTION OF INVENTORSIP UNDER 37 C.F.R. 1.48(b) (herein treated as PETITION TO DELETE CORRECTLY NAMED PERSONS WHO ARE NOT INVENTORS OF INVENTION NOW BEING CLAIMED) filed May 16, 2007 to correct inventorship under 37 CFR 1.48(b) by deleting the name of John Mahle from the list of inventors of the instant application.

It is noted that the applicant has met the requirements of (1) a petition including a statement identifying each named inventor who is being deleted and acknowledging that the inventor's invention is no longer being claimed in the application; and (2) the fee set forth in 37 CFR 1.17(i).

The petition is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

Duane S. Smith
Supervisory Patent Examiner
Art Unit 1724
Technology Center 1700

John E. McGarry
MCGARRY BAIR PC
32 Market Avenue S.W.
Suite 500
Grand Rapids, MI 49503

28 FEB 2006

#4

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Westerman, Hattori, Daniels & Adrian, LLP
1250 Connecticut Avenue, NW
Suite 700
Washington, D.C. 20036

In re Application of
NAKAHAMA et al.
Application No.: 10/512,562
PCT No.: PCT/JP03/05272
Int. Filing Date: 24 April 2003
Priority Date: 30 April 2002
Attorney Docket No.: 042849
For: ABRASION RESISTANT SURFACE TREATMENT METHOD OF A ROTARY MEMBER, RUNNER, AND A FLUID MACHINE HAVING RUNNER

DECISION ON
REQUEST UNDER 37 CFR 1.42

This decision is issued in response to applicants' "Response to Notification of Missing Requirements" filed 23 January 2006 which is being treated as submission under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 24 April 2003, applicants filed international application PCT/JP03/05272, which claimed a priority date of 30 April 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 30 October 2004.

On 25 October 2004, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a copy of the international application; and an information disclosure statement.

On 21 November 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration. The notification set a two-month time limit in which to respond.

On 23 January 2006, applicants filed an executed declaration/power of attorney. The declaration is executed by Toru Ishido; Masaru Takahashi; Yasuo Asano; and Hiroshi Nagasaka and Kazuko Nakahawa, on behalf of the deceased inventor, Shuhei Nakahawa.

DISCUSSION

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

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

The declaration submitted on 23 January 2006 is executed by Kazuko Nakahawa as the "legal representatives" of the deceased inventor, Shuhei Nakahawa. The declaration is acceptable under 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b).

CONCLUSION

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

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

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

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60 MIDDLETOWN AVENUE
NORTH HAVEN, CT 06473

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NOV 2 1 2007

OFFICE OF PETITIONS

In re Application of
Russell Heinrich
Application No. 10/512,597
Filed: October 21, 2004
Attorney Docket No. 2871

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 11, 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 5, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed April 4, 2007. Accordingly, the date of abandonment of this application is July 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 $1400 and the publication fee of $300, (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

The request for change of correspondence address filed August 8, 2007 has been accepted and updated in the application.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

TRASKBRITT
Intellectual Property Attorneys

230 South 500 East, Suite 300 Salt Lake City, Utah 84102 P.O. Box 2550 Salt Lake City, Utah 84110 Tel: 1.801.532.1922 1.800.900.2001 Fax: 1.801.531.9168

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17 NOV 2006
Legal Staff
International Division

FACSIMILE TRANSMITTAL SHEET

Total number of pages including cover letter: 1

To: **PCT Legal Administrator**

Date: **November 17, 2006**

Facsimile No.: **(571) 273-0459**

Telephone No.: ( )

From: **Aubry Blackburn for Allen C. Turner**

Serial No.: **10/512,602**

Client/matter number: **2578-6567US**

Group Art Unit: **1633**

Message/Comments: **On October 25, 2004, US Serial No. 10/512,602 was filed with a preliminary amendment removing multiple dependencies. We believe these fees were not properly assessed. The correct amount was previously charged to Deposit Account 20-1469 on November 1, 2004. On April 5, 2005, an additional amount of $295.00 was charged.**

Applicants request a refund of $295.00 which was deducted from Deposit Account 20-1469. Please refund this amount to the Deposit Account and reference the attorney docket number identified above.

In the event that the Patent Office determines that a refund is not appropriate, Applicants request an explanation and citation to authority regarding the additional charges.

Faxed by: Brett Date: 11-17-06 Time: 11:10 Am

If you do not receive the complete document, please call (801) 532-1922 as soon as possible

CONFIDENTIALITY NOTE: The documents accompanying this facsimile transmission contain information from the law firm of TRASKBRITT, which is confidential and/or legally privileged. The information is intended only for the use of the individual or entity named in this transmission sheet above. If you are not the intended recipient, you are hereby notified that any disclosures, copying, distribution or the taking of any action in reliance on the contents of this facsimile information is strictly prohibited, and that the documents should be returned to this firm immediately. In this regard, if you have received this facsimile transmission in error, please notify us by telephone immediately so that we can arrange for the return of the documents to us at no cost to you.

16 JUN 2005

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#3

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Fish & Richardson, P.C.
500 Arguello Street, Suite 500
Redwood City, CA 94063

In re Application of	:	
Maroto	:	
Application No.: 10/512,606	:	
PCT No.: PCT/US03/07637	:	
Int. Filing Date: 11 March 2003	:	DECISION
Priority Date: 11 March 2002	:	
Attorney Docket No.: 12671-006US1	:	
For: Identifying Peptide Modifications	:	

The petition to revive under 37 CFR 1.137(b) filed 25 October 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicant states that "the entire delay in requesting entry in the national stage in the United States and paying the required fee, and thereby entering the national phase, from the due date for the request until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b), was unintentional." This statement is being construed as a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." This statement is being accepted in satisfaction of 37 CFR 1.137(b)(3). Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct.

A review of the application file reveals that the basic national fee of $750.00 was provided. The required petition fee of $1370.00 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the filing of an executed oath or declaration of the inventor.

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

08 JUN 2006

#6

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Freescale Semiconductor, Inc.
Law Department
7700 W. Parmer Lane
Mail Drop PL02
Austin, Texas 78729

In re Application of	:	DECISION ON
LYUBOV ZHIVOVA et al	:	
Application No.: 10/512,611	:	
PCT No.: PCT/RU02/00195	:	
Int. Filing Date: 25 April 2002	:	PETITION UNDER
Priority Date: NA	:	
Attorney's Docket No.: SC11853TH	:	
For: METHOD AND COMPUTER ...	:	
FUNCTIONAL MODELS	:	37 CFR 1.181/ 37 CFR 1.182

This Decision is in response to applicants' "STATEMENT REGARDING SUBMISSION OF DELCARATION" faxed on 21 February 2006, which is being treated as a petition under 37 CFR 1.81 that the above-identified application's declaration was timely filed on 03 August 2005. The submission is also being treated as a petition under 37 CFR 1.182 to accept the executed declaration with the named inventor Lyubov ZHIVOVA. The petition fee of $400.00 has been charged to Deposit Account No. 50-3079.

BACKGROUND

On 25 April 2002, this international application was filed. An executed declaration or oath was not submitted at such time as required by 35 U.S.C. 371(c)(4).

On 07 July 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the oath or declaration complying with 37 CFR 1.497(a) and (b), identifying the application by international application number and international filing date, and it indicated that the current oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68. The Notice stated that the above must be furnished within the time period set forth. The notification set two (2) months time limit or 32 months from the priority date for the application, whichever is later to respond.

On 21 February 2006, applicant submitted the instant petition with a copy of the declaration allegedly filed timely on 03 August 2005. In the declaration section pertaining to the first named inventor, the name Lyubov ZHIVOVA appears; this name did not appear in the international application. In addition, the declaration has been signed by "Lyubov ZHIVOVA."

The submission also included an affidavit in support of the name change of the inventor from Lyubov FARAFANOVA to Lyubov ZHIVOVA.

DISCUSSION

37 CFR 1.181

A petition under 37 CFR 1.181 filed under 37 CFR 1.8(b) Certificated of mailing or transmission must be accompanied by:

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

Applicants have satisfied items (1) - (3) under 37 CFR 1.8(b).

The certificate of mailing under 37 CFR 1.8 is valid for the declaration and can be use as a basis for a timely filing in response to the Notification of Missing Requirements mailed on 07 July 2005.

Accordingly, petitioner's response- the declaration filed on 03 August 2005- is considered timely but the declaration date of receipt is 21 February 2006, which the date the declaration has been received at the USPTO.

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

37 CFR 1.182

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

With respect to item (1), the petition fee of $400.00 has been charged to petitioner's deposit account.

With respect to item (2), an affidavit has been provided signed under Lyubov ZHIVOVA. It sets forth the procedure whereby the change of name was effected from Lyubov FARAFANOVA (maiden name) to Lyubov ZHIVOVA (married name). Therefore, item (2) has been satisfied.

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

CONCLUSION

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

The petition under 37 CFR §1.182 for change of name of inventor is **GRANTED**. This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **21 February 2006,** which is the date that the declaration was received at the office.

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

27 SEP 2005

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David S. Resnick
Nixon Peabody
100 Summer Street
Boston, MA 02110

In re Application of	:	
Kennett et al.	:	
Application No.: 10/512,626	:	
PCT No.: PCT/GB03/01788	:	
Int. Filing Date: 28 April 2003	:	DECISION
Priority Date: 26 April 2002	:	
Attorney Docket No.: 740789-56020	:	
For: Sheeted Roll And Methods And	:	
Apparatus For Sheeting A Roll	:	

This is with regard to the petition under 37 CFR 1.181 filed on 15 June 2005.

BACKGROUND

This international application was filed on 28 April 2003, designated the United States, and claimed an earliest priority date of 26 April 2002. The International Bureau transmitted a copy of the published international application to the USPTO on 06 November 2003. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 26 October 2004. Applicants filed correspondence directed to the U.S. national stage of this international application on 26 October 2004.

On 04 April 2005, applicants filed *inter alia* an executed declaration and a surcharge under 37 CFR 1.492(e).

On 05 May 2005, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to counsel, indicating that this international application had become abandoned with respect to the U.S. national stage because "Applicant has failed to provide the full U.S. Basic National Fee by 30 months (37 CFR 1.495(b)(2))."

DISCUSSION

Inspection of the papers filed on 26 October 2004 reveals that the Transmittal Letter included fee authorizations directed to two different Deposit Account numbers, "50-0580" and "50-0850." A second authorization directed to Deposit Accoun no. 50-0850 appears in the preliminary amendment also filed on 26 October 2004. Further review of the application file reveals that, on 01 November 2004, the USPTO attempted to charge fees to Deposit Account no. 50-0580, but said account was not active at that time. Counsel argues that the holding of abandonment should be withdrawn because the papers filed on 26 October 2004 included authorization to charge "any additional fees which may be required" to Deposit Account No. 50-0850, in addition to the authorization directed to "incorrect" Deposit Account no. 50-0580. Based on the totality of the circumstances present in this case, it would be appropriate to withdraw the holding of abandonment and to charge the basic national fee to Deposit Account no. 50-0850. Therefore, the Notification of Abandonment mailed on 05 May 2005 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 **04 April 2005**.

Boris Milef
PCT Legal Examiner
PCT Legal Office

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

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

Mail Date: 04/20/2010

Applicant	: Roberto Cattaneo	: DECISION ON REQUEST FOR
Patent Number	: 7635752	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/512,627	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1159** 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

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Nixon Peabody LLP
401 9th Street, N.W.
Suite 900
Washington, D.C. 20004-2128

In re Application of	DECISION ON
HACHIWAKA et al	
PCT No.: PCT/JP03/06904	
Application No.: 10/512,641	PETITION UNDER
Int. Filing Date: 02 June 2003	
Priority Date: 31 May 2002	
Attorney's Docket No.: 740819-1083	37 CFR 1.47(a)
For: PHOTONIC RESEARCH CRYSTAL FIBER AND METHOD FOR FABRICATION THE SAME AND MEHTOD FOR CONNECTING FIBERS	

This decision is in response to petitioner's "Declaration of Tatsuhiro Kawamura" submitted on 27 October 2004, which is being treated as a petition under 37 CFR 1.47(a) that seeks the acceptance of the application without the signature of the inventor Mr. Takashi Higashikubo. Petitioner has been charged the requisite petition fee of $200 (37 CFR 1.17(g)) as stipulated in the transmittal letter of 27 October 2004 to Deposit Account No: 19-2380.

BACKGROUND

On 02 June 2003, applicants filed international application PCT/JP03/06904, which claimed priority of an earlier application filed 31 May 2002. A copy of the international application was transmitted to the United States from the International Bureau on 11 December 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 31 November 2004.

On 27 October 2004, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), and an executed declaration without the signature of Mr. Takashi Higashikubo.

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 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), and (4) of 37 CFR 1.47(a). However, requirement (2) has not been satisfied.

In this case, it has not been sufficiently demonstrated that a copy of the application papers were presented to the nonsigning inventor Takashi Higashikubo. Petitioner indicates that the application papers for the PCT application that this U.S. National Phase is based on were mailed May 20, 2003 to his last known address, and that those were signed by him and mailed back. Then Mr. Kawamura mailed on September 23, 2003 the Declaration and Assignment to him but he did not execute it. The papers forwarded to him, however, do not appear to include a copy of the application papers (specification, including claims, drawings, and oath or declaration) as required under MPEP 409.03(d) since only the application papers (papers that needed to be signed), declaration and assignment were mentioned as being sent to Mr. Higashikubo.

In addition, Petitioner has not submitted copies of documentary evidence such as mail receipts, and cover letter as required to support his allegation about the papers being mailed and received Mr Higashikubo.

Consequently, the current record does not sufficiently establish Mr. Higashikubo's refusal to join in the application under 37 CFR 1.47(a) because no evidentiary documents have been submitted to show that a *bona fide* attempt was made to deliver the complete application to Mr. Higashikubo and that he refused to sign the required papers.

CONCLUSION

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

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

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

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01 JUL 2005

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Nixon Peabody LLP
401 9th Street, N.W.
Suite 900
Washington, D.C. 20004-2128

In re Application of	:	DECISION ON RENEWED
HACHIWAKA et al	:	
PCT No.: PCT/JP03/06904	:	
Application No.: 10/512,641	:	
Int. Filing Date: 02 June 2003	:	
Priority Date: 31 May 2002	:	PETITION UNDER
Attorney's Docket No.: 740819-1083	:	
For: PHOTONIC RESEARCH CRYSTAL	:	
FIBER AND METHOD FOR FABRICATION	:	
THE SAME AND MEHTOD FOR CONNECTING	:	
FIBERS	:	37 CFR 1.47(a)

This is in response to the "PETITION PURSUANT TO 37 CFR 1.47(b) FOR ASSIGNEE TO APPLY FOR PATENT ON BEHALF OF ALL INVENTORS" filed on 28 April 2005, which is being treated as a renewed petition under 37 CFR 1.47(a) that seeks the acceptance of the application without the signature of the inventor Mr. Takashi Higashikubo.

BACKGROUND

In a decision from this Office on 14 June 2005, the petition filed on 27 October 2004 was dismissed. The decision stated that it was unclear if a complete copy of the application papers were presented to the nonsigning inventor.

On 28 April 2005, petitioner filed the present renewed petition accompanied with the same declaration from Tatsuhiro Kawamura.

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 requirements (1), (3) and (4) of 37 CFR 1.47(a). However, requirement (2) has not been satisfied.

Mr. Kawamura asserts that the PCT application papers to this U.S. National Phase application were mailed to Mr. Higashikubo last known address and that these application papers were returned, properly executed on May 30, 2003. Mr. Kawamura then states that he subsequently sent Mr. Higashikubo the Declaration and Assignment papers for this U.S. National Phase application to his last known address on September 23, 2003 and August 2, 2004 but there was no reply or a forwarding address or other contact information for Mr. Higashikubo. However, as stated in the previous decision it is unclear if the papers forwarded to him included a copy of the specification, claims, and drawings as required under MPEP 409.03(d) since only the application papers mentioned are the papers executed in the PCT application, the Declaration and Assignment. Mr. Kawamura makes no statements indicating that the specification, drawings, and claims were included in the papers sent to Mr. Higashikubo.

Also, it is unclear if Mr. Higashikubo still resides in his last known address since Mr. Kawamura states that he has received no reply and no forwarding address or contact information for Mr. Higashikubo. When 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 inventor. Absent further firsthand evidence that the application papers, declaration and assignment for signatures were received by the nonsigning inventor, item (2) cannot be considered satisfied.

As requested in the last decision, petitioner has not submitted copies of documentary evidence such as mail receipts, and cover letter as required to support his allegation about the papers being mailed and received by Mr. Higashikubo.

If is unclear if Mr. Higashikubo still resides in that address and if he has not received the papers mailed to him on September 23, 2003 and August 2, 2004, then petitioner is under an obligation to try to find or reach Mr. Higashikubo. Where there is an inability to find or reach a joint inventor "after diligent effort, " petitioner may file a statement of facts that fully describes the exact facts which are relied on to establish that a diligent effort was made under **37 CFR 1.47**.

Consequently, the current record does not sufficiently establish Mr. Higashikubo's refusal to join in the application under 37 CFR 1.47(a) because no evidentiary documents have been submitted to show that a *bona fide* attempt was made to deliver the complete application to Mr. Higashikubo and he received it and refused to sign the required papers, or that he could not be reached "after diligent effort."

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)."

Any further correspondence with respect to this matter deposited with the United States Postal Service on or after May 1, 2003 should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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09 SEP 2005

#8

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In re Application of	:	DECISION ON SECOND
HACHIWAKA et al	:	
PCT No.: PCT/JP03/06904	:	
Application No.: 10/512,641	:	
Int. Filing Date: 02 June 2003	:	
Priority Date: 31 May 2002	:	RENEWED PETITION UNDER
Attorney's Docket No.: 740819-1083	:	
For: PHOTONIC RESEARCH CRYSTAL	:	
FIBER AND METHOD FOR FABRICATION	:	
THE SAME AND MEHTOD FOR CONNECTING	:	
FIBERS	:	37 CFR 1.47(a)

This is in response to the "SECOND RENEWED PETITION UNDER 37 CFR 1.47(a)" filed on 10 August 2005 that seeks the acceptance of the application without the signature of the inventor Mr. Takashi Higashikubo.

BACKGROUND

In a decision from this Office on 01 July 2005, the petition filed on 28 April 2005 was dismissed. The decision stated that no evidentiary documents had been submitted to show that a *bona fide* attempt was made to deliver the complete application to Mr. Higashikubo and he received it and refused to sign the required papers, or that he could not be reached "after diligent effort..

On 10 August 2005, petitioner filed the present renewed petition accompanied with a supplemental declaration from Tatsuhiro Kawamura.

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.

Requirement (2) still has not been satisfied.

The renewed petition is accompanied by copies of the transmittal cover letters dated September 23, 2003 and August 2, 2004 addressed to Mr. Higashikubo. The letters indicated that they included an application abstract card for corresponding domestic application and a **form** for entering into US phase. However, there is no statement in the cover letters or evidence that a complete application (specification, claims, drawings) were mailed to Mr. Higashikubo and that he refused to sign the required papers. Here, the covers letters only refer to an abstract card (it is unclear what this comprises) and a form for entering the US phase but they are silent about the application papers.

In addition, as indicated in the previous decision , it is unclear if Mr. Higashikubo still resides in his last known address since Mr. Kawamura states that he has received no reply and no forwarding address or contact information for Mr. Higashikubo. When 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 inventor. Absent further firsthand evidence that the application papers, declaration and assignment for signatures were received by the nonsigning inventor, requirement (2) cannot be considered satisfied. In this instance, the fact that the letters were not returned by the Japanese post office is not evidenced that it was received by Mr. Higashikubo without evidence such as he signed for the letters (return receipt with his signature or signature by someone who lives with him). It could be that the letters were delivered to the address but not the person if no signature for the letters were required.

Petitioner has not submitted copies of documentary evidence such as mail receipts and cover letter as required to support his allegation about the complete applications papers being mailed and received by Mr. Higashikubo.

As stated in the last decision, it is unclear Mr. Higashikubo still resides in that address and if he has not received the papers mailed to him on September 23, 2003 and August 2, 2004, then petitioner is under an obligation to try to find or reach Mr. Higashikubo. Where there is an inability to find or reach a joint inventor "after diligent effort, " petitioner may file a statement of facts that fully describes the exact facts which are relied on to establish that a diligent effort was made under **37 CFR 1.47**.

Consequently, the current record does not sufficiently establish Mr. Higashikubo's refusal to join in the application under 37 CFR 1.47(a) because no evidentiary documents have been submitted to show that a *bona fide* attempt was made to deliver the complete application to Mr. Higashikubo and he received it and refused to sign the required papers, or that he could not be reached "after diligent effort."

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 "third Renewed Petition Under 37 CFR 1.47(a)."

Any further correspondence with respect to this matter deposited with the United States Postal Service on or after May 1, 2003 should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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18 [redacted] 2005 [redacted] #10

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In re Application of	:	DECISION ON SECOND
HACHIWAKA et al	:	
PCT No.: PCT/JP03/06904	:	
Application No.: 10/512,641	:	
Int. Filing Date: 02 June 2003	:	
Priority Date: 31 May 2002	:	RENEWED PETITION UNDER
Attorney's Docket No.: 740819-1083	:	
For: PHOTONIC CRYSTAL FIBER	:	
AND METHOD FOR FABRICATING	:	
THE SAME, AND MEHTOD FOR CONNECTING	:	
FIBERS	:	37 CFR 1.47(a)

This is in response to the "THIRD RENEWED PETITION UNDER 37 CFR 1.47(a)" filed on 09 November 2005 that seeks the acceptance of the application without the signature of the inventor Mr. Takashi Higashikubo.

BACKGROUND

In a decision from this Office on 09 September 2005, the petition filed on 10 August 2005 was dismissed. The decision stated that it was unclear whether Mr. Higashikubo still resided in the address that the papers were mailed to because there was no evidence that he signed and received the papers.

On 09 November 2005, petitioner filed the present renewed petition accompanied with a supplemental declaration from Tatsuhiro Kawamura.

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.

The renewed petition of 09 November2005 has satisfied the requirements under 37 CFR 1.47(a).

Requirement (2) has been satisfied. The renewed petition is accompanied by a declaration of Kawamura, who states that on October 11, 2005 he attached a complete set of application papers and were sent to the non-signing inventor's residence. Mr. Kawamura states that the return receipt was signed by Mr. Higashikubo but he has refused to returned the required papers.

Petitioner has submitted translated copies of documentary evidence such as mail receipts and cover letter to support his allegation about the complete applications papers being mailed and received by Mr. Higashikubo.

Petitioner has now satisfied items (1), (2), (3), and (4) under 37 CFR 1.47(a), thus completing the requirements under 37 CFR 1.47(a).

CONCLUSION

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

The Application Division and the International Division are authorized to accept the application as a 37 CFR 1.47(a) application and to mail a filing receipt. The application will be given a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **27 October 2004.**

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371.

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20 APR 2005

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In re Application of LINDSTROM	:
Application No.: 10/512,647	:
PCT Application No.: PCT/EP03/03464	:
Int. Filing Date: 02 April 2003	: DECISION ON PETITION
Priority Date Claimed: 11 April 2002	: UNDER 37 CFR 1.137(b)
Attorney Docket No.: Q84415	:
For: ELECTRO-MECHANICAL CYLINDER	:
LOCK-KEY COMBINATION WITH OPTICAL	:
CODE	:

Applicant's Petition For Revival Under 37 CFR 1.137(b), filed in the United States Patent and Trademark Office (PTO) on 27 October 2004 is GRANTED.

BACKGROUND

On 02 April 2003, applicant filed international application PCT/EP03/03464. The international application claims a priority date of 11 April 2002 and designates the United States. The deadline for paying the basic national fee in the United States was thirty months from the priority date, that is 11 October 2004. Applicant missed this deadline.

On 27 October 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), and the petition fee of $685.

On 08 December 2004, applicant submitted an executed declaration as required by 35 U.S.C. 371(c)(4).

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 C.F.R. §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.

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

The application has an international filing date of 02 April 2003 under 35 U.S.C. 363 and a date of 27 October 2004 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4). The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing.

Amy Vanatta
PCT Legal Administration Detailee
Telephone: 571-272-6095
Facsimile: 571-273-0459

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

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FRASER MARTIN & MILLER LLC
28366 KENSINGTON LANE
PERRYSBURG, OH 43551

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OFFICE OF PETITIONS

In re Application of :
David P. Huber et al :
Application No. 10/512,664 : ON PETITION
Filed: October 26, 2004 :
Attorney Docket No. 1-36605 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 19, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit drawings on or before October 23, 2006 in reply to the Notice of Allowability, mailed July 21, 2006, which set a period for reply of three (3) months. Accordingly, this application became abandoned on October 24, 2006. A Notice of Abandonment was mailed on November 17, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of drawings, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the Notice of July 21, 2006 is accepted as being unintentionally delayed.

This application is being referred to Publishing Division for further processing in accordance with this decision on petition.

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

Frances Hicks
Petitions Examiner
Office of Petitions

12 APR 2005

#4

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Thompson Hine LLP
2000 Courthouse Plaza NE
10 West Second Street
Dayton, OH 45402-1758

In re Application of YASUKI et al	:	
U.S. Application No.: 10/512,668	:	
PCT Application No.: PCT/JP03/04926	:	
Int. Filing Date: 17 April 2003	:	DECISION
Priority Date Claimed: 19 April 2002	:	
Attorney Docket No.: 550718-106	:	
For: A STAND FOR ALBUMS, SCRAPBOOKS	:	
AND THE LIKE	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 26 October 2004.

BACKGROUND

On 17 April 2003, applicant filed international application PCT/JP03/04926, which claimed priority of an earlier Japan application filed 19 April 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 30 October 2003. The thirty-month period for paying the basic national fee in the United States expired on 19 October 2004.

International application PCT/JP03/04926 became abandoned as to the United States for failure to timely pay the basic national fee.

On 26 October 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 17 April 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 26 October 2004.

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

Bryan Tung

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PCT Legal Examiner
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OFFICE OF PETITIONS

In re Application of	:	
Jon DOUMBOS et al.	:	
Application No. 10/512,669	:	DECISION ON PETITION
Filed: June 13, 2005	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 15, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 07, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). The petition is not accompanied by the required reply.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (1). Petitioner failed to provide the required response to the final Office action of November 07, 2006.

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 extension of time fee submitted with the petition on October 15, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

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

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

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

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

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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In re Application of :
John DOUMBOS et al. :
Application No. 10/512,669 : DECISION ON PETITION
Filed: June 13, 2005 :
Attorney Docket No. **CU-5960** :

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

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed November 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 February 08, 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 continuing application under 37 CFR 1.53(b); (2) the petition fee of $1,540.00; and (3) a proper 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. 11/800,552 filed May 07, 2007.

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

The application is being referred to Technology Center AU 3673.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

19 APR 2005

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

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COLLARD & ROE, P.C.
1077 Northern Blvd.
Roslyn, NY 11576-1696

In re Application of
ECKERT, Ralph
U.S. Application No.: 10/512,670
PCT No.: PCT/EP02/09777
Int. Filing Date: 02 September 2002
Priority Date: 31 August 2001
Attorney Docket No.: ECKERT-1(PCT)
For: USE OF MOXAVERIN FOR TREATING ERECTILE DYSFUNCTION, FORMS OF DEMENTIA OR DISEASES ASSOCIATED TO AN ARTERIOSCLEROTIC OCCLUSION

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

Applicant's "Petition for Revival of an International Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed with the national stage papers on 26 October 2004 is hereby **GRANTED** as follows:

The basic national fee, surcharge fee, processing fee and petition fee have been paid. Applicant states that "[t]he entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

An English translation and executed declaration in compliance with 37 CFR 1.497(a) and (b) have been provided. Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 02 September 2002, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 26 October 2004.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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

Mail Date: 04/21/2010

Applicant	: Ralph E. Eckert	: DECISION ON REQUEST FOR
Patent Number	: 7645765	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/512,670	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/26/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1157** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MAILED
APR 13 2010
OFFICE OF PETITIONS

MICHAEL BUCHENHORNER
MICHAEL BUCHENHORNER, PA
8540 SW 83RD STREET
MIAMI, FL 33143
Addresses

In re Application of	:	
Colmant et al.	:	
Application No. 10/512,671	:	DECISION ON PETITION
Filed: August 4, 2005	:	
Attorney Docket No. CH919990041US1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 11, 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 December 21, 2009, as required by the Notice of Allowance and Fee(s) Due mailed September 21, 2009. Accordingly, the application became abandoned on December 22, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

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

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

Carl Friedman
Petitions Examiner
Office of Petitions

08 APR 2005

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Eugene C. Rzucidlo
Greenberg Traurig LLP
200 Park Avenue, 34th Floor
New York, New York 10166

In re Application of	:	
MANSUY, Neil	:	
Application No.: 10/512,672	:	DECISION ON PETITION
PCT No.: PCT/US01/47009	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 03 December 2001	:	
Priority Date: 08 December 2000	:	
Attorney Docket No.: 49653.012404	:	
For: IMPROVED METHOD FOR STIMULATION OF LIQUID FLOW IN A WELL		

The petition to revive under 37 CFR 1.137(b) filed 26 October 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 is required.

Anthony Smith

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

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COMMISSIONER FOR PATENTS
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DATE: May 7, 2008
TO: Certificates of Correction Branch
FROM: Jennifer H Gay
SPE, Art Unit 3676
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,270,179 as specified on the attached Certificate.

Jennifer H Gay, SPE
Art Unit 3676

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,270,179
Patented: September 18, 2007

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Steven Catania, New Windsor, New York

Jennifer H. Gay
Supervisory Patent Examiner
Art Unit 3676

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/512,672	04/28/2005	Neil Mansuy	67896.000033	8394

58785 7590 05/12/2008
HUNTON & WILLIAMS/NEW YORK
INTELLECTUAL PROPERTY DEPT.
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

EXAMINER
SUCHFIELD, GEORGE A

ART UNIT	PAPER NUMBER
3676	

MAIL DATE	DELIVERY MODE
05/12/2008	PAPER

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

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

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FROM DIRECTORS OFFICE

MAY 09 2008

TECHNOLOGY CENTER 3600

In re Patent No. MANSUY, NEIL	:	
Issue Date: September 18, 2007	:	**DECISION GRANTING**
Appl No.: 10/512,672	:	**PETITION**
Filed: April 28, 2005	:	*37 CFR 1.324*
For: Method for Stimulation of Liquid Flow in a Well	:	
	:	
	:	
	:	

This is a decision on the petition filed October 22, 2007 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Jennifer H Gay
Supervisory Patent Examiner
Art Unit 3676
Technology Center 3600

HUNTON & WILLIAMS/NEW YORK
INTELLECTUAL PROPERTY DEPT.
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

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FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO CA 92138-0278

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JUL 28 2009

OFFICE OF PETITIONS

In re Patent No. 7,439,251	:	LETTER REGARDING PATENT
Fisher et al.	:	TERM ADJUSTMENT AND
Issue Date: October 21, 2008	:	NOTICE OF INTENT TO ISSUE
Application No. 10/512,673	:	CERTIFICATE OF CORRECTION
Filed: July 8, 2005	:	
Attorney Docket No. 041761-0319	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705," filed October 20, 2008, requesting that the patent term adjustment determination for the above-identified patent be changed from three hundred sixteen (316) days to three hundred ninety-one (391) days. For the reasons set forth herein, the request for reconsideration is being treated as a request that the revised patent term adjustment be corrected from three hundred sixteen (316) days to six hundred thirty-nine (639) days.

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of three hundred fifty-three **(353)** days.

Patentees are given THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer, from the mail date of this decision to respond to this decision. No extensions of time will be granted under § 1.136.

On October 21, 2008, the above-identified application matured into US Patent No. 7,439,251 with a patent term adjustment of 316 days.

This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 1.705(d).

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

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), of 105 days and the period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), of 316 days do not overlap as these periods do not occur on the same day.

Patentees argue that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.702(b), is 105 days. Patentees calculate this 105 day period based on the application having been filed under 35 U.S.C. §371 on July 8, 2005, and the patent having not issued until October 21, 2008, three years and 105 days later.

Patentees are informed that the Three Year Delay period is triggered by the application's commencement date, not the 371 fulfillment date. The commencement date is 30 months from the priority date claimed in the international application, or earlier. The priority date claimed in the international application is May 3, 2002. Thirty months from that date is November 3, 2004, which is the beginning of the Three Year Delay period. Accordingly, the period of adjustment under § 1.702(b) is 353 days, counting the number of days beginning on November 4, 2007 and ending on October 21, 2008 when the patent issued.

Patentees assert that in addition to the three year delay period, they are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), totalling 316 days.

This 316 day period is the sum of:

- a period of delay of 286 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date the application fulfilled the requirements of 35 U.S.C. 371 in an international application, pursuant to § 1.702(a)(1);
- a period of delay of 30 days for the Office's failure to issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied, pursuant to § 1.702(a)(4).

Under 37 CFR § 1.703(f), Patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR §1.702 reduced by the period of time equal to the period of time during which Patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704. In other words, 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 assert that the total period of Office delay is the sum of the period of Three Years Delay (105 days per patentees' calculation) and the period of Examination Delay (316 days, not in dispute) **to the extent that these periods of delay are not overlapping**.

Patentees contend that the period of delay of 30 days for the Office's failure to issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied, pursuant to § 1.702(a)(4)(from September 22, 2008 to October 21, 2008) overlaps with a portion of the Three Year Delay period. Accordingly, patentees submit that the total period of Office Delay is 391 days, which is the sum of the period of Three Year Delay (105 days, per patentee's calculation) and the period of Examination Delay (316 days), reduced by the period of overlap (30 days). See attachment to petition.

As such, patentees assert entitlement to a patent term adjustment of 391 days (105 per patentees' calculation +316 reduced by 30 overlap -0 for applicant delay). Considering that the three-year period is properly calculated based on the commencement date and is 353 days, not 105 days, patentees

assertion of entitlement to a patent term adjustment is considered to be 639 days (353 per patentees' calculations + 316 reduced by 30 overlap - 0 for applicant delay).

As discussed above, the Office states that the patent issued 3 years and 353 days after the application's commencement date. The Office agrees that the actions detailed above were not taken within the specified time frames, and thus, the entry of period of adjustment of 316 days is correct. At issue is whether Patentees should accrue 323 (adjusted for overlap, per patentees' definition of overlap and Office's calculation of the Three Year Delay Period) days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as, 316 days for Office failure to take certain actions within a specified time frames (or examination delay).

The Office contends that 316 of the 353 days overlap. Patentees' interpretation of the period of overlap has been considered and found to be incorrect. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

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

154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

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

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

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the commencement date overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the commencement date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period from the

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

application's commencement date through the date it matured into Patent No. 7,439,251, November 3, 2004 to October 21, 2008.

Therefore, 37 days, not 0 days, of patent term adjustment should have been entered for the Three Year Delay period, since the period of delay of 353 days attributable to the delay in the issuance of the patent overlaps with the adjustments of 286 days attributable to the ground specified in § 1.702(a)(1) and 30 days attributable to the ground specified in § 1.702(a)(4).

As such, patentees are entitled to a patent term adjustment of 353 days (353 days examination delay +316 days Three Year delay reduced by 316 overlap - 0 days for applicants delay).

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 adjusted by three hundred fifty-three (353) days.

Telephone inquiries specific to this matter should be directed to Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,439,251 B2

DATED : October 21, 2008

INVENTOR(S) : Fisher, et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by (316) days

Delete the phrase "by 316 days" and insert – by 353 days--

10 JUN 2005

#3

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Sheridan Neimark
Browdy & Neimark, P.L.L.C.
624 Ninth Street, N.W., Suite 300
Washington, D.C. 20001

In re Application of
HELLER, et al.
Application No.: 10/512,687
PCT No.: PCT/IL03/00270
Int. Filing Date: 01 April 2003
Priority Date: 25 April 2002
Attorney Docket No.: HELLER2
For: AN APPARATUS FOR CONTINUOUS COMPRESSION OF LARGE VOLUMES OF DATA

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 27 October 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 (October 25, 2004) for the reply until the filing of a grantable petition pursuant to this paragraph 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 paymetn of the full, U.S> basic national fee. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

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

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

REPLACED BY
ART 34 AMDT

10/512708
DT09 Rec T/PTO 27 OCT 2004

PCT/EP03/04317
Kiefer, Zoltan Anton

WO 03/093617

Assembly comprising a door leaf and hinges, and a shower stall

The invention relates to an assembly comprising a door leaf and at least two hinges. The invention also relates to a shower stall having one or more wall elements and one or more assemblies of the above kind.

Known shower stalls are generally put together on the spot from prefabricated components. There are known kits of components for shower stalls which comprise one or more wall elements and one or more door leaves, with the door leaf being fastened to the wall element by two hinges.

Fittings of a vast variety of different designs are known for assembling the components of a shower stall. The fittings in question should on the one hand allow a strong structure to be obtained and on the other hand should be able to be fitted easily. Also, the components which are connected by the fittings should, as far as possible, retain their flat surfaces. Not only is this important from the aesthetic point of view but it also makes it easier for the components to be cleaned. Projecting parts are felt to be a nuisance particularly on glass walls.

Known from DE 299 23 347 U1 is an assembly comprising a door leaf and hinges in which the hinge is fastened to the door leaf by means of retaining elements and barriers. For this purpose, the door leaf has through-bores through which the retaining elements and screws extend. Because of the through-holes there are interruptions to the surface of the door leaf, which entails the disadvantages described above.

The object underlying the invention is to provide an assembly comprising a door leaf and hinges which is easy to assemble and allows a strong

Claims

1. Assembly comprising
a door leaf (1) that has at least two undercut blind holes (26),
at least two hinges (3) each comprising a door-side and a wall-side hinge part (4,5) each having a longitudinal bore (8, 9),
at least two hinge pins (12) onto which the hinge parts can be plugged,
at least two expanding plugs (20), which each have a distal expanding element (22) and a proximal retaining and abutment element (23),
and expander means (21) for expanding the expanding plugs and fastening means (21) for fastening the hinge to the door leaf.

2. Assembly according to claim 1, characterised in that the proximal expanding element (22) of the expanding plug (20) is in the form of a body having expanding hooks (25) which is provided with an inside thread.

3. Assembly according to claim 1 or 2, characterised in that the proximal retaining and abutment element (23) of the expanding plug (20) is in the form of a multi-sided screw head.

4. Assembly according to one of claims 1 to 3, characterised in that the expander/fastening means (20) have a screwed pin (45) and a nut (28).

5. Assembly according to claim 4, characterised in that the screwed pin (45) has a polygonal socket.

6. Assembly according to one of claims 1 to 5, characterised in that the hinge part (4) has a through-hole (19), preferably

26 APR 2005

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In re Application of	:	
HOFMANN, Albrecht *et al*	:	
Application No.: 10/512,715	:	
PCT No.: PCT/DE03/01887	:	**DECISION**
Int. Filing Date: 06 June 2003	:	
Priority Date: 13 September 2002	:	
Attorney Docket No.: 3058	:	
For: POWER TOOL, IN PARTICULAR	:	
ANGLE, GRINDER	:	

This is a decision on the declaration filed with the national stage papers on 27 October 2004 which has been treated as a petition under 37 CFR 1.42. No fee is required.

BACKGROUND

On 27 October 2004, applicants filed papers to enter the national stage of PCT/DE03/01887 which were accompanied by, *inter alia*, a declaration executed by three of the four joint inventors. The fourth inventor was listed as deceased.

DISCUSSION

The declaration filed with the national stage papers is executed by three of the four named inventors. In the box for the nonsigning inventor, a handwritten note indicates that Markus Heckmann "died 2004/06/12."

This is insufficient.

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.

Here, the legal representative of the deceased inventor must execute the declaration for the deceased inventor.[1]

---

[1] It is noted that 37 CFR 1.497(b)(2) states, in part:

If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or

For this reason, the declaration filed 27 October 2004 does not comply with 37 CFR 1.497(a) & (b).

CONCLUSION

Applicants' petition under 37 CFR 1.42 is **DISMISSED** without prejudice.

Applicants are required to provide an oath or declaration in compliance with 37 CFR 1.497(a) and (b) within a time limit of **TWO (2) MONTHS** from the mail date of this decision. Extension of time may be granted under 37 CFR 1.136(a).

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

James Thomson

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declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.

02 AUG 2005

#5

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In re Application of HOFMANN, Albrecht *et al* Application No.: 10/512,715 PCT No.: PCT/DE03/01887 Int. Filing Date: 06 June 2003 Priority Date: 13 September 2002 Attorney Docket No.: 3058 For: POWER TOOL, IN PARTICULAR ANGLE, GRINDER	**DECISION**

This is a decision on the "Renewed Petition Under 37 CFR 1.42/47" ("Pet.") filed on 25 July 2005.

BACKGROUND

On 26 April 2005, a decision dismissing applicants' petition under 37 CFR 1.42 was mailed. The legal representative of the deceased inventor did not execute the declaration.

On 25 July 2005, applicants submitted the instant response which included, *inter alia*, a one-month extension and fee; a copy of a letter dated 08 June 2005 with an accompanying English translation; a copy of a FedEx receipt; and a copy of an unexecuted declaration.

DISCUSSION

In the renewed response, petitioners claim that the legal representative of the deceased joint inventor, Markus Heckmann, is "his wife, Mrs. Heckman," Pet. at ¶ 3, and that "Mrs. Heckman has refused to sign the Declaration despite a diligent effort to have her sign the necessary papers." Id. at ¶ 4.

Hence, petitioners must meet the requirements of 37 CFR 1.47(a) with respect to the legal representative of the deceased joint inventor.

Petition Under 37 CFR 1.47(a)

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 (legal representative) refuses to execute the application or cannot be found or reached after diligent effort; (3) a statement of the last known address of the missing joint inventor (legal

representative); (4) and an oath or declaration executed by the signing joint inventor on his behalf and on behalf of the non-signing joint inventor. Items (2) and (4) are not yet complete.

Concerning item (1), the $200.00 petition fee has been charged to Deposit Account No. 19-4675 as authorized. With regard to item (3), applicants satisfy this requirement by listing the last known address of Mrs. Heckman as:

Joh.-Seb.-Str. 34
D-70771 Leinfelden-Echterdingen
Germany

Concerning item (2), section 409.03(d) of the Manual of Patent Examining Procedure (MPEP) states, in part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. . . . It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition

Here, there is no evidence that Mrs. Heckman was presented with a complete copy of the application, including specification, claims and drawings as required. The letter dated 08 June 2005 refers only to an enclosed declaration and assignment documents. A refusal without a showing that the legal representative received a complete copy of the above-captioned application will not be accepted.

Regarding item (4), the declaration filed with the national stage papers did not list any information on the legal representative of the deceased co-inventor as required. In

addition, the declaration provided to Mrs. Heckman with the documents mailed 08 June 2005 also did not comply with 37 CFR 1.497(a) and (b). The declaration did not provide separate information for the legal representative and deceased joint inventor.[1] Therefore, item (4) of 37 CFR 1.47(a) is also not satisfied.

All the requirements of 37 CFR 1.47(a) are not yet complete.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice. Thus, the papers filed under 37 CFR 1.42 are still not accepted.

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 1.42/1.47(a)." No additional petition fee is required.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

[1] The citizenship information on the declaration for the deceased inventor is required by 37 CFR 1.497(a)(3). The declaration must also indicate that the person is a legal representative of the deceased joint inventor and record the citizenship, residence and mailing address of the legal representative pursuant to 37 CFR 1.497(b)(2).

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In re Application of HOFMANN, Albrecht *et al* Application No.: 10/512,715 PCT No.: PCT/DE03/01887 Int. Filing Date: 06 June 2003 Priority Date: 13 September 2002 Attorney Docket No.: 3058 For: POWER TOOL, IN PARTICULAR ANGLE, GRINDER	:	**DECISION**

This is a decision on the "Renewed Petition Under 37 CFR 1.42/47" filed on 21 November 2005.

BACKGROUND

On 02 August 2005, a decision dismissing applicants' petition under 37 CFR 1.42/1.47(a) was mailed. Items (2) and (4) of 37 CFR 1.47(a) were not satisfied.

On 21 November 2005, applicants submitted the renewed petition which included, *inter alia*, a two-month extension and Exhibits A - D.

DISCUSSION

In the renewed petition, the 37 CFR 1.47(a) applicant has submitted documentary evidence showing shown that a complete copy of the "subject application as filed" was presented to Mrs. Heckmann. Counsel states in the petition that Exhibit "D" provides a copy of the "Declaration to be signed by Mrs. Markus Heckmann as it was attached to the application papers sent to her."

However, Exhibit "D" contains a single page listing of the address and citizenship of the legal representative and the last known address and citizenship of the deceased inventor and does not constitute an oath or declaration. Section 409.03(d) of the MPEP requires that an oath, or declaration also be provided to the nonsigning inventor (or legal representative). Petitioners should provide a copy of the declaration provided to the legal representative in the renewed petition.

Moreover, the 37 CFR 1.47(a) applicant refers to a letter submitted by Mrs. Heckmann on 19 September 2005 as one that "can be fairly read as a refusal by Mrs. Heckmann to cooperate . . . and therefore can be construed as a refusal to sign

documents. However, this letter was dated 19 September 2005. Petitioners did not submit evidence that a copy of the application papers was received by Mrs. Heckmann until 17 October 2005. Thus, the letter dated 19 September 2005 cannot be used as an express refusal to cooperate. Petitioners may indicate that the conduct of Mrs. Heckmann constitutes a refusal. Failure to respond would be sufficient basis for such a claim. But petitioners did not make such an assertion in the renewed petition.

For these reasons, item (2) is not yet complete.

With regards to item (4), the 37 CFR 1.47 applicant must provide a declaration signed by all the available joint inventors on their own behalf and on behalf of the nonsigning joint inventor (legal representative). *See* § 409.03(a) of the MPEP.

Petitioners did not provide such a declaration. As previously noted, the declaration filed with the national stage papers is not in compliance with 37 CFR 1.497(a) and (b). A new declaration signed by all the available inventors listing the complete inventive entity, including the required information on the legal representative pursuant to 37 CFR 1.497(b)(2), is required.

For this reason, item (4) is not satisfied.

CONCLUSION

Applicants' renewed 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 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

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12 JUL 2006

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In re Application of HOFMANN, Albrecht *et al* Application No.: 10/512,715 PCT No.: PCT/DE03/01887 Int. Filing Date: 06 June 2003 Priority Date: 13 September 2002 Attorney Docket No.: 3058 For: POWER TOOL, IN PARTICULAR ANGLE, GRINDER	:	**DECISION**

This is a decision on the "Renewed Petition Under 37 CFR 1.42/47" filed on 05 June 2006.

BACKGROUND

On 01 February 2006, a decision dismissing applicants' petition under 37 CFR 1.42/1.47(a) was mailed. Items (2) and (4) of 37 CFR 1.47(a) were not satisfied.

On 19 May 2006, applicant filed via facsimile several papers including a declaration for the above-captioned application.

On 05 June 2006, applicants submitted a renewed petition which included, *inter alia*, a two-month extension and fee and a declaration signed by three of the four named inventors.

On 05 July 2005, applicant filed a request for refund of the five-month extension fee submitted 19 May 2006.

DISCUSSION

Request for Refund

Applicant submitted a response on 19 May 2006 in the above-identified application which included a declaration signed by three of the four named inventors. A five-month fee of $1,590.00 was charged in accordance with applicant's instruction. Applicant submitted a request for refund of the five-month fee on 05 July 2006.

Applicant's request for refund is **GRANTED**.

A review of the subject application reveals that the response filed 19 May 2006 was sent by mistake. A five-month extension fee is not required in the subject application. The five-month extension fee of $1,590.00 will be credited to Deposit Account No. 19-4675 as authorized.

Renewed Petition Under 37 CFR 1.47(a)

The decision mailed 01 February 2006 noted that the 37 CFR 1.47(a) applicant failed to satisfy item (2) and (4) of 37 CFR 1.47(a).

Regarding item (2) of 37 CFR 1.47(a), the 37 CFR 1.47(a) applicant asserts that the conduct of the legal representative constitutes a refusal to cooperate. A review of the evidence previously submitted shows that a complete copy of the application was sent to Mrs. Markus Heckmann on 17 October 2005. Mrs. Heckman had previously sent a letter dated 19 September 2005 disclaiming the inheritance of her deceased husband. There is no indication that Mrs. Heckmann has changed her mind after reviewing the subject application. Accordingly, this conduct does constitute a refusal pursuant to section 409.03(d) of the MPEP.

For this reason, item (2) of 37 CFR 1.47(a) is complete.

With regards to item (4), the prior decision noted that a new declaration signed by all the available inventors listing the complete inventive entity (including the required information on the legal representative pursuant to 37 CFR 1.497(b)(2)) was required.

In the renewed response, petitioners submitted a declaration signed by three of the four inventors. The declaration recorded all the required information for the four named inventors (including the deceased inventor). However, the declaration does <u>not</u> provide any information on the legal representative as required by 37 CFR 1.497(b)(2)). The name of the legal representative is not even listed on the declaration. As such, this declaration is not in compliance with 37 CFR 1.497(a) and (b).

For this reason, item (4) of 37 CFR 1.47(a) is still <u>not</u> satisfied.

<u>CONCLUSION</u>

Applicants' renewed petition under 37 CFR 1.47(a) is **<u>DISMISSED</u>** 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 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

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27 SEP 2006

#11

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In re Application of	:	
HOFMANN, Albrecht *et al*	:	
Application No.: 10/512,715	:	
PCT No.: PCT/DE03/01887	:	**DECISION**
Int. Filing Date: 06 June 2003	:	
Priority Date: 13 September 2002	:	
Attorney Docket No.: 3058	:	
For: POWER TOOL, IN PARTICULAR	:	
ANGLE, GRINDER	:	

This is a decision on the "Renewed Petition Under 37 CFR 1.47(a)" filed on 01 September 2006.

BACKGROUND

On 12 July 2006, a decision granting applicants' request for refund of a five-month extension fee paid was mailed. However, applicants' petition under 37 CFR 1.47(a) was dismissed as the decision noted that the declaration failed to provide the required information for the legal representative. Applicants were given two months to respond.

On 01 September 2006, applicants filed a response which included an executed declaration.

DISCUSSION

In response to the decision mailed 12 July 2006, applicants filed another declaration executed by three of the four named inventors. The legal representative of a deceased joint inventor refused to join in the application. All the required information was contained on this declaration.

The decision mailed 12 July 2006 stated that the declaration filed 19 May 2006 and again on 05 June 2006 did not provide any information on the legal representative as required. However, a further review of these declarations show that the residence, mailing address and citizenship information of the legal representative was recorded at the top of the first page of each declaration.

As such, the declaration was in compliance with 37 CFR 1.497(a) and (b). Therefore, item (4) of 37 CFR 1.47(a) is also satisfied.

CONCLUSION

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

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 06 June 2003 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 19 May 2006.

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

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

James Thomson

James Thomson
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27 SEP 2006

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Kersten Heckmann
Joh.-Seb.-Bach-Strasse 34,D-70771
Leinfelden-Echterdingen
Germany

In re Application of
HOFMANN, Albrecht *et al*
Application No.: 10/512,715
PCT No.: PCT/DE03/01887
Int. Filing Date: 06 June 2003
Priority Date: 13 September 2002
Attorney Docket No.: 3058
For: POWER TOOL, IN PARTICULAR
ANGLE, GRINDER

Dear Ms. Heckmann:

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

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

James Thomson

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10 MAY 2005

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FRASER MARTIN BUCHANAN MILLER LLC
132C West Second Street
Perrysburg, OH 43551-1401

In re Application of HUBER, David P. *et al* Application No.: 10/512,725 PCT No.: PCT/US00/19646 Int. Filing Date: 14 January 2003 Priority Date: 15 January 20039 July 1999 Attorney Docket No.: 19789-8 For: TORQUE TRANSMITTING ASSEMBLY AND METHOD OF PRODUCING	**DECISION**

This decision is in response to the documents filed on 15 April 2005 which are treated as a petition under 37 CFR 1.181. Applicants' petition is **GRANTED** as follows:

The filing receipt mailed 06 April 2005 erroneously indicates that the Domestic Priority data as claimed by applicant is not consistent with PTO records. In addition, 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 06 April 2004 indicates that the international filing date is 14 January 2003 and does not list a priority date. Both these documents are incorrect.

Applicants noted that the subject application is a 371 of PCT/US04/00903 01/14/2004 which claims the benefit of 60/440,110 01/15/2003. A review of USPTO records indicates that U.S. application No. 10/512,725 is the national stage of PCT/US04/00903 filed 14 January 2004 which claims priority to U.S. Provisional application No. 60/440,110 filed 15 January 2003.

Accordingly, the filing receipt and Form PCT/DO/EO/903 mailed 06 April 2005 are both hereby **VACATED**.

This application is being forwarded to the DO/EO/US to mail a corrected filing receipt and corrected Form PCT/DO/EO/903. The application will then be forwarded to Technology Center 2800 for further processing.

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06 APR 2005

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Ladas & Parry
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5670 Wilshire Boulevard
Los Angeles CA 90036-5679

In re Application of	:	
HONG, Jin-Woo et al.	:	
Application No.: 10/512,730	:	
PCT No.: PCT/KR03/00750	:	
Int. Filing Date: 14 April 2003	:	DECISION
Priority Date: 26 April 2002	:	
Attorney Docket No.: B-5299PCT 621494-0	:	
For: METHOD AND SYSTEM ... COLOR	:	
VISION CHARACTERISTICS	:	

This application is before the Office of PCT Legal Administration for consideration of issues arising under 35 U.S.C. 371.

On 26 October 2004, applicants filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission included, *inter alia*, a Transmittal Letter, the basic national fee and a declaration executed by 7 of 8 inventors.

On 31 January 2005, the Office mailed Notification of Acceptance (Form PCT/DO/EO/903) indicating that the requirements under 35 USC §§ 371(c)(1), (c)(2), and (c)(4) were satisfied on 26 October 2004.

As discussed above, the declaration was defective and did not satisfy the requirements of 35 USC §371(c)(4).

The Notification of Acceptance and Filing Receipt mailed 31 January 2005 are **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 Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration are required.

Erin M. Pender

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03 MAY 2007

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In re Application of	:	
HONG, Jin-Woo et al.	:	
Application No.: 10/512,730	:	
PCT No.: PCT/KR03/00750	:	
Int. Filing Date: 14 April 2003	:	DECISION
Priority Date: 26 April 2002	:	
Attorney Docket No.: B-5299PCT 621494-0	:	
For: METHOD AND SYSTEM ... COLOR VISION CHARACTERISTICS	:	

This is a decision on applicants' petition under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office on 03 January 2006.

BACKGROUND

On 26 October 2004, applicants filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission included, *inter alia*, a Transmittal Letter, the basic national fee and a declaration executed by 7 of 8 inventors.

On 31 January 2005, the Office mailed Notification of Acceptance (Form PCT/DO/EO/903) indicating that the requirements under 35 USC §§ 371(c)(1), (c)(2), and (c)(4) were satisfied on 26 October 2004.

On 06 April 2005, the Office mailed Decision On Petition, vacating the Notification of Acceptance and indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 03 August 2005, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 03 January 2006, applicants submitted a petition under 37 CFR 1.47(a), which was accompanied by, *inter alia*, a declaration and the fee for a three month extension of time.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the

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application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant.

Items (1), (2), (3) and (4) have been met. (1) The petition fee of $200 has been paid. (2) Mr. Jung-Ho Kim indicates that he sent Mr. Song a complete copy of the application papers including the declaration and that Mr. Song has refused to sign the declaration. (3) The petition lists the last known addresses of non-signing inventor Jae-Il Song as 900-23, Hwagock-1-dong, Gangsuh-gu, Seoul, 157-909, Republic of Korea. (4) The declaration complies with 37 CFR 1.497(a)-(b).

CONCLUSION

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

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

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including accordation of a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of **26 October 2004**.

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17 AUG 2006

William Collard
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In re Application of	:	
BERHNARDT, et al.	:	DECISION ON PETITION
Application No.: 10/512,737	:	
PCT No.: PCT/EP03/03973	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 16 April 2003	:	
Priority Date: 29 April 2002	:	
Atty. Docket No.: BERNHARDT ET AL 2 PCT	:	
For: TRANSPORT SYSTEM IN BIOLOGICAL SYSTEMS	:	

The petition to revive under 37 CFR 1.137(b) filed 24 July 2006 in the above-captioned application is hereby **DISMISSED** as follows:

Applicant has provided payment of the petition fee and the required statement of unintentional delay. However, applicant has not provided the proper reply. In the present case, the application became abandoned for failure to provide a compliant sequence listing. A review of the application file finds that the computer Readable Format (CRF) of the sequence listing filed 24 July 2006 also contained errors. Attached to this decision is a copy of the STIC Biotechnology Branch "Raw Sequence Listing Error Report."

This application remains abandoned as to the National stage in the United States.

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

UNITED STATES 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 OCT 2006

Allison C. Collard
Collard & Roe, P.C.
1077 Northern Boulevard
Roslyn, NY 11576

In re Application of	:	
BERHNARDT, et al.	:	DECISION ON RENEWED
Application No.: 10/512,737	:	
PCT No.: PCT/EP03/03973	:	PETITION UNDER
Int. Filing Date: 16 April 2003	:	
Priority Date: 29 April 2002	:	37 CFR 1.137(b)
Atty. Docket No.: BERNHARDT ET AL 2 PCT	:	
For: TRANSPORT SYSTEM IN BIOLOGICAL	:	
SYSTEMS	:	

This decision is in response to applicant's "Renewed Petition And Response to Decision on Petition Under 37 CFR 1.137 (b)" filed 29 September 2006 in the United States Patent and Trademark Office (USPTO).

The renewed petition to revive under 37 CFR 1.137(b) is hereby **DISMISSED** as follows:

As detailed in the decision mailed 17 August 2006, 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 (2) - (4) above.

However, with regard to item (1), the proper response in the form of a compliant required sequence listing pursuant to 37 CFR 1.821-1.825 has still not been provided. The computer readable form filed 29 September 2006 was found to be non-compliant and a corrected diskette is needed. (See attached copy of CRF Problem Report.) Accordingly, the proper reply has not been furnished.

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

CONCLUSION

Applicant's renewed petition under 37 CFR 1.137(b) is **DISMISSED**.

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

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

Encl: Copy of CRF Problem 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: 10/512,737B
Source: IFWP
Date Processed by STIC: 10/10/2006

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

Raw Sequence Listing Error Summary

ERROR DETECTED **SUGGESTED CORRECTION** **SERIAL NUMBER:** 10/512,737B

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

1	Wrapped Nucleics Wrapped Aminos	The number/text at the end of each line "wrapped" down to the next line. This may occur if your file was retrieved in a word processor after creating it. Please adjust your right margin to .3; this will prevent "wrapping."
2	Invalid Line Length	The rules require that a line **not exceed** 72 characters in length. This includes white spaces.
3	Misaligned Amino Numbering	The numbering under each 5th amino acid is misaligned. Do **not** use tab codes between numbers; use **space characters**, instead.
4	Non-ASCII	The submitted file was **not** saved in ASCII(DOS) text, as **required** by the Sequence Rules. **Please ensure your subsequent submission is saved in ASCII text.**
5	Variable Length	Sequence(s)____contain n's or Xaa's representing more than one residue. **Per Sequence Rules, each n or Xaa can only represent a single residue.** Please present the **maximum** number of each residue having variable length and indicate in the <220>-<223> section that some may be missing.
6	PatentIn 2.0 "bug"	A "bug" in PatentIn version 2.0 has caused the <220>-<223> section to be missing from amino acid sequences(s) _____. Normally, PatentIn would automatically generate this section from the previously coded nucleic acid sequence. Please manually copy the relevant <220>-<223> section to the subsequent amino acid sequence. **This applies to the mandatory <220>-<223> sections for Artificial or Unknown sequences.**
7	Skipped Sequences (OLD RULES)	Sequence(s) _____ missing. If intentional, please insert the following lines for **each** skipped sequence: (2) INFORMATION FOR SEQ ID NO:X: (insert SEQ ID NO where "X" is shown) (i) SEQUENCE CHARACTERISTICS: (Do not insert any subheadings under this heading) (xi) SEQUENCE DESCRIPTION:SEQ ID NO:X: (insert SEQ ID NO where "X" is shown) This sequence is intentionally skipped Please also adjust the "(ii) NUMBER OF SEQUENCES:" response to **include** the skipped sequences.
8	Skipped Sequences (NEW RULES)	Sequence(s) _____ missing. **If intentional**, please insert the following lines for **each** skipped sequence. <210> sequence id number <400> sequence id number 000
9	Use of n's or Xaa's (NEW RULES)	Use of n's and/or Xaa's have been detected in the Sequence Listing. Per 1.823 of Sequence Rules, use of <220>-<223> is MANDATORY if n's or Xaa's are present. In <220> to <223> section, please explain location of **n** or **Xaa**, and which residue **n** or **Xaa** represents.
10	Invalid <213> Response	Per 1.823 of Sequence Rules, the only **valid** <213> responses are: Unknown, Artificial Sequence, or scientific name (Genus/species). <220>-<223> section is **required** when <213> response is Unknown or is Artificial Sequence. (see item 11 below)
11	Use of <220>	Sequence(s) ___ missing ~~the <220> "Feature" and associated numeric identifiers and responses~~. Use of <220> to <223> is MANDATORY if <213> "Organism" response is "Artificial Sequence" or "Unknown." Please explain source of genetic material in <220> to <223> section or use "chemically synthesized" as explanation. (See "Federal Register," 06/01/1998, Vol. 63, No. 104, pp. 29631-32), also Sec. 1.823 of Sequence Rules
12	PatentIn 2.0 "bug"	Please do not use "Copy to Disk" function of PatentIn version 2.0. This causes a corrupted file, resulting in missing mandatory numeric identifiers and responses (as indicated on raw sequence listing). Instead, please use "File Manager" or any other manual means to copy file to floppy disk.
13	Misuse of n/Xaa	"n" can **only** represent a single nucleotide; "Xaa" can **only** represent a single amino acid

IFWP

RAW SEQUENCE LISTING DATE: 10/10/2006
PATENT APPLICATION: US/10/512,737B TIME: 14:47:03

Input Set : A:\PTO.KD.txt
Output Set: N:\CRF4\10102006\J512737B.raw

```
      2 <110> APPLICANT: BioTeSys GmbH
      3       Schelztorstrasse 54-56
      4       D 73728 Esslingen
      5       GERMANY
W-->  6 <120> TITLE OF INVENTION: transport system in biological systems
C-->  7 <140> CURRENT APPLICATION NUMBER: US/10/512,737B
C-->  7 <141> CURRENT FILING DATE: 2004-10-27
W-->  0 <130> FILE REFERENCE:
      7 <150> PRIOR APPLICATION NUMBER: A 656/2002
      8 <151> PRIOR FILING DATE: 2002-04-29
W-->  9 <160> NUMBER OF SEQ ID: 15
```

Does Not Comply
Corrected Diskette Needed

ERRORED SEQUENCES

```
     84 <210> SEQ ID NO: 9
     85 <211> LENGTH: 22
     86 <212> TYPE: PRT
     87 <213> ORGANISM: Artificial sequence
W--> 88 <220> FEATURE:
     89 <223> OTHER INFORMATION: Amino Acid
W--> 90 <400> SEQUENCE: 9
E--> 91 lie Val Ala Ile Leu Ile Cys Ile Leu Ile Leu Leu Thr Met Val Leu Leu Phe Val Met
E--> 92 Trp Met
E--> 93 1
E--> 94 20
```

Invalid Response. What is the Source of genetic Material? See Item 11 on error summary sheet.

Invalid Amino Acid designator.

The type of errors shown exist throughout the Sequence Listing. Please check subsequent sequences for similar errors.

RAW SEQUENCE LISTING ERROR SUMMARY DATE: 10/10/2006
PATENT APPLICATION: US/10/512,737B TIME: 14:47:05

Input Set : A:\PTO.KD.txt
Output Set: N:\CRF4\10102006\J512737B.raw

Invalid Line Length:
The rules require that a line not exceed 72 characters in length. This includes spaces.

Seq#:9; Line(s) 91,93
Seq#:11; Line(s) 112

VERIFICATION SUMMARY DATE: 10/10/2006
PATENT APPLICATION: **US/10/512,737B** TIME: 14:47:05

Input Set : **A:\PTO.KD.txt**
Output Set: **N:\CRF4\10102006\J512737B.raw**

L:6 M:283 W: Missing Blank Line separator, <120> field identifier
L:7 M:270 C: Current Application Number differs, Replaced Current Application No
L:7 M:271 C: Current Filing Date differs, Replaced Current Filing Date
L:0 M:201 W: Mandatory field data missing, <130> FILE REFERENCE
L:9 M:283 W: Missing Blank Line separator, <160> field identifier
L:10 M:283 W: Missing Blank Line separator, <210> field identifier
L:14 M:283 W: Missing Blank Line separator, <220> field identifier
L:16 M:283 W: Missing Blank Line separator, <400> field identifier
L:23 M:283 W: Missing Blank Line separator, <220> field identifier
L:33 M:283 W: Missing Blank Line separator, <220> field identifier
L:35 M:283 W: Missing Blank Line separator, <400> field identifier
L:42 M:283 W: Missing Blank Line separator, <220> field identifier
L:44 M:283 W: Missing Blank Line separator, <400> field identifier
L:51 M:283 W: Missing Blank Line separator, <220> field identifier
L:53 M:283 W: Missing Blank Line separator, <400> field identifier
L:60 M:283 W: Missing Blank Line separator, <220> field identifier
L:62 M:283 W: Missing Blank Line separator, <400> field identifier
L:69 M:283 W: Missing Blank Line separator, <220> field identifier
L:71 M:283 W: Missing Blank Line separator, <400> field identifier
L:79 M:283 W: Missing Blank Line separator, <220> field identifier
L:81 M:283 W: Missing Blank Line separator, <400> field identifier
L:88 M:283 W: Missing Blank Line separator, <220> field identifier
L:90 M:283 W: Missing Blank Line separator, <400> field identifier
L:91 M:330 E: (2) Invalid Amino Acid Designator, NUMBER OF INVALID KEYS:1
L:92 M:332 E: (32) Invalid/Missing Amino Acid Numbering, SEQ ID:9
M:332 Repeated in SeqNo=9
L:99 M:283 W: Missing Blank Line separator, <220> field identifier
L:101 M:283 W: Missing Blank Line separator, <400> field identifier
L:108 M:283 W: Missing Blank Line separator, <220> field identifier
L:110 M:283 W: Missing Blank Line separator, <400> field identifier
L:117 M:283 W: Missing Blank Line separator, <220> field identifier
L:119 M:283 W: Missing Blank Line separator, <400> field identifier
L:126 M:283 W: Missing Blank Line separator, <220> field identifier
L:128 M:283 W: Missing Blank Line separator, <400> field identifier
L:135 M:283 W: Missing Blank Line separator, <220> field identifier
L:137 M:283 W: Missing Blank Line separator, <400> field identifier
L:144 M:283 W: Missing Blank Line separator, <220> field identifier
L:146 M:283 W: Missing Blank Line separator, <400> field identifier

0 5 JAN 2007

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Alexandria, VA 22313-1450
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William Collard
Collard & Roe, P.C.
1077 Northern Boulevard
Roslyn, NY 11576

In re Application of	:	
BERHNARDT, et al.	:	DECISION ON PETITION
Application No.: 10/512,737	:	
PCT No.: PCT/EP03/03973	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 16 April 2003	:	
Priority Date: 29 April 2002	:	
Atty. Docket No.: BERNHARDT ET AL 2 PCT	:	
For: TRANSPORT SYSTEM IN BIOLOGICAL SYSTEMS	:	

The renewed petition to revive under 37 CFR 1.137(b) filed 12 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 currently provided a compliant raw sequence listing which has been entered by the Biotechnology Systems Branch of the Scientific and Technical Information Center (STIC). 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 16 April 2003 under 35 U.S.C. 363 and will be given a date of **16 June 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 MAY 2005

#3

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

William H. Eilberg
Three Bala Plaza
Suite 501 West
Bala Cynwyd, PA 19004

In re Application of	:	DECISION ON
BESSON, Bernard	:	
Application No.: 10/512,751	:	
PCT No.: PCT/FR03/01031	:	
Int. Filing Date: 02 April 2003	:	PETITION UNDER
Priority Date: 03 April 2002	:	
Attorney's Docket No.: 190-79	:	
For: HAEMOPHILUS INFLUENZAE ...	:	
USED AS VACCINE	:	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 27 October 2004.

BACKGROUND

On 02 April 2003, this international application was filed, claiming an earliest priority date of 03 April 2002. The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 03 October 2004.

On 27 October 2004, applicants filed in the United States Patent and Trademark Office (USPTO) the instant petition under 37 CFR 1.137(b) and a Transmittal letter for entry into the national stage in the United States, which was accompanied by, basic national fee, and an executed declaration.

DISCUSSION

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

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

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

DECISION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371(c)(1), (c)(2) and (c)(4) date of this application is **27 October 2004.**

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/512,753	10/27/2004	Thomas Martin Stevenson	BA9305USPCT	8763

7590 10/24/2007

Linda D Birch
E I Du Pont De Nemours and Company
Legal Patent Records Center
4417 Lancaster Pike
Wilmington, DE 19805

EXAMINER
CHOI, FRANK I

ART UNIT	PAPER NUMBER
1616	

MAIL DATE	DELIVERY MODE
10/24/2007	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☒ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

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

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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BAYER HEALTHCARE LLC
LAW & PATENTS
800 DWIGHT WAY
BERKELEY, CA 94710

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FEB 01 2010

In re Application of
Jesper Mortensen Haaning, et al.
Application No. 10/512,754
Filed: July 11, 2005
Attorney Docket No. 0259US210

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 20, 2009, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 30, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed July 26, 2009. Accordingly, the date of abandonment of this application is October 31, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

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

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

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

Mail Date: 04/20/2010

Applicant	: Berthold Nies	: DECISION ON REQUEST FOR
Patent Number	: 7578845	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/512,763	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/09/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

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FEB 11 2008

OFFICE OF PETITIONS

In re Application of	:	
Matthias Delp, et al.	:	
Application No. 10/512,770	:	DECISION ON PETITION
Filed: January 3, 2006	:	TO WITHDRAW
Attorney Docket No. 2003P00121	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed August 31, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on November 7, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: LERNER GREENBERG STEMER, LLP
PO BOX 2480
HOLYWOOD, FL 33022-2480

21 APR 2006

#4

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

Martin Connaughton
Ashland Inc.
P.O. Box 2219
Columbus, Ohio 43216

In re Application of
SEATS et al.
U.S. Application No. 10/512,802
PCT No.: PCT/US03/13009
Int. Filing Date: 24 April 2003
Priority Date: 25 April 2002
Attorney Docket No.: 5921
For: SURFACE IMPROVER FOR REINFORCED COMPOSITE COMPOSITIONS

DECISION ON PETITION UNDER 37 CFR 1.78(a)(3) and 1.78(a)(6)

This decision is in response to applicants' "Petition for the Acceptance of Unintentionally Delayed Claim for Priority under 35 USC 365(c)" filed 22 August 2005 requesting acceptance of an unintentionally delayed claim for priority under 35 U.S.C. 365(c) to international application PCT/US03/13009. Because the accompanying amendment also adds a priority claim to a prior filed provisional application, the petition is being treated as a petition under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application.

The petition under 37 CFR 1.78(a)(3) is **DISMISSED as MOOT**. The petition under 37 CFR 1.78(a)(6) is **GRANTED**.

As set forth in MPEP 1893(c), a national sate application filed under 37 U.S.C. 371 may not claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application of which it is the national stage since its filing date is the date of filing the international application. See 35 U.S.C. 363. Accordingly, the petition under 37 CFR 1.78(a)(3) is Dismissed as Moot.

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

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) applicant's statement that "the entire delay in claiming the priority claim from the national stage entry to the filing of a grantable petition under 37 CFR 1.98(a)(3) was unintentional" is construed as meaning 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." If this is incorrect, petitioner must immediately notify the Office of PCT Legal Administration. As construed, petitioner's statement satisfied item (3) above. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

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

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

This application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision, including the processing of applicant's response to the Notification Of Missing Requirements filed 22

August 2005 and for updating USPTO records to include the benefit claim to the prior-filed provisional application referred to in the present petition.

B Milef

Boris Milef
Legal Examiner
Office of PCT 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

DLA PIPER LLP (US)
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO, CA 92121-2133

Mail Date: 04/21/2010

Applicant	: Philip A Beachy	: DECISION ON REQUEST FOR
Patent Number	: 7655674	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/512,804	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **700** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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DLA PIPER LLP (US)
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO, CA 92121-2133

Mail Date: 05/18/2010

Applicant : Philip A Beachy
Patent Number : 7655674
Issue Date : 02/02/2010
Application No : 10/512,804
Filed : 04/27/2005

: 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 **704** 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).

18 MAY 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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DYKEMA GOSSETT PLLC
FRANKLIN SQUARE, THIRD FLOOR WEST
1300 I STREET, NW
WASHINGTON, DC 20005

In re Application of FINOZZI et al	:	
U.S. Application No.: 10/512,818	:	
PCT Application No.: PCT/IT02/00607	:	DECISION
Int. Filing Date: 23 September 2002	:	
Priority Date Claimed: 21 September 2001	:	
Attorney Docket No.: 66434-018	:	
For: STEERING WHEEL FOR BOAT RUDDER	:	

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 28 October 2004.

BACKGROUND

On 23 September 2002, applicant filed international application PCT/IT02/00607, which claimed priority of an earlier Italy application filed 21 September 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 27 March 2003. The thirty-month period for paying the basic national fee in the United States expired on 21 March 2004.

International application PCT/IT02/00607 became abandoned as to the United States for failure to timely pay the basic national fee.

On 28 October 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

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

DYKEMA GOSSETT PLLC
FRANKLIN SQUARE, THIRD FLOOR WEST
1300 I STREET, NW
WASHINGTON DC 20005

APR 08 2008

In re Application of	:	
BRUN, GIANCARLO	:	
Application No. 10/512,818	:	**DECISION ON PETITION**
Filed: October 14, 2005	:	
Attorney Docket No. 66434-018-7	:	

This is a decision on the Petition To Withdraw Holding Of Abandonment, received in the United States Patent & Trademark (USPTO) via facsimile transmission on April 3, 2008.

The petition is **DISMISSED**.

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee, as required in the Notice of Allowance and Fee(s) Due mailed September 19, 2007. The Notice of Abandonment, mailed on January 25, 2008 indicates, "The submitted fee of $0 is insufficient. A balance of $1020 is due".

The Office acknowledges receipt of Part B – Fee(s) Transmittal via facsimile transmission on December 19, 2007 authorizing that the Issue Fee be charged to Deposit Account No. 04-2223. On December 19, 2007 when an attempt was made by the Office of Finance to charge the fees, there were insufficient funds in the Deposit Account to charge the required fee.

37 CFR 1.25 (a) and (b), which states in part:

> 1.25(a) ...An amount sufficient to cover all fee, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."
>
> 1.25 (b) ...An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

In light of the non-compliance with 37 CFR 1.25, the holding of abandonment cannot be withdrawn.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidable*** abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Further inquires with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

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

Telephone inquires concerning this decision matter may be directed to the undersigned at 703 308-9250 Ext. 175.

Kay D. Pinkney
Application Assistant Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/512,818	10/14/2005	Giancarlo Brun	66434-018	1660

25269 7590 03/24/2009
DYKEMA GOSSETT PLLC
FRANKLIN SQUARE, THIRD FLOOR WEST
1300 I STREET, NW
WASHINGTON, DC 20005

EXAMINER
BASINGER, SHERMAN D

ART UNIT	PAPER NUMBER
3617	

MAIL DATE	DELIVERY MODE
03/24/2009	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
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DYKEMA GOSSETT PLLC
FRANKLIN SQUARE, THIRD FLOOR WEST
1300 I STREET, NW
WASHINGTON DC 20005

In re Application of	:	
Giancarlo Brun	:	**DECISION ON PETITION**
Application No. 10/512,818	:	
Filed: 10/14/2005	:	
Attorney Docket No. 66434-018	:	

This is a decision on the Request for Reconsideration of the Petition Decision of 04/08/2008, received in the United States Patent and Trademark Office (USPTO) on April 14, 2008 and December 5, 2008.

The Petition to Withdraw the Holding of Abandonment filed on April 3, 2008 remains **DISMISSED**.

The application was held abandoned for failure to timely pay the issue and publication fee as required by the Notice of Allowance mailed on September 17, 2007. An authorization to charge the issue and publications fee to Deposit Account 04-2223 was received on December 19, 2007. However, when the Office attempted to charge these fees to this deposit account, there were not sufficient funds in the deposit account to cover the charges. The application was held abandoned and the Notice of Abandonment was mailed on January 25, 2008.

Applicant supplied one page from the Monthly Statement of Deposit Account showing a portion of December 19, 2007 through a portion of December 20, 2007. This page of the Monthly statement does not indicate that the account balance was insufficient to charge the requested issue fee and publication fee. However, a further review by the Office for this deposit account does show that the account balance for this deposit account did drop to $727.54. This balance was insufficient to charge the requested fees. The charge for these fees was attempted at 0938 on December 20, 2007 at which time there were not sufficient funds to cover the services requested.

An amount sufficient to cover all services requested must ***always*** be on deposit. (emphasis added). 37 CFR 1.25(a). As such, this application will remain in an abandoned status.

Applicant may also seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidable*** abandoned application.
Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application.

Further inquires with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

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

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

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

Telephone 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
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DYKEMA GOSSETT PLLC
FRANKLIN SQUARE, THIRD FLOOR
WEST
1300 I STREET, NW
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of

Giancarlo Brun:

Application No. 10/512,818

Filed: October 14, 2005

Attorney Docket No. **66434-018**

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), March 31, 2009, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee and publication fee as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed September 19, 2007. The Notice set forth a three (3) month statutory period for reply. The fees were not received within the allowable period. Accordingly, this application became abandoned on December 20, 2007. A Notice of Abandonment was mailed January 25, 2008.

The issue fee of $755.00 and publication fee of $300.00 will be charged to deposit account 04-2223.

Form PTOL-85B, filed December 19, 2007, is noted.

The application is being directed to the Office of Data Management for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

10-11-06

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

Patent No. : 7,099,157
Inventor(s) : Fabrizio Boe
Issued : August 29, 2006
Title : RETAINING AND HEAT DISSIPATING STRUCTURE FOR ELECTRONIC EQUIPMENT
Docket No. :

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

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

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

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

Eva James
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 105

Justin J. Cassell
Bacon & Thomas, PLLC
625 Slaters Lane, 4th Floor
Alexandria, VA 22314

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

1-18-07

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

Patent No. : 7,099,157
Ser. No. : 10/512,854
Inventor(s) : Fabrizio boer
Issued : August 29, 2006
Title : RETAINING AND HEAT DISSIPATING STRUCTURE FOR ELECTRONIC EQUIPMENT
Docket No. : BOER3001JEK

Re: Request for Certificate of Correction

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

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

In view of the foregoing, your request is hereby again denied.

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

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

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

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

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

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

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

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

Eva James
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 102

Bacon &Thomas, PLLC
625 Slaters Lane, 4th Floor
Alexandria, VA 22314

ej

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OFFICE OF PETITIONS

BACON & THOMAS, PLLC
625 SLATERS LANE, FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

In re Patent No. 7,099,157	:	
Issue Date: August 29, 2006	:	
Application No. 10/512,854	:	ON PETITION
Filed: July 25, 2005	:	
Attorney Docket No. BOER3001/JJC	:	

This is a decision on the petition filed February 6, 2007, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

30 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

ARENT FOX PLLC
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

In re Application of
DEL SOLDATO, Piero et al.
Application No.: 10/512,856
PCT No.: PCT/EP03/04861
Int. Filing Date: 09 May 2003
Priority Date: 14 May 2002
Attorney Docket No.: 026220-00056
For: DEOXYCHOLIC ACID DERIVATIVES FOR THE TREATMENT OF ACUTE DYSFUNCTIONS OF PORTAL AND HEPATIC VENOUS CIRCULATION

DECISION ON

PETITION

UNDER 37 CFR 1.47(a)

This is a decision on applicants' "Petition Under 37 C.F.R. §1.47," filed in the United States Patent and Trademark Office (USPTO) on 19 May 2005.

BACKGROUND

On 09 May 2003, applicants filed international application PCT/EP03/04861, which claimed a priority date of 14 May 2002. A copy of the international application was transmitted to the Office on 20 November 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 14 November 2004.

On 12 November 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 28 April 2005, 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 19 May 2005, applicants submitted a petition under 37 CFR 1.47(a), which was accompanied by, *inter alia*, a declaration of inventorship and a supporting declaration.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the non-signing applicant.

Items (1), (3), and (4) have been satisfied. The balance of the $200 petition fee will be charged to deposit account no. 01-2300, as authorized. Applicants list Piero Del Soldato's address as Via Enrico Toti 22; Monza, MI 20052; Italy. The declaration complies with 37 CFR 1.497(a)-(b) and 37 CFR 1.47(a).

Item (2) has not been satisfied. Applicants have supplied a supporting declaration from Maria Teresa Noro. However, Ms. Noro does not state that she has first-hand knowledge of the delivery of the application papers and declaration to the non-signing inventor's attorney, nor are the receipts from the delivery attempts to the inventor's residence translated. Non-translated, non-English materials are not considered. As such, applicants have not furnished evidence of receipt of the complete copy of the application papers, including the declaration, by the non-signing inventor. MPEP 409.03(d). Applicants have also not indicated attempts to verify that Mr. Del Soldato's last known address is still his current address.

CONCLUSION

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

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

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

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

25 OCT 2005

#8

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United States Patent and Trademark Office
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ARENT FOX PLLC
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

In re Application of DEL SOLDATO, Piero et al. Application No.: 10/512,856 PCT No.: PCT/EP03/04861 Int. Filing Date: 09 May 2003 Priority Date: 14 May 2002 Attorney Docket No.: 026220-00056 For: DEOXYCHOLIC ACID DERIVATIVES FOR THE TREATMENT OF ACUTE DYSFUNCTIONS OF PORTAL AND HEPATIC VENOUS CIRCULATION	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' "Petition Under 37 C.F.R. §1.47(a)," filed in the United States Patent and Trademark Office (USPTO) on 05 October 2005.

BACKGROUND

On 09 May 2003, applicants filed international application PCT/EP03/04861, which claimed a priority date of 14 May 2002. A copy of the international application was transmitted to the Office on 20 November 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 14 November 2004.

On 12 November 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 28 April 2005, 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 19 May 2005, applicants submitted a petition under 37 CFR 1.47(a), which was accompanied by, *inter alia*, a declaration of inventorship and a supporting declaration.

On 30 September 2005, the Office mailed Decision On Petition, dismissing applicants' petition without prejudice.

On 05 October 2005, applicants submitted the instant renewed petition.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the non-signing applicant.

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

Item (2) has now been satisfied. Applicants supplied a complete copy of the application papers to Mr. Del Soldato's last known address and to his attorney. The papers sent to his attorney were signed for by his attorney.

CONCLUSION

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

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

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including accordation of a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of **19 May 2005**.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

25 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

Piero Del Soldato
Via Enrico Toti 22
Monza, MI 20052
Italy

In re Application of
DEL SOLDATO, Piero et al.
Application No.: 10/512,856
PCT No.: PCT/EP03/04861
Int. Filing Date: 09 May 2003
Priority Date: 14 May 2002
Attorney Docket No.: 026220-00056
For: DEOXYCHOLIC ACID DERIVATIVES FOR THE TREATMENT OF ACUTE DYSFUNCTIONS OF PORTAL AND HEPATIC VENOUS CIRCULATION

Dear Mr. Del Soldato:

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

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

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

ARENT FOX PLLC
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

cc: Fabrizio Conte, Esq.
Via Frefuflia 8/a
20122 Milan
Italy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OBLON, SPIVAK, MCCLELLAND,
MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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MAR 2 8 2007

OFFICE OF PETITIONS

In re Application of

Curstedt, et al.

Application No. 10/512,869

Filed: April 19, 2005

Attorney Docket No. 261648US0PCT

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed January 10, 2007.

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

This application was held abandoned on September 7, 2006, after it was believed that no response was received to the non-final Office action mailed June 6, 2006. The notice allowed a shortened statutory period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on January 3, 2007, indicating that a reply to the notice was not received.

A review of the record reveals that an amendment intending to be responsive to the non-final Office action along with a request for an extension of time within the second month was received on October 27, 2006, as evidenced by a review of the application file record and the Office date-stamped postcard that accompanied the instant petition. Based on the aforementioned, it appears that the application was improperly held abandoned as a response was received prior to expiration of the period for reply. The holding of abandonment is withdrawn, accordingly.

Further inquires regarding this decision may be directed to the undersigned at (571) 272-3222.

The application file is being forwarded Technology Center 3600, GAU 3673, for further processing.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

caj

Mailed: 6-12-07

In re application of Richard Amos et al. Serial No. 10/512,877 Filed: October 29, 2004 For: EMBOSSING METHOD AND APPARATUS	: : : :	DECISION ON PETITION

This is a decision on the PETITION TO THE COMMISSIONER WITH RESPECT TO THE RESTRICTION REQUIREMENT in the office action mailed on April 12, 2006.

On April 12, 2006, a restriction requirement was mailed to applicants. In this requirement, the examiner held that the claims lack unity under PCT Rules 13.1 – 13.4 and required election between five groups. Applicants traversed the restriction requirement in a response filed on May 9, 2006 and requested reconsideration of the requirement. In the non-final action mailed May 25, 2006, the examiner acknowledged the traversal and made the restriction requirement final.

On November 27, 2006 the instant petition was filed to formally request a review of the restriction requirement.

DECISION

The instant application has been filed under 35 U.S.C. 371 as a national phase application of PCT/GB03/02015 and as such is subject to the unity requirements set out in PCT Rules 13.1 – 13.4 and 37 CFR 1.475, as well as the PCT Administrative Instructions, Annex B. In the instant petition it is asserted that there is a technical relationship between Group I, II, and III inventions and that the examiner's statement that these claims do not share a common technical feature is incorrect.

The PCT Administrative Instructions, Annex B, Part 1 at (b) state that "the special technical features" common to all groupings of inventions shall be defined, as in PCT Rule 13.2, to mean,

> "those technical features which each of the claimed inventions, **considered as a whole, makes over the prior art.**" (Emphasis added)

In the instant case, the technical feature described by the examiner in the restriction requirement is the method including taking a carrier film having an inverse of the required surface profile formed on one side, taking a layer of fixable material located on a substrate, laminating the carrier film and substrate, and fixing the fixable material and it is this feature which links together all of the claims in the three groups at issue. However, this special technical feature of the method and device has been shown, at pages 2-3 of the office action mailed April 12, 2006, to not make (be) a contribution over the prior art

of Mancini et al. (US 2002/0122995). Note also that in the May 25, 2006 office action, the examiner states on pages 3-6 that the special technical features are known. Therefore, the examiner's finding that there is a lack of unity of invention between the groups as set forth in the restriction requirement was correct. The reason for such being that the groups constitute additional inventions not sharing a "special technical relationship" within the meaning of PCT Rule 13.2 since the identified "special technical feature" does not make a contribution over the prior art.

Accordingly, the petition is **DENIED.** The application is forwarded to the examiner for consideration of the response filed November 27, 2006.

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Stefan Werner	: DECISION ON REQUEST FOR
Patent Number	: 7632981	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/512,879	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/28/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **449** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

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MAY 27 2008

In re Application of :
Jonathan SCHEWITZ :
Application No. 10/512,881 : DECISION ON PETITION
Filed: October 28, 2004 :
Attorney Docket No. **5991-01200** :

This is a decision on the petition under 37 CFR 1.137(b), filed April 02, 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 28, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on May 30, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee $770.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of February 28, 2007 is accepted as having been unintentionally delayed.

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

The application file is being referred to Technology Center AU 1723 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

30 SEP 2005

#3

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MICHAEL BEST & FRIEDRICH, LLP
100 E WISCONSIN AVENUE
MILWAUKEE WI 53202

In re Application of	:	
AXLER, Edward C., et al.	:	
Application No.: 10/512,896	:	DECISION
PCT No.: PCT/US03/02885	:	
Int. Filing Date: 31 January 2003	:	ON PETITION UNDER
Priority Date: 01 February 2002	:	
Docket No.: 091395-9389	:	37 CFR 1.137(b)
For: PILOTING CONFIGURATION FOR	:	
THRUST BEARING ASSEMBLY	:	

Applicants' "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 28 October 2004 is **GRANTED**.

Applicants state "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," as required by 37 CFR 1.137(b)(3). 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.

The declaration of the inventors complies with 37 CFR 1.497(a)-(b).

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of 28 October 2004.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9-19-06

TO SPE OF : ART UNIT 3682

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/512846 Patent No.: 7073901

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.

Check Col.

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

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

RICHARD RIDLEY
SUPERVISORY PATENT EXAMINER
SPE

3682
Art Unit

7-29-08

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. : 7,322,312 B2
Inventor(s) : Noeiyuki Kizaki, et. al.
Issued : February 19, 2008
For: NOVEL CARBONYL REDUCTASE, GENE THEOF AN USE OF THE SAME

Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction under Rule 1.323and 1.322.

In the title, it is the practice to exclude words such as "Improvements in", "A", "Novel", etc., from the printed patent.

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

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

Eva James
For Mary Diggs
Decisions & Certificate
of Correction Branch
(703) 308-9390 ext. 124 or 125

Magadealene O. Cilella, PH.D.
Brinks hofer Gilson & Lione
P.O. Box 10395
Chicago, Illinois 60610

ej

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Paper No.

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

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MAR 17 2009

OFFICE OF PETITIONS

In re Application of :
Taylor et al. :
Application No. 10/512,910 :
Filed: October 29, 2004 :
Attorney Docket No. 4803-4002 :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the STATEMENT REGARDING PATENT TERM ADJUSTMENT UNDER WYETH V. DUDAS filed January 21, 2009. Applicants assert that the subject application is today entitled to an additional 450 days of patent term adjustment beyond the 462 days set forth on the December 8, 2008 determination. Referring to Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008), applicants request this correction 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, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Applicant is given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met.

Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

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

The application is being forwarded to the Office of Data Management for issuance of the patent. The revised 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 decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

09 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
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DAVIDSON, DAVIDSON & KAPPEL, LLC
485 SEVENTH AVENUE, 14TH FLOOR
NEW YORK, NY 10018

In re Application of COTTE	:	
U.S. Application No.: 10/512,918	:	
PCT Application No.: PCT/EP03/04542	:	DECISION
Int. Filing Date: 30 April 2003	:	
Priority Date Claimed: 30 April 2002	:	
Attorney Docket No.: 5007.1013US	:	
For: COMMUNICATIONS WEB SITE	:	

This is in response to applicant's "Request for Corrected Filing Receipt" filed 07 August 2006.

The requested correction cannot be completed because the proper priority information has not been provided. 37 CFR 1.78(a)(2)(i) specifies that a nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to the prior-filed application, identifying it by the application number and indicating the relationship of the applications. The reference should be in the first line of the specification or in an application data sheet and should be in a form such as "This is a divisional (or continuation, or continuation-in-part, as appropriate) application of International Application No. ---, filed ---". See MPEP 201.11, §III A. In the present case, the first line of the specification and the application data sheet fail to state the relationship of the applications. See MPEP 201.11, §III A (stating, "To specify the relationship between the applications, applicant must specify whether the application is a continuation, divisional, or continuation-in-part of the prior application.")

Accordingly, the request for corrected filing receipt is DISMISSED without prejudice.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

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HOWARD & HOWARD ATTORNEYS PLLC
450 West Fourth Street
Royal Oak, MI 48067

Mail Date: 04/21/2010

Applicant	: Frank Herre	: DECISION ON REQUEST FOR
Patent Number	: 7584771	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/512,929	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **951** 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 APR 2005

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Charles F. Reidelbach, Jr.
Higgs, Fletcher &Mack LLP
401 West A Street, Suite 2600
San Diego, CA 92101

In re Application of	:	DECISION ON
Jorge Sanchez	:	
Application No.: 10/512,931	:	
PCT No.: PCT/US03/00848	:	
Int. Filing Date: 13 January 2003	:	PETITION UNDER
Priority Date: 14 January 2002	:	
Attorney's Docket No.: 101153-22319	:	
For: METHOD FOR CONFIGURING A	:	
LASER OPERATING SYSTEM	:	37 CFR 1.137(b)

This decision is in response to applicants' "Petition For Revival Of An International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 29 October 2004.

BACKGROUND

On 13 January 2003, this international application was filed, claiming an earliest priority date of 14 January 2002.

The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 14 July 2004.

On 29 October 2004, applicants filed the instant petition under 37 CFR 1.137(b) and Transmittal letter for entry into the national stage in the United States, which was accompanied by, basic national fee, and an executed declaration.

DISCUSSION

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

Applicant's statement that "was unintentionally abandoned before entering the national phase in the United States due to accidental miscommunication and misunderstanding with a foreign associate. The miscommunication caused an accidental expiration of a thirty month for entering the national phase in the United States" is being construed as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

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 in this application, no terminal disclaimer is required.

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

DECISION

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

The required fee of $65.00 (the surcharge under 1.492(h) for late filing of the declaration) has been charged to Deposit Account No.: 501760 as authorized in the petition submitted on 29 October 2004.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **29 October 2004.**

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

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OFFICE OF PETITIONS

In re Patent No. 6,971,927	:	
Application No. 10/512,937	:	
Filed: October 28, 2004	:	ON PETITION
Issued: December 6, 2005	:	
Attorney Docket No. 04309/LH	:	

This is a decision on the petition filed March 19, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the address of the assignees on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Liana Walsh
Petitions Examiner
Office of Petitions

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

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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

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MAY 26 2009

OFFICE OF PETITIONS

In re Application of	:	
Tucker, et al.	:	
Application No. 10/512,943	:	DECISION
Filed/Deposited: 29 October, 2004	:	
Attorney Docket No. 391258001US1	:	

This is a decision on the petition filed on 3 April, 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 **GRANTED**.

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:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 27 June, 2008, with reply due absent extension of time on or before 27 September, 2008.

The application went abandoned after midnight 27 September, 2008.

On 4 February, 2009, the Office mailed a Notice of Abandonment.

On 3 April, 2009, Petitioner filed a petition requesting withdrawal of the holding of abandonment pursuant to 37 C.F.R. §1.181, and averred timely reply. Petitioner included therewith a copy of the dated ((Monday, 29-DEC-2008) Electronic Acknowledgement Receipt, along with a copy of

the papers (amendment, extension of time and fees) averred to be filed via that service on that date, and so satisfied 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]

***

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[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.

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.

---

[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).

[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.))

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]

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, when it is to be made and how it is to be supported.

It appears that Petitioner has satisfied the showing required.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.181 is **granted**, and the 4 February, 2009, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center/AU 2444 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

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[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).

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.

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 400
MCLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of	:	
DANGBERG, Andreas	:	
Application No. 10/512,974	:	DECISION ON PETITION
Filed: October 29, 2004	:	TO WITHDRAW
Attorney Docket No. **449122078300**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 31, 2007.

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

A review of the file record indicates that the power of attorney to **MORRISON & FOERSTER LLP** has been revoked by the assignee of the patent application on October 29, 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 the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

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

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

Mail Date: 04/21/2010

Applicant	: Takehiro Kata	: DECISION ON REQUEST FOR
Patent Number	: 7648668	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/513,000	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1028** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

19 APR 2005

#3

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FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, NY 10112-3800

In re Application of GOMBERT, Berndt U.S. Application No.: 10/513,001 PCT No.: PCT/EP02/11751 Int. Filing Date: 21 October 2002 Priority Date: 12 March 2002 Attorney Docket No.: 00366.000193 For: 3D INPUT DEVICE FUNCTION MAPPING	**DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)**

Applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed with the national stage papers on 29 October 2004 is hereby **GRANTED** as follows:

The basic national fee, surcharge fee and petition fee have been paid. Applicant states that "[t]he entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

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

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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WASHINGTON DC 20036

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OFFICE OF PETITIONS

In re Application of
KURATA, et al.
Application No. 10/513,002
Filed: October 29, 2004
Attorney Docket No. **042928**

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 27, 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 May 29, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 3728 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks for
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.*

15 SEP 2005

#6

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David J. French
Milton Geller LLP
Suite 700
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Ottawa, Canada K2P 1P9

In re Application of DAGENAIS et al	:	
U.S. Application No.: 10/513,018	:	
PCT Application No.: PCT/CA03/00596	:	
Int. Filing Date: 30 April 2003	:	DECISION
Priority Date Claimed: 30 April 2002	:	
Attorney Docket No.: 5346-09-14 FARR-09.PCTUS	:	
For: IMPROVED CAM FOLLOWER FOR	:	
POWER TONGS AND OTHER USES	:	

This is in response to applicant's "Petition to Accept an Unintentionally Delayed Claim for the Benefit of a Prior-Filed Application - 37 C.F.R. 1.78(a)(3) -" filed 13 July 2005.

BACKGROUND

On 30 April 2003, applicant filed international application PCT/CA03/00596, which claimed priority of an earlier Canada application filed 30 April 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 13 November 2003. The thirty-month period for paying the basic national fee in the United States expired on 01 November 2004 (30 October 2004 was a Saturday).

On 01 November 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 13 July 2005, applicant filed the present petition under 37 CFR 1.78(a)(3).

DISCUSSION

37 CFR 1.78(a)(3) provides that a petition to accept an unintentionally delayed claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed application 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 paragraph (a)(2)(ii) of this section 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.

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

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

With regard to item (3) above, the requisite statement has been provided.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.78(a)(3) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 30 April 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 13 July 2005.

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

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

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

PUB-NO: GB002233977A
DOCUMENT-IDENTIFIER: GB 2233977 A
TITLE: Cysteine-free streptolysin O

PUBN-DATE: January 23, 1991

INVENTOR-INFORMATION:

NAME	COUNTRY
KEHOE, MICHAEL	
PINKNEY, MICHAEL	

US-CL-CURRENT: 435/849
INT-CL (IPC): C07K 13/00; C12N 15/31
EUR-CL (EPC): C07K014/315; C07K016/12

(12) UK Patent Application (19) GB (11) 2 233 977 (13) A

(43) Date of A publication 23.01.1991

(21) Application No 8900107.7

(22) Date of filing 04.01.1989

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Michael Pinkney

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(51) INT CL[5]
C12N 15/31, C07K 13/00 // (C12N 15/31 C12R 1:19)

(52) UK CL (Edition K)
C3H HB7M H650 H674
C6Y Y125 Y501 Y503
U1S S1337 S2419

(56) Documents cited
GB 2226563 A
Infect. Immun 1989, 57(8), 2553-2558
Infect. Immun 1987, 55 (12), 3228-3232

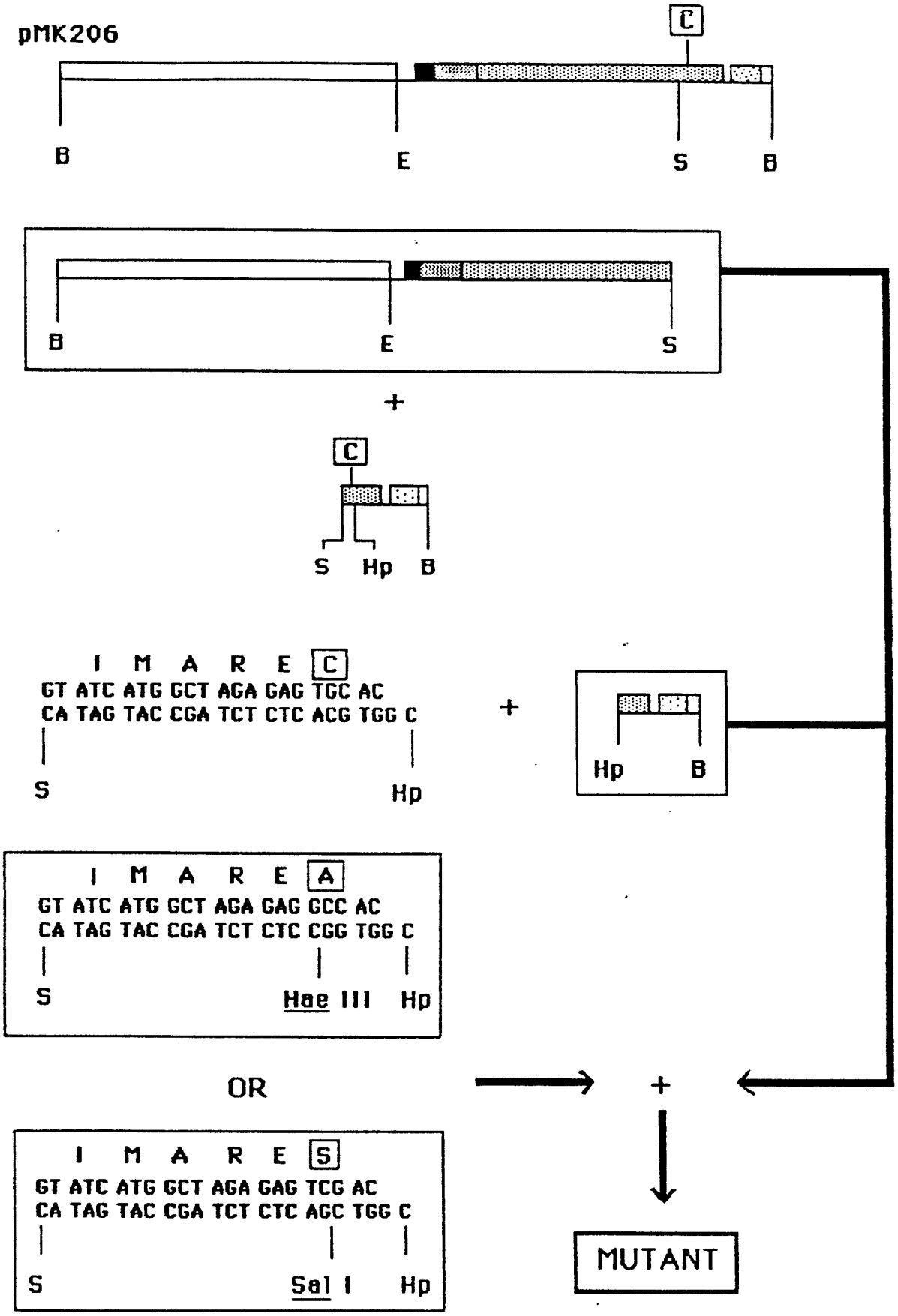
(58) Field of search
UK CL (Edition K) **C3H HB7M**
INT CL[5] **C07K 13/00 15/00, C12N 15/31**
Online databases: WPI, DIALOG/BIOTECH

(54) **Cysteine-free streptolysin O**

(57) A derivative of the thiol-activated toxin streptolysin O, which contains no cysteine amino acids but retains cytolytic activity which can be neutralised by anti-SLO antibodies in a sample.

The claims were filed later than the filing date within the period prescribed by Rule 25(1) of the Patents Rules 1982.

GB 2 233 977 A


pMK206
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GT ATC ATG GCT AGA GAG TCG AC
CA TAG TAC CGA TCT CTC AGC TGG C
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MUTANT

FIGURE 1

Figure —

A NATIVE SLO SEQUENCE

SLO.DNA

```
                 .         .         .         .         .        60
TTATTAGCAAGCTTGCCATTTTATTTAAACCGTCAAAGCATACTAGCTAATATAACCAAA

                 .         .         .         .         .       120
GCGTTAAAAGATGCGCATTATTAGAGAGGCTATGGCACATTACAAATTAGGAGAATTTGC

                 .         .         .         .         .       180
TCACTATCAAGATACTATGCTTGATATGGTCGAAAGAACAATAGAAACATTTTAGAATGA

                 .         .         .         .         .       240
TAAAAAGGTATGAAGGACATGTCTAATAAAAAAACATTTAAAAAATACAGTCGCGTCGCT
                      M  S  N  K  K  T  F  K  K  Y  S  R  V  A

                 .         .         .         .         .       300
GGGCTACTGACGGCAGCTCTTATCATTGGTAACCTTGTTACTGCTAATGCTGAATCGAAC
 G  L  L  T  A  A  L  I  I  G  N  L  V  T  A  N  A  E  S  N

                 .         .         .         .         .       360
AAACAAAACACTGCTAGTACAGAAACCACAACGACAAATGAGCAACCAAAGCCAGAAAGT
 K  Q  N  T  A  S  T  E  T  T  T  T  N  E  Q  P  K  P  E  S

                 .         .         .         .         .       420
AGTGAGCTAACTACTGAAAAAGCAGGTCAGAAAACGGATGATATGCTTAACTCTAACGAT
 S  E  L  T  T  E  K  A  G  Q  K  T  D  D  M  L  N  S  N  D

                 .         .         .         .         .       480
ATGATTAAGCTTGCTCCCAAAGAAATGCCACTAGAATCTGCAGAAAAAGAAGAAAAAAAG
 M  I  K  L  A  P  K  E  M  P  L  E  S  A  E  K  E  E  K  K

                 .         .         .         .         .       540
TCAGAAGACAAAAAAAAGAGCGAAGAAGATCACACTGAAGAAATCAATGACAAGATTTAT
 S  E  D  K  K  K  S  E  E  D  H  T  E  E  I  N  D  K  I  Y

                 .         .         .         .         .       600
TCACTAAATTATAATGAGCTTGAAGTACTTGCTAAAAATGGTGAAACCATTGAAAATTTT
 S  L  N  Y  N  E  L  E  V  L  A  K  N  G  E  T  I  E  N  F

                 .         .         .         .         .       660
GTTCCTAAAGAAGGCGTTAAGAAAGCTGATAAATTTATTGTCATTGAAAGAAAGAAAAAA
 V  P  K  E  G  V  K  K  A  D  K  F  I  V  I  E  R  K  K  K

                 .         .         .         .         .       720
AATATCAACACTACACCAGTCGATATTTCCATCATTGACTCTGTCACTGATAGGACCTAT
 N  I  N  T  T  P  V  D  I  S  I  I  D  S  V  T  D  R  T  Y

                 .         .         .         .         .       780
CCAGCAGCCCTTCAGCTGGCTAATAAAGGTTTTACCGAAAACAAACCAGACGCGGTAGTC
 P  A  A  L  Q  L  A  N  K  G  F  T  E  N  K  P  D  A  V  V

                 .         .         .         .         .       840
ACCAAGCGAAACCCACAAAAAATCCATATTGATTTACCAGGTATGGGAGACAAAGCAACG
 T  K  R  N  P  Q  K  I  H  I  D  L  P  G  M  G  D  K  A  T

                 .         .         .         .         .       900
GTTGAGGTCAATGACCCTACCTATGCCAATGTTTCAACAGCTATTGATAATCTTGTTAAC
 V  E  V  N  D  P  T  Y  A  N  V  S  T  A  I  D  N  L  V  N
```

```
                                                                    960
CA TGGCATGATAATTATTCTGGTGGTAATACGCTTCCTGCCAGAACACAATATACTGAA
 L  W  H  D  N  Y  S  G  G  N  T  L  P  A  R  T  Q  Y  T  E

                                                                   1020
TCAATGGTATATTCTAAGTCACAGATTGAAGCAGCTCTAAATGTTAATAGCAAAATCTTA
 S  M  V  Y  S  K  S  Q  I  E  A  A  L  N  V  N  S  K  I  L

                                                                   1080
GATGGTACTTTAGGCATTGATTTCAAGTCGATTTCAAAAGGTGAAAAGAAGGTGATGATT
 D  G  T  L  G  I  D  F  K  S  I  S  K  G  E  K  K  V  M  I

                                                                   1140
GCAGCATACAAGCAAATTTTTTACACCGTATCAGCAAACCTTCCTAATAATCCTGCGGAT
 A  A  Y  K  Q  I  F  Y  T  V  S  A  N  L  P  N  N  P  A  D

                                                                   1200
GTGTTTGATAAATCAGTGACCTTTAAAGAGTTGCAACGAAAAGGTGTCAGCAATGAAGCT
 V  F  D  K  S  V  T  F  K  E  L  Q  R  K  G  V  S  N  E  A

                                                                   1260
CCGCCACTCTTTGTGAGTAACGTAGCCTATGGTCGAACTGTTTTTGTCAAACTAGAAACA
 P  P  L  F  V  S  N  V  A  Y  G  R  T  V  F  V  K  L  E  T

                                                                   1320
AGTTCTAAAAGTAATGATGTTGAAGCGGCCTTTAGTGCAGCTCTAAAAGGAACAGATGTT
 S  S  K  S  N  D  V  E  A  A  F  S  A  A  L  K  G  T  D  V

                                                                   1380
AAAACTAATGGAAAATACTCTGATATCTTAGAAAATAGCTCATTTACAGCTGTCGTTTTA
 K  T  N  G  K  Y  S  D  I  L  E  N  S  S  F  T  A  V  V  L

                                                                   1440
GGAGGAGATGCTGCAGAGCACAATAAGGTAGTCACAAAAGACTTTGATGTTATTAGAAAC
 G  G  D  A  A  E  H  N  K  V  V  T  K  D  F  D  V  I  R  N

                                                                   1500
GTTATCAAAGACAATGCTACCTTCAGTAGAAAAAACCCAGCTTATCCTATTTCATACACC
 V  I  K  D  N  A  T  F  S  R  K  N  P  A  Y  P  I  S  Y  T

                                                                   1560
AGTGTTTTCCTTAAAAATAATAAAATTGCGGGTGTCAATAACAGAACTGAATACGTTGAA
 S  V  F  L  K  N  N  K  I  A  G  V  N  N  R  T  E  Y  V  E

                                                                   1620
ACAACATCTACCGAGTACACTAGTGGAAAAATTAACCTGTCTCATCAAGGCGCGTATGTT
 T  T  S  T  E  Y  T  S  G  K  I  N  L  S  H  Q  G  A  Y  V

                                                                   1680
GCTCAATATGAAATCCTTTGGGATGAAATCAATTATGATGACAAAGGAAAAGAAGTGATT
 A  Q  Y  E  I  L  W  D  E  I  N  Y  D  D  K  G  K  E  V  I

                                                                   1740
ACAAAACGACGTTGGGATAACAACTGGTATAGTAAGACATCACCATTTAGCACAGTTATC
 T  K  R  R  W  D  N  N  W  Y  S  K  T  S  P  F  S  T  V  I

                                                                   1800
CCACTAGGAGCTAATTCACGAAATATACGTATCATGGCTAGAGAGGCCACCGGCTTAGCT
 P  L  G  A  N  S  R  N  I  R  I  M  A  R  E  A  T  G  L  A
```

SLO.DNA

```
                .         .         .         .         .        1860
TG' AATGGTGGCGAAAAGTGATCGACGAAAGAGATGTGAAACTGTCTAAAGAAATCAAT
 W  E  W  W  R  K  V  I  D  E  R  D  V  K  L  S  K  E  I  N

                .         .         .         .         .        1920
GTCAACATCTCAGGATCAACCCTGAGCCCATATGGTTCGATTACTTATAAGTAGGACTGG
 V  N  I  S  G  S  T  L  S  P  Y  G  S  I  T  Y  K

                .
TTCAAGAGGTTC
```

CYTOLYTIC STREPTOLYSIN O MUTANTS AND USES

This invention relates to cytolytic streptolysin O (SLO) mutants and their uses in diagnostic anti-streptolysin O antibody tests (ASO tests). In particular the present invention relates to the identification, construction and production of cytolytic SLO derivatives that do not contain any cysteine (Cys) amino acids. This invention also relates to the use of these SLO derivatives in diagnostic tests based on specific binding properties, such as binding between antigen and antibody, and the inhibition of the cytolytic activities of SLO and cytolytic SLO derivatives by anti-Streptolysin O antibodies in human serum.

SLO is a toxic cytolytic protein produced by *Streptococcus pyogenes* (*S.pyogenes*) which causes a number of human diseases. During infection, the gene encoding SLO is expressed and SLO is secreted by *S.pyogenes*. The SLO secreted by *S.pyogenes* is sensitive to oxidation and the cytolytic activity is greatly reduced after after a period of exposure to air. This lost activity is restored by the addition of reducing agents such as dithiothreitol (DDT). The sensitivity of SLO to oxidation is associated with the presence of a Cys amino acid in the native protein. All prior art indicates that this Cys amino acid is an essential amino acid for the cytolytic activity of SLO and this Cys amino acid is often referred to as the "essential Cys".

The infected human host produces anti-SLO antibodies to antigenic sites on the SLO molecule.Thus diagnostic tests detecting these anti-SLO antibodies in human serum, can indicate (past or present) infection by *S.pyogenes*.

The immunodiagnostic assays presently being used for detection of anti-SLO antibodies in human serum utilise active SLO protein prepared from cultures of *S.pyogenes*. These assays generally comprise the following steps:

(a) Take serum sample from patient.
(b) Make serial dilutions of serum sample in a suitable buffer.
(c) For each test include a control containing buffer but no serum.
(d) Add a standard quantity of active SLO to each dilution of serum and to the control.
(e) Incubate the mixtures for a standard time and at a standard temperature, to allow any anti-SLO antibodies in the mixtures to combine with, and neutralise the added SLO.
(f) Add a standard quantity of red blood cells to each mixture.
(g) Incubate the mixtures for a standard time and at a standard temperature to allow any active (non-neutralised) SLO to lyse the added cells.
(h) Determine the highest dilution of serum that has neutralised the added SLO, that is which corresponds to the dilution producing less than 50% lysis of the added red blood cells.

Thus, where the serum sample contains high levels of anti-SLO antibody, there will be neutralisation of the active SLO and therefore no lysis of the red blood cells. Conversely, where the serum sample does not contain antibodies to SLO, there will be no neutralisation and therefore there will be extensive lysis of the

red blood cells.

There are a number of problems with preparing active SLO from *S.pyogenes* cultures for use in these assays. These problems are caused by the sensitivity of SLO to degradation by proteases that are also secreted by *S.pyogenes* and by the sensitivity of SLO to oxidation due to the presence of a Cys amino acid in the molecule. The gene encoding SLO has been cloned and expressed in *Escherichia coli* (*E.coli*) and the complete nucleotide sequence of the cloned SLO gene has been determined and the amino acid sequence of SLO has been deduced from the nucleotide sequence of the gene. These data have been published (Kehoe and Timmis, 1984, Infection and Immunity 43:804-810 and Kehoe *et al* 1987, Infection and immunity 55:3228-3232). These data showed that the SLO protein contains only one Cys amino acid. The native SLO expressed by the cloned gene in *E.coli* could be used in the current immunodiagnostic assays. However the cloned gene product also contains the Cys amino acid. Prior art indicates that deletion of this single Cys amino acid or the exchange of this Cys amino acid for any other natural amino acid would irreversibly inactivate the cytolytic activity of SLO.

The problem addressed by the present application was that of producing a cytolytic derivative of SLO did not contain a Cys amino acid and that was not sensitive to oxidation. It was not at all clear that this could be done.

In one aspect the present invention provides data that shows that Cys is not an essential amino acid for the cytolytic activity of SLO.

In another aspect the present invention provides a DNA sequence encoding a cytolytic SLO derivative that does not contain a Cys amino acid.

In another aspect the present invention provides a cytolytic SLO derivative that does not contain a Cys amino acid.

In another aspect the present invention provides a process which comprises producing cytolytic SLO derivatives that do not contain a Cys amino acid by culturing a transformed cell so as to express the protein and recovering the protein therefrom.

The present invention also provides methods and diagnostic kits for detecting the presence or absence of antibodies to SLO in clinical samples and for quantifying the levels of such antibodies in these samples. A typical diagnostic method may comprise replacing native SLO in the current ASO assays (described above) with the cytolytic SLO derivatives that do not contain a Cys amino acid.

In order that the present invention may be more readily understood, embodiments will now be described with reference to Figure 1 which shows how the genes encoding cytolytic SLO derivatives (referred to as "MUTANT" in Fig. 1) were constructed and with reference to

Figure 2 which shows the complete nucleotide sequences of the cloned SLO gene and a mutant gene encoding a cytolytic SLO derivative that does not contain a Cys amino acid.

Figure 1 outlined the steps involved in constructing mutant SLO genes encoding SLO derivatives that do not contain a Cys amino acid. Plasmid pMK206 DNA was cleaved with the restriction enzymes SnaBI (S) and BamHI (B) and the two resulting DNA fragments were separated by electrophoresis on agarose gels and purified (highlighted by boxes). The smaller of these two purified DNA fragments was then cleaved with the restriction enzyme HpaII (Hp) and the two resulting fragments were separated. The larger Hp-B fragment was purified and the smaller S-Hp fragment was discarded. A double stranded oligonucleotide was prepared by DNA synthesis *in vitro* and hybridisation, such that it replaced the discarded segment of the SLO gene with a new sequence that did not contain a Cys amino acid codon, but that replaced this Cys codon with a codon for an alanine or some other amino acid. The purified large B-S fragment from the first restriction enzyme cleavage, the purified Hp-B fragment from the second restriction enzyme cleavage and the synthetic double stranded oligonucleotides were ligated together to produec new plasmids. These new recombinant plasmids were transformed into an *E.coli* host and progeny expressing cytolytic SLO derivatives that do not contain a Cys amino acid were identified. The sequence of one such derivative, where the Cys codon is replaced by a codon for the amino acid alanine is described in Figure 2. A procedure for producing the cytolytic SLO derivatives from the transformed *E.coli* cells was developed such that protein that could be used in immunodiagnostic tests could be provided.

APPLICATION NO: 8900107.7
FILING DATE: 04.01.1989
M. KEHOE and M.PINKNEY.

CLAIMS

1. A cytolytic derivative of the thiol-activated protein streptolysin O (SLO) comprising amino acid sequences with no cysteine (Cys) amino acid.

2. An SLO derivative according to claim 1 wherein SLO has been subjected to derivatisation at the Cys amino acid.

3. An SLO derivative according to claim 2 wherein the derivatisation involves altering the amino acid sequence by means amino acid substitution, insertion or deletion acheived by genetic manipulation of an SLO gene or any other means.

4. An SLO derivative according to claim 1 wherein the cytolytic activity is resistant to inactivation by oxidation or chemical modification of a thiol group.

5. A process which comprises the production of an SLO derivative of claim 3 by expression of the protein in a recombinant host cell from DNA encoding the derivative.

6. A diagnostic kit for detecting the presence or absence of antibodies to SLO in a clinical sample, which comprises an SLO derivative of claim 1 together with ancillary components for measuring cytolytic activity.

7. A method for detecting the presence or absence of antibodies to SLO in a clinical sample, which method comprises contacting dilutions of the sample with an SLO derivative of claim 1 and measuring the cytolytic activity remaining after contact between the sample dilutions and the SLO derivative of claim 1.

Published 1991 at The Patent Office, State House, 66/71 High Holborn, London WC1R 4TP. Further copies may be obtained from Sales Branch, Unit 6, Nine Mile Point, Cwmfelinfach, Cross Keys, Newport, NP1 7HZ. Printed by Multiplex techniques ltd, St Mary Cray, Kent.

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British American Tobacco
R & D Centre
Patents Department
Regents Park Road, Mailbrook
Southhampton, SO15-8TL

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OFFICE OF PETITIONS

In re Application of	:	
TAKEMOTO, et al.	:	
Application No. 10/513,027	:	DECISION ON PETITION
Filed: July 18, 2005	:	TO WITHDRAW
Attorney Docket No. 77773	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 29, 2006.

The request is **NOT APPROVED**.

A review of the request indicates that Olivia Tolan is no longer associated with Customer Number 26288. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: **Albihns Stockholm AB**
Box 5581, Linnegatan 2
SE-114 85 Stockholm; SWEDENn
Stockholm, Sweden

02 JUN 2005

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In re Application of BEN-GIGI Application No.: 10/513,033 PCT No.: PCT/IL03/00151 Int. Filing: 27 February 2003 Priority Date: 27 February 2002 Attorney Docket No.: 1157-TEF-US For: CLAMP-ACCESSORY	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 01 November 2004 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that the basic national fee of $475 has been provided. The required petition fee of $685 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 for issuance of a Notification of Missing Requirements indicating that the surcharge for filing the 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

13 APR 2005

#3

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David Klein
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In re Application of BRILL	:
Application No.: 10/513,034	:
PCT Application No.: PCT/IL03/00167	:
Int. Filing Date: 04 March 2003	: DECISION ON PETITION
Priority Date Claimed: 04 March 2002	: UNDER 37 CFR 1.137(b)
Attorney Docket No.: 1472NOV-US	:
For: OPTICAL MEASUREMENTS OF LINE	:
EDGE ROUGHNESS	:

Applicant's "Petition for Revival Under 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office on 01 November 2004, is GRANTED.

BACKGROUND

On 04 March 2003, applicant filed international application PCT/IL03/00167. The international application claims a priority date of 04 March 2002 and designates the United States. The deadline for paying the basic national fee in the United States was thirty months from the priority date, that is 04 September 2004. Applicant missed this deadline.

On 01 November 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), an executed declaration as required by 35 U.S.C. 371(c)(4), and the petition fee of $685.

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 rely 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.

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

The application has an international filing date of 04 March 2003 under 35 U.S.C. 363 and a date of 01 November 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.

Amy Vanatta
Detailee
PCT Legal Administration
Telephone: 571-272-6095
Facsimile: 571-273-0459

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

10 MAY 2005

#3

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Israel

In re Application of BRILL, Boaz *et al* Application No.: 10/513,035 PCT No.: PCT/IL03/00168 Int. Filing Date: 04 March 2003 Priority Date: 04 March 2002 Attorney Docket No.: 1471NOV-US For: OPTICAL MEASUREMENTS OF PATTERNED STRUCTURES	:	**DECISION**

Applicants' "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed with the national stage papers on 11 November 2004 is hereby **GRANTED** as follows:

The basic national fee and petition fee have been paid. Applicants state that "[t]he entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration in compliance with 37 CFR 1.497(a) and (b) has been provided with the national stage papers. However, applicants must also provide a surcharge fee of $65.00 pursuant to 37 CFR 1.492(h) for providing the declaration after thirty months from the priority date.

This application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that a surcharge fee is required.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE : 11/20/06

TO SPE OF : ART UNIT 3751

SUBJECT : Request for Certificate of Correction on Patent No.: 7056052

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.

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

Comments:

SPE: 3751 Art Unit

GREGORY HUSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

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OFFICE OF PETITIONS

In re Application of	:	
KARAZIVAN, et al.	:	
Application No. 10/513,043	:	DECISION ON PETITION
Filed: November 1, 2004	:	TO WITHDRAW
Attorney Docket No. 773/13757.68	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 25, 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 Gwendoline Bruneau on behalf of all attorneys of record who are associated with customer No. 25545. All attorneys/agents associated with the Customer Number 25545 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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 May 30, 2006 does not include one of the above two options. The Notice Regarding Change of Power of Attorney mailed on June 21, 2006 is hereby **VACATED**.

All future correspondence will be directed to the first named inventor Naim Karazivan at the address indicated below.

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

for Denise Pothier
Petitions Examiner
Office of Petitions

cc: **Naim Karazivan**
c/o NEKS Technologies, Inc.
230 Bernard-Belleau, Suite 221
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OFFICE OF PETITIONS

In re Application of Naim Karazivan et al Application No. 10/513,043 Filed: November 1, 2004 Attorney Docket No. P1006US00	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

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

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed January 9, 2008, is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $525 extension of time submitted with the petition on July 27, 2008, was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

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

This matter is being referred to Technology Center AU 3732.

Karen Creasy
Petitions Examiner
Office of Petitions

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YOUNG & THOMPSON
209 MADISON STREET
SUITE 500
ALEXANDRIA VA 22314

MAILED

MAR 26 2009

OFFICE OF PETITIONS

In re Application of
Emilio Morini
Application No. 10/513,044
Filed: November 1, 2004
Attorney Docket No. 2541-1028

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 10, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the restriction requirement mailed April 15, 2008, 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 3781 for appropriate action by the Examiner in the normal course of business on the reply received March 10, 2009.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 04/23/2010

Applicant	: Emilio Morini	: DECISION ON REQUEST FOR
Patent Number	: 7607549	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/513,044	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/01/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1373** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

In re Application of	:	
Vincentius Paulus Buil et al	:	
Application No. 10/513,050	:	ON PETITION
Filed: October 29, 2004	:	
Attorney Docket No. NL 030317	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 30, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 19, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 20, 2005.

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

This matter is being referred to Technology Center AU 2617 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

24 FEB 2005

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#3

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MORRIS MANNING & MARTIN LLP
1600 ATLANTA FINANCIAL CENTER
3343 PEACHTREE ROAD, NE
ATLANTA GA 30326-1044

In re Application of KRAHMER et al. Serial No.: 10/513,063 PCT App. No.: PCT/EP03/04790 Int'l Filing Date: 07 May 2003 Priority Date: 08 May 2002 Attorney Docket No.: 14836-47297 For: ACTIVE CARBOHYDRATE CONTAINING PROTECTING REAGENTS FOR CHEMICAL MODIFICATIONS, THEIR PRODUCTION AND USE	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 27 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 due date for the required reply until the filing of a grantable petition was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $300, the search fee of $400 and examination fee of $200 has been provided. The overpayment of $100 will be refunded to applicant's credit card. The required petition fee of $1500 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing 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

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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

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OFFICE OF PETITIONS

In re Application of	:	
BAYOUMI, et al.	:	
Application No. 10/513,067	:	DECISION ON PETITION
Filed: June 02, 2005	:	TO WITHDRAW
Attorney Docket No. ABTT-0478	:	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 08, 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, "client's Legal Department will prosecute this application" does not meet any conditions set forth in 37 CFR 1040.

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

A Review of the file discloses that a non-final Office action was mailed on August 23, 2006, which set forth a three month shortened statutory period for reply. Extensions of time under 37 CFR 1.136(a) are available. To date, there is no indication that a reply to the Office action of August 23, 2006 has been received.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: **ABB INC.**
LEGAL DEPARTMENT-4U6
29801 EUCLID AVENUE
WICKLIFFE, OH 44092

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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

In re Application of	:	
BAYOUMI, et al.	:	
Application No. 10/513,067	:	DECISION ON PETITION
Filed: June 2, 2005	:	TO WITHDRAW
Attorney Docket No. ABTT-0478	:	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 November 30, 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 Steven B. Samuels 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.

The application became abandoned for failure to timely respond to the non-final rejection mailed August 23, 2006. Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DEIA SALAH-ELDIN BAYOUMI**
2621 HIDDEN MEADOW DRIVE
FUQUAY VARINA, NC 27526

cc: **ABB INC.**
LEGAL DEPARTMENT-4U6
29801 EUCLID AVENUE
WICKLIFFE, OH 44092

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PHILADELPHIA PA 19104-2891

In re Application of
BAYOUMI, et al.
Application No. 10/513,067
Filed: June 2, 2005
Attorney Docket No. ABTT-0478

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 November 30, 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 Steven B. Samuels 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.

The application became abandoned for failure to timely respond to the non-final rejection mailed August 23, 2006. Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DEIA SALAH-ELDIN BAYOUMI**
2621 HIDDEN MEADOW DRIVE
FUQUAY VARINA, NC 27526

cc: **ABB INC.**
LEGAL DEPARTMENT-4U6
29801 EUCLID AVENUE
WICKLIFFE, OH 44092

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2929 ARCH STREET
PHILADELPHIA PA 19104-2891

In re Application of :

BAYOUMI, DEIA SALAH-ELDIN et al. :
Application No. 10/513,079 : DECISION ON PETITION
Filed: June 01, 2005 : TO WITHDRAW
Attorney Docket No. **ABTT-0468** : 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 14, 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 Steven Samuels on behalf of all attorneys of record who are associated.
All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DEIA SALAH-ELDIN BAYOUMI**
2621 HIDDEN MEADOW DRIVE
FUGUAY VARINA, NC 27526

cc: **ABB INC.**
LEGAL DEPARTMENT-4U6
29801 EUCLID AVENUE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/513,081	07/27/2005	Chris A. Buhr	EX03-026C-US	5774

63572 7590 03/20/2009
MCDONNELL BOEHNEN HULBERT @ BERGHOFF LLP
300 SOUTH WACKER DRIVE
SUITE 3100
CHICAGO, IL 60606

EXAMINER
JAISLE, CECILIA M

ART UNIT	PAPER NUMBER
1624	

MAIL DATE	DELIVERY MODE
03/20/2009	PAPER

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

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

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MCDONNELL BOEHNEN HULBERT @ BERGHOFF LLP
300 SOUTH WACKER DRIVE
SUITE 3100
CHICAGO IL 60606

In re Application of:	:
Buhr et al.	: PETITION DECISION
Serial No.: 10/513,081	:
Filed: October 29, 2005	:
Attorney Docket No.: **EX03-026C-US**	

This is in response to the Petition filed by applicants under 37 CFR § 1.181 on March 10, 2009, 2008, requesting that the finality of the Office action of September 10, 2008 be withdrawn because the substance of a number of new rejections that were made in the February 13, 2009 Advisory Action could have been made in the original claims as filed.

BACKGROUND

Most recently, on February 13, 2009, the examiner mailed an Advisory Action indicating that the proposed amendment filed by Applicants on August 6, 2007 would not be entered since it was not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.

On March 10, 2009, applicants filed a Petition under 37 CFR § 1.181 requesting that the finality of the Office action of September 10, 2008 be withdrawn.

On March 3, 2009, a telephonic interview was held with the attorney of record (Mr. Bernstein). During this interview Mr. Bernstein pointed out that certain of the rejections made to the claims in the Advisory Action of 12-24-2008 could not properly have been included in the Final Rejection of 07-09-2008. The examiner agreed to withdraw the Final Rejection of 07-09-2008 (*sic,* 9/10/08) and issue a new Non-Final Rejection.

DISCUSSION

The petition and the file history have been carefully considered.

Applicants arguments were persuasive as indicated in the telephonic interview of March 3, 2009 and the examiner has mailed a new non-final rejection on March 16, 2009, thus rendering this Petition moot.

DECISION

The petition is **DISMISSED AS MOOT.**

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
Technology Center 1600

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NOV 28 2006

MERCK AND CO., INC
PO BOX 2000
RAHAWAY, NJ 07065-0907

In re Application of	:
Richard H. Hunt et al	:
Serial No.: 10/513,085	: PETITION DECISION
Filed: October 28, 2004	:
Attorney Docket No.: 21106P	:

This is in response to the petition under 37 CFR 1.181, filed September 8, 2006, requesting withdrawal of the Finality of the last Office action.

BACKGROUND

A review of the file history shows that the examiner mailed to applicants a first Office Action on April 25, 2006, acting on claims 22-32, 39 and 40. The abstract of the disclosure was objected to because it was not limited to the subject matter presently claimed. Claims 22-32, 39 and 40 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-15 of Nichtberger in view of Fiorucci et al.. Claims 22-32, 39 and 40 were rejected under 35 U.S.C. 103(a) as being unpatentable over Rossoni et al and Letts in view of Fiorucci et al.

Applicants replied on June 7, 2006, wherein claim 22 was amended; claims 39 and 40 were canceled, and a new Abstract was submitted. Applicants replied to each ground of rejection appropriately.

The examiner mailed a Final Office Action to applicants on August 18, 2006. The examiner maintained the objection to the abstract of the disclosure. The examiner set forth a new objection to the specification for improperly incorporating subject matter (reference made to a foreign document). The rejection of claims 22-32 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-15 of Nichtberger in view of Fiorucci et al was maintained. The rejection of claims 22-32, 39 and 40 under 35 U.S.C. 103(a) as being unpatentable over Rossoni et al and Letts in view of Fiorucci et al was rendered moot in view of a new ground of rejection. The examiner set forth a new rejection of claims 22-32 under 35 U.S.C. 103(a) as being unpatentable over Fiorucci et al alone.

This petition was filed September 8, 2006, to withdraw the finality of the Office Action.

DISCUSSION

Applicants state that the final rejection is premature as applicants' amendment dated June 7, 2006, did not necessitate the examiner's new ground of rejection. Applicants submit that prior to the Amendment claim 22 encompassed all cyclooxygenase-2 mediated diseases or conditions, including osteoarthritis, rheumatoid arthritis and chronic pain. Applicants further submit that the cyclooxygenase-2 mediated diseases or conditions of osteoarthritis, rheumatoid arthritis and chronic pain were specifically claimed in dependent claims 25 to 27, which were pending before the examiner prior to the first Office Action. Applicants are correct in their assertion that the amendment did not raise any new issues which would necessitate a new ground of rejection.

The examiner specifically identified the ground as a new ground of rejection, but based Finality on applicants' amendments to the claims as necessitating the new ground. As each of the three conditions now specified in claim 22 were the subject of a specific claim dependent from claim 22, it cannot be properly argued that the amendment necessitated the new ground of rejection. By the examiner's reasoning, every time an applicant narrowed a broad claim by incorporating specific limitations of one or more dependent claims, the making of a new ground of rejection would be justified. Such is not permitted under general Office guidelines, see M.P.E.P. 706.07.

In view of the above considerations the previous Office Action mailed August 18, 2006, is designated a non-Final Office Action.

DECISION

The petition is **GRANTED.**

Applicants remain under obligation to reply to the Office action mailed August 18, 2006, within the time period specified therein or as extended under 37 CFR 1.136(a)..

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.

Bruce Kisliuk
Director, Technology Center 1600
pl/wrd

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PATENT APPLICATION

10513085

PATENT APPLICATION

31 MAY 2005

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Charles F. Reidelbach, Jr. Esq.
Higgs, Fletcher & Mack, LLP
401 West A Street, Suite 2600
San Diego, CA 92101

In re Application of	:	DECISION ON
Jorge Sanchez	:	
Application No.: 10/513,091	:	
PCT No.: PCT/US2003/00043	:	
Int. Filing Date: 08 January 2003	:	PETITION UNDER
Priority Date: 08 January 2002	:	
Attorney's Docket No.:101153-22321	:	
For: APPARATUS AND METHOD FOR	:	
MEASUREMENT FOR DYNAMIC	:	
LASER SIGNALS	:	37 CFR 1.137(b)

This decision is in response to applicant's "Petition For Revival Of An International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 29 October 2004.

BACKGROUND

On 08 January 2003, this international application was filed, claiming an earliest priority date of 08 January 2002.

The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 08 July 2004.

On 29 October 2004, applicant filed the instant petition under 37 CFR 1.137(b) and Transmittal letter for entry into the national stage in the United States, which was accompanied by, basic national fee, and an executed declaration.

DISCUSSION

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

terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

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

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

DECISION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **29 October 2004.**

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

DECISION ON PETITION ROUTING SLIP

Application No.: 10513091

Art Unit: 2828

For Director's Secretary:

☐ **Granted** ☐ **Denied** ☐ **Dismissed**

- ☑ Decision to be reviewed and signed by Director
- ☑ Mail Decision & enter decision in Petition Database
- ☑ Forward a copy of the mailed decision to IFW for scanning
- ☐ Enter Paper Nos [ ] and the decision in PALM
- ☑ Other

Decision sua sponte withdrawing the holding of abandonment

For TECH Support Staff:

- ☑ Process and enter Paper Nos. repsonse filed on 3/12/08
- ☐ Charge [ ] fee to D.A. No
- ☐ Other
- ☑ Forward file to examiner for consideration of response

SPRE No. 1:	SPRE No. 2:	SPRE No. 3:	SPRE No. 4:
Hien Phan SPRE Jeff-8D55 (571) 272-1606	Jose Dees SPRE Jeff-8D59 (571)272-1569	Clayton E. LaBalle SPRE Jeff-8D51 (571) 272-1594	Ed Westin SPRE Jeff-8D65 (571)272-1638

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/513,091	10/29/2004	Jorge Sanchez	101153-22321	3413

73087 7590 06/10/2008
CEYX Technologies, Inc.
3645 Ruffin Road
Suite 101
San Diego, CA 92123

EXAMINER
RODRIGUEZ, ARMANDO

ART UNIT	PAPER NUMBER
2828	

MAIL DATE	DELIVERY MODE
06/10/2008	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.

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CEYX Technologies, Inc.
3645 Ruffin Road
Suite 101
San Diego CA 92123

In re Application of: Jorge Sanchez Serial No.: 10/513,091 Filed: October 29, 2004 Attorney Docket No.: 101153-22321 Title: APPARATUS AND METHOD FOR MEASURMENT FOR DYNAMIC LASER SIGNALS	DECISION *SUA SPONTE* WITHDRAWING THE HOLDING OF ABANDONMENT

This is a decision, sua sponte, withdrawing the holding of abandonment of the above-identified application.

A Notice of Abandonment was mailed on March 6, 2008. The application was held abandoned for failure to timely file a proper reply to the Office communication mailed on September 12, 2007. The Office communication set an extendible one (1) month period for response.

A review of the application record reveals a response to the Office communication of September 12, 2007 was filed via facsimile transmission on March 12, 2008. The response was timely since it was filed with a petition and fee for a five month extension of time.

Accordingly, the Notice of Abandonment mailed on March 6, 2008 is hereby VACATED and the holding of abandonment is withdrawn.

The Technical Support Staff of Technology Center 2800 will enter the response of March 12, 2008 and forward the application to the examiner for consideration of the response.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

MAILED

JAN 22 2009

OFFICE OF PETITIONS

In re Application of
Jorge Sanchez
Application No. 10/513,091
Filed: October 29, 2004
Attorney Docket No. 119998-166084

DECISION ON PETITION

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 2, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed July 2, 2008. Accordingly, the date of abandonment of this application is October 3, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $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 JoAnne Burke at (571) 272-4584.

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

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

22 AUG 2005

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Charles F. Reidelbach, Jr.
HIGGS, FLETCHER & MACK LLP
401 West A Street, Suite 2600
San Diego, CA 92101

In re Application of: SANCHEZ OLEA, Jorge U.S. Application No.: 10/513,104 PCT No.: PCT/US02/40940 International Filing Date: 21 December 2002 Priority Date: 27 December 2001 Attorney's Docket No.: 101153-22322 For: LASER OPTICS INTEGRATED CONTROL SYSTEM AND METHOD OF OPERATION	DECISION ON PETITION FOR REVIVAL OF ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

The petition for revival under 37 CFR 1.137(b) filed 29 October 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the accompanying "Statement Of Reason for Abandonment" meet 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.

It is noted that the petition was accompanied by a declaration that identifies the inventor as Jorge SANCHEZ. However, the name of record of the applicant/inventor herein is Jorge SANCHEZ OLEA. The declaration therefore does not comply with 37 CFR 1.497.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the issuance of a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497.

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

15 MAR 2005

#3

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In re Application of SANCHEZ, Jorge U.S. Application No.: 10/513,105 Filing Date: 29 October 2004 Attorney Docket No.: 101153-22320 For: LASER TEMPERATURE PERFORMANCE COMPENSATION	: : : : : : :	**DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)**

Applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed with the national stage papers on 29 October 2004 is hereby **GRANTED** as to the present application as follows:

Conflicting Instructions

A review of the file reveals that the above-captioned application was improperly treated by the Office as a filing under 35 U.S.C. 371. In the papers filed 29 October 2004, applicant submitted a preliminary amendment which states, in part:

> This application is a continuation in part application for copending U.S. patent application serial number 09/724,692 filed November 28, 2000 . . .

The official USPTO Notice published in the Official Gazette at 1077 OG 13 (April 14, 1987) entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371, (the National Stage of PCT)" states, in part, that: "[i]f there are any conflicting instructions as to which section of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111." Here, the preliminary amendment contains conflicting information which made this a filing under 35 U.S.C. 111(a).

Petition to Revive Under 37 CFR 1.137(b)

International application PCT/US03/01032 became abandoned as to the United States of America for failure to pay the basic national fee by 14 July 2004. The filing of the present continuing application under 35 U.S.C. 111(a) is accepted as an appropriate response under 37 CFR 1.137(b). The $685.00 petition to revive fee for a small entity has been charged to Deposit Account No. 50-1760 as authorized. Applicants' statement in the petition regarding the delay satisfies the requirement of 37 CFR 1.137(b)(3). Thus, all requirements of 37 CFR 1.137(b) are satisfied.

International application PCT/US03/01032 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 10/513,105.

This application is being forwarded to the National Stage Processing Branch for removal of the international papers communicated from the International Bureau. Thereafter, the application will be forwarded to the Office of Initial Patent Examination for further processing under 35 U.S.C. 111(a) with a filing date of 29 October 2004.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

Adjustment Date: 08/25/2005 RWHITE1
11704/2004 SNAJARRO 00000096 501760 10513105
01 FC:2610 395.00 CR
02 FC:2617 65.00 CR

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01 FEB 2006

Charles F. Reidelbach
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401 West A Street, Suite 2600
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In re Application of	:	
SANCHEZ, Jorge	:	
U.S. Application No.: 10/513,105	:	
PCT No.: PCT/US03/01032	:	
Int. Filing Date: 14 January 2003	:	**DECISION**
Priority Date: 14 January 2002	:	
Attorney Docket No.: 101153-22320	:	
For: LASER TEMPERATURE	:	
PERFORMANCE COMPENSATION	:	

Prior Decision Vacated

The decision dated 15 March 2005 indicated that the preliminary amendment filed with the initial filing on 29 October 2004 contained conflicting information which made this a filing under 35 U.S.C. 111(a).

A further review of the amendment and priority history indicates that there is no conflicting information. The application was properly filed as a national stage application of PCT/US03/01032.

Accordingly, the decision dated 15 March 2005 is **VACATED**.

The subject application is no longer considered a filing under 35 U.S.C. 111(a).

For this reason, the Notice of Incomplete Nonprovisional Application and Filing of 35 U.S.C. 111 Application mailed 24 January 2006 are also **VACATED**.

Petition to Revive Under 37 CFR 1.137(b)
Filed on 29 October 2004

Applicant submitted a petition to revive under 37 CFR 1.137(b) with the national stage papers on 29 October 2004.

The basic national fee and petition fee have been paid. Applicant's statement in the petition is sufficient to meet the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a) and (b) was provided. The surcharge fee of $65.00 was also paid.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 16 June 2004, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 29 October 2004.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing as the national stage application of PCT/US03/01032.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

15 JUL 2005

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Jeffrey M. Greenman
BAYER PHARMACEUTICALS CORPORATION
400 Morgan Lane
West Haven, CT 06516

In re Application of
ALONSO-ALIJA, Cristina *et al*
U.S. Application No.: 10/513,115
PCT No.: PCT/EP03/04140
Int. Filing Date: 22 April 2003
Priority Date: 01 May 2002
Attorney Docket No.: Le A 35 672
For: 5-ETHYL-IMIDAZO (5,1-F)(1,2,4,) TRIAZIN-4 (3H) -ONES AS PHOSPHODIESTERASE INHIBITORS

DECISION ON PAPERS FILED UNDER 37 CFR 1.42

This is a decision on the declaration filed on 25 May 2005 which has been treated as a petition under 37 CFR 1.42. No fee is required.

BACKGROUND

On 05 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 an oath/declaration in compliance with 37 CFR 1.497(a) and (b), additional claim fees and a surcharge fee must be provided. Applicants were given two months to respond.

On 25 May 2005, applicants submitted a response which included the required surcharge fee, additional claim fees and a declaration signed by the joint inventors and the heir of a deceased joint inventor.

DISCUSSION

The declaration filed 23 December 2004 was signed by eleven of the twelve joint inventors and Maria Niewöhner as heir for a deceased joint inventor, Ulrich Niewöhner.

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).

It is noted that the submission of the declaration executed by the sole heir of the deceased inventor is hereby construed as an indication that no legal representative of the deceased's estate has been appointed and that no legal representative is required by the applicable law to be appointed and the sole heir is acting in the capacity of a legal representative of the deceased inventor. If this interpretation is incorrect, applicants are required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to this decision.

Accordingly, the declaration submitted complies with 37 CFR 1.497(a) and (b).

CONCLUSION

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

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 22 April 2003, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 25 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

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Abbott Diabetes Care Inc.
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1900 University Ave
Suite 200
East Palo Alto, CA 94303

Mail Date: 04/21/2010

Applicant	: Farzad M. Shahrokni	: DECISION ON REQUEST FOR
Patent Number	: 7597700	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/513,122	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/30/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1018** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

20 JUL 2005

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G. Franklin Rothwell
Rothwell, Figg, Ernst & Manbeck
1425 K St., N.W.
Washington, D.C. 20005

In re Application of	:	DECISION ON
Orjan G. Martinsen et al	:	
Application No.: 10/513,151	:	
PCT No.: PCT/NO03/00157	:	
Int. Filing Date: 14 May 2003	:	PETITION UNDER
Priority Date: 14 May 2002	:	
Attorney's Docket No.: 2800-125	:	
For: VOLUME SPECIFIC CHARACTERIZATION	:	
OF HUMAN SKIN BY ELECTRICAL IMMITANCE	:	37 CFR 1.181

This Decision is in response to applicants' "REQUEST FOR WITHDRAWAL OF ABANDONMENT AND CONTINGENT PETITION FOR REVIVAL UNDER CFR 1.137(b)" filed on 19 April 2005 that the above-identified application was improperly held abandoned because the basic national fee was provided by check on November 2, 2004 as evidence by the stamped postcard.

BACKGROUND

On 14 May 2003, this international application was filed, claiming an earliest priority date of 14 May 2002.

The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 14 November 2004.

On 02 November 2004, applicant filed a Transmittal letter for entry into the national stage in the United States, which did not appear to be accompanied by the requisite basic national fee as required by 35 U.S.C. 371 (c)(1). In addition, no executed oath or declaration as required by 35 U.S.C. 371(c)(4) was submitted on such date.

On 11 April 2004, the DO/EO/US mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909), which indicated that applicant had failed to provide the full U.S. Basic National Fee by 30 months.

In response to the "NOTIFICATION OF ABANDONMENT" mailed on 11 April 2004, petitioner has submitted the instant petition requesting withdrawal of the Notice of Abandonment. In support of the petition, petitioner has provided a copy of the returned/stamped receipt card acknowledging a receipt date of 02 November 2004.

DISCUSSION

The present petition was accompanied by a copy of the original postcard which was sent to the United States Designated/Elected Office (DO/EO/US). The postcard list the items submitted on 02 November 2004 and it indicates, *inter alia*, that a check of $475.00 for the basic national fee was received on such date. Petitioner has provided a copy of the check.

MPEP 503 provides:

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

Applicants' postcard receipt serves as *prima facie* evidence of receipt of the listed item on 02 November 2004 by the USPTO, i.e., the check of $475.00 was received on such date.

Petitioner's response- the payment of the basic national fee on November 02, 2004 is considered timely. Accordingly, the instant application has been improperly abandoned.

DECISION

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

Applicants' request to withdraw the "NOTIFICATION OF ABANDONMENT" is **GRANTED**. The NOTIFICATION OF ABANDONMENT, mailed 11 April 2005 has been **VACATED**.

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

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

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12 JAN 2006

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Law Offices of William H. Holt
12311 Harbor Drive
Woodbridge, Virginia 22192

In re Application of:	:	
MCCAUSLAND, Linda, Jane	:	DECISION ON PETITION
U.S. Application No.: 10/513,154	:	(37 CFR 1.181)
PCT No.: PCT/GB03/01905	:	
International Filing Date: 08 May 2003	:	
Priority Date: 31 May 2002	:	
Atty Docket No.: McCausland-01905	:	
For: PRODUCTION OF CRYSTALLINE	:	
MATERIALS BY USING HIGH	:	
INTENSITY ULTRASOUND	:	

This decision is issued in response to the "Request For Corrected 371 Acceptance Letter" filed by applicants on 29 August 2005, treated herein as a petition under 37 CFR 1.181 to correct the date under 371(c)(1), (c)(2), and (c)(4) for the present application to 02 November 2004. No petition fee is required.

BACKGROUND

On 08 May 2003, applicant filed international application PCT/GB03/01905 which claimed a priority date of 31 May 2002 and which designated the United States. On 11 December 2003, a copy of the international application was communicated to the United States Patent And Trademark Office (USPTO) by the International Bureau (IB). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 30 November 2004.

On 02 November 2004, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and an executed declaration.

On 05 April 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Acceptance (Form PCT/DO/EO/903) identifying 03 November 2004 as the date of receipt of the 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements (as well as the date of receipt for additional itemized application materials). On the same date, a filing receipt was issued identifying 03 November 2004 as the 35 U.S.C. 371(c) date.

On 29 August 2005, applicant filed the "Request For Corrected 371 Acceptance Letter" considered herein. The submission asserts that, the correct filing date for the national stage application materials is 02 November 2004, and requests that the Notification Of Acceptance be corrected accordingly.

DISCUSSION

Based on a review of the application file, it is concluded that the materials filed by applicant to initiate the present national stage application, including the basic national fee and the declaration, were filed in the USPTO on 02 November 2004. The proper date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) for the present application is therefore 02 November 2004, as asserted by applicant in the present petition.

The Notification Of Acceptance (Form PCT/DO/EO/903) mailed 05 April 2005, which incorrectly identified the 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date (and the receipt date for the additional application materials), is appropriately vacated, as is the filing receipt which incorrectly identified the 35 U.S.C. 371(c) date as 03 November 2004.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

The Notification of Acceptance (Form PCT/DO/EO/903) and filing receipt mailed 05 April 2005 are hereby **VACATED**.

The National Stage Processing Branch of the International Division will be instructed to issue: (1) a corrected Notification Of Acceptance (Form PCT/DO/EO/903) identifying the 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date as 02 November 2004 (as well as correcting the receipt date for the other application materials itemized thereon); and (2) a corrected filing receipt which identifies 02 November 2004 as the filing date.

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OFFICE OF PETITIONS

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

In re Patent No. 7,476,217	:	DECISION ON REQUEST FOR
Martin et al.	:	RECONSIDERATION OF
Issue Date: January 13, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/513,159	:	AND NOTICE OF INTENT TO ISSUE
Filed: February 2, 2005	:	CERTIFICATE OF CORRECTION
Docket No.053694-0122	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705, filed February 4, 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 fifteen (315) days to seven hundred and three (703) 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 **407 days**.

On January 13, 2009, the above-identified application matured into U.S. Patent No. 7,476,217. The patent issued with a revised patent term adjustment of 315 days. The present request for reconsideration of patent term adjustment was timely filed on February 4, 2009, within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees aver that the correct number of days of Patent Term Adjustment is 703 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35 U.S.C. 154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that the total non-overlapping PTO delay under 35 U.S.C. 154(b)(1)(A) and 35 U.S.C. 154(b)(1)(B) is 734 days as these periods do not occur on the same day. Further, given the applicant delay of 31 days, patentees assert entitlement to 703 (734 - 31) days of patent term adjustment.

At the outset, it appears that patentees are asserting that the period of adjustment accrued under 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) for the Office taking in excess of three years to issue the patent is 438 days, not 346 days. A review of the record reveals that patentees are correct. That is, the Office did not use the correct 35 U.S.C. 371(b) national stage commencement date of November 2, 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, February 2, 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) or (f), November 2, 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 438 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, November 3, 2007, and ending on the date the patent issued, January 13, 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)*[1] *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*

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[1] 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.

Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding 37 CFR 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office, February 2, 2005, 2005 to January 13, 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)[2], 296 days[3] of patent term adjustment were accorded during the pendency

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[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;

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), 438 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) or (f).

The 438 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 296 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 438 days and the 296 days is neither permitted nor warranted. 438 days is the actual number of days issuance of the patent was delayed. Accordingly, the additional period of adjustment of 50 days entered by the Office for failing to issue the patent within three years is being removed and the correct period of 142 days is being entered.

In view thereof, the patent term adjustment indicated on the patent should be 407 days.

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 407 days.

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

Telephone inquiries regarding this matter should be directed to the 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

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[3] A Restriction Requirement was mailed on April 11, 2007, 14 months and 296 days after the date on which the requirements under 35 U.S.C. 371 were fulfilled on February 2, 2005.

Draft Copy

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,476,217 B2

DATED : Jan.13, 2009

INVENTOR(S) : Martin, et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (315) days

Delete the phrase "by 315" and insert – by 407 days--

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MAR 01 2010

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

In re Patent No. 7,476,217	: DECISION ON REQUEST
Martin, et al.	: FOR
Issue Date: January 13, 2009	: RECONSIDERATION OF
Application No. 10/513,159	: PATENT TERM ADJUSTMENT
Filed: February 2, 2005	: and
Atty Docket No. 053694-0122	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on August 24, 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 seven hundred and three (703) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by seven hundred and three (703) 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 Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred and three (703)** 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 : 7,476,217 B2

DATED : Jan. 13, 2009

INVENTOR(S) : Martin, 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 (703) days

Delete the phrase "by 407 days" and insert – by 703 days--

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NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA GA 30309-3915

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JUN 14 2006

OFFICE OF PETITIONS

Applicant: George et al.
Appl. No.: 10/513,168
International Filing Date: May 5, 2003
Title: METHOD, APPARATUS AND SYSTEM FOR DETERMINING EFFECTS AND OPTIMIZING PARAMETERS OF VAGUS NERVE STIMULATION
Attorney Docket No.: 19113.0094U2
Pub. No.: US 2005/0177200 A1
Pub. Date: August 11, 2005

This is a decision on the paper titled a "Request for Corrected Publication of U.S.National Phase Application," received on October 13, 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 because appendices A-G were not included in 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 under 37 CFR 1.221(b). The appendices submitted in the international application did not included a sequence listing or a computer program listing as provided for in 37 CFR §§ 1.77, 1.96, 1.821 and 1.822 and the pages were not consecutively numbered and improperly included drawings in compliance with 37 CFR 1.52. The appendices are not currently part of the above-identified application. Even if the appendices were part of the above-identified application, they would not have been published.

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

[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 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

25 APR 2006

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

22511
OSHA LIANG LLP
1221 McKinney Street, Suite 2800
Houston, TX 77010

In re Application of	:	
BACHET, Frank *et al*	:	
U.S. Application No.: 10/513,195	:	
PCT No.: PCT/IB03/02369	:	
Int. Filing Date: 09 May 2003	:	**DECISION**
Priority Date: 10 May 2002	:	
Attorney Docket No.: 11345/16001	:	
For: PROVIDING CONTENT	:	

This decision is in response to the "Petition Under 37 CFR § 1.47(b)" ("Pet.") filed with the United States Designated/Elected Office (DO/EO/US) on 02 December 2005.

BACKGROUND

On 02 May 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 02 December 2005, applicants filed the subject petition which was accompanied by, inter alia, the $130.00 surcharge fee; a five-month extension request and $2,160.00 extension fee; exhibits 1 - 10; and authorization to charge any required fees to Deposit Account No. 50-0591.

DISCUSSION

The 37 CFR 1.47(b) applicant claims that both named inventors' Franck Bachet and Claire Frezal-Hugonet refuse to cooperate or cannot be located. A five-month extension and fee were submitted with the petition.

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the required petition fee; (2) factual proof that the missing joint inventor(s) cannot be located or refuse(s) to cooperate; (3) a statement of the last known address(es) of the nonsigning joint inventor(s); (4) and an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of the nonsigning joint inventor(s) (5) evidence showing 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.

Concerning item (1), the $200.00 petition fee has been charged to Deposit Account No. 50-0591 as authorized.

With regards to item (3), the last known address of the nonsigning joint inventor, Franck Bachet is given as:

60 rue du Hamel,
78550 Houdan
France

The last known address of Claire Frezal-Hugonet is:

5 avenue de Verdun
91470 Limours,
France

Items (1), and (3) of 37 CFR 1.47(b) are complete.

Regarding item (2), the 37 CFR 1.47(a) applicant claims that both inventors have not returned the declaration after "a diligent effort." This is treated as a refusal to cooperate which is explained in section 409.03(d) of the MPEP and states, in part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney . . .
>
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence

to support facts alleged in the petition or in any statement of facts, such evidence should be submitted.

In this case, the only evidence showing that a complete copy of the application was sent to the nonsigning inventors were the letters dated 13 October 2005. Nonetheless, this evidence is sufficient to show that a complete copy of the application was presented to Claire Frezal-Hugonet and received. A copy of the signed postal receipt was provided as confirmation of receipt. *See* Tab 10. Moreover, the fact that Ms. Frezal-Hugonet did not return the documents constitutes a refusal to cooperate and satisfies item (2) for Ms. Frezal-Hugonet.

However, the petitioner did not include a copy of the signed postal receipt showing receipt of the application for Mr. Bachet in Tab 9. In addition, petitioner did not claim that Mr. Bachet refused to accept the papers. As such, it is not clear if Mr. Bachet has received a complete copy of the application required to show a refusal by conduct pursuant to section 409.03(d) of the MPEP. For this reason, item (2) is not yet satisfied for Mr. Bachet.

Concerning item (4), the 37 CFR 1.47(b) applicant has not submitted a declaration on behalf of the two nonsigning joint inventors required by section 409.03(b)(A) of the MPEP. Item (4) is incomplete.

With regard to item (5), section 409.03(f) of the MPEP states that "[w]hen an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that

(A) the invention has been assigned to the applicant, or
(B) the inventor has agreed in writing to assign the invention to the applicant, or
(C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.

Here, the petitioner has not submitted any evidence showing that the 37 CFR 1.47(b) has sufficient proprietary interest in the above-captioned application. As such, item (5) is not satisfied.

Regarding item (6), section 409.03(g) of the MPEP states that:

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

However, the 37 CFR 1.47(b) applicant has not made such a statement. Item (6) is also not satisfied.

CONCLUSION

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

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

FF 8

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23 MAR 2007

22511
OSHA LIANG LLP
1221 McKinney Street, Suite 2800
Houston, TX 77010

In re Application of	:	
BACHET, Frank *et al*	:	
U.S. Application No.: 10/513,195	:	
PCT No.: PCT/IB03/02369	:	
Int. Filing Date: 09 May 2003	:	**DECISION**
Priority Date: 10 May 2002	:	
Attorney Docket No.: 11345/16001	:	
For: SYSTEM AND METHOD OF	:	
PROVIDING CONTENT	:	

This is in response to the "Renewed Petition Under 37 C.F.R. § 1.47(b)" filed with the United States Designated/Elected Office (DO/EO/US) on 27 November 2006.

BACKGROUND

On 25 April 2006, a decision dismissing applicant's petition under 37 CFR 1.47(b) was mailed. Applicants were given two months to respond with extensions of time available.

On 27 November 2006, petitioner submitted a renewed petition which was accompanied by, *inter alia*, a five-month extension request and $2,160.00 fee; a declaration by Isabelle Thibaudeau; a declaration executed by the 37 CFR 1.47(b) applicant; a copy of an Agreement between CANAL+TECHNOLOGIES S.A. ("Canal") and THOMSON Licensing S.A. ("Thomson"); and a legal memorandum by Gerard Delile with exhibits 1 - 9.

DISCUSSION

As previously stated, the requirements of 37 CFR 1.47(b) include: (1) the petition fee, (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

The 37 CFR 1.47(b) applicant failed to satisfy items (2), (4), (5) and (6) with the initial petition filed 02 December 2005.

Regarding item (4), the 37 CFR 1.47(b) applicant included a declaration signed by Jan Steven Mes, the CEO of THOMSON. CEO is a position presumed to have the authority to sign on behalf of an organization. *See* § 324 MPEP. The declaration included both joint inventors' names, last known addresses, residences and citizenship and is in compliance with 37 CFR 1.497(a) and (b) and meets the requirements of section 409.03(b)(A). Therefore, item (4) is satisfied.

Concerning item (5), the 37 CFR 1.47(b) applicant has provided a legal memorandum by a French Attorney, Mr. Gerard Delile. In the memorandum, Mr. Delile provided a detailed legal analysis of the facts in the case and concludes that "in light of the facts and the law the invention as well all the patent applications and/or patents protecting the invention worldwide belong to Canal + Technologies, including the US application, i.e. U.S. Patent Application No. 11345/116001 (Attorney Docket Number)." Mr. Delile provided relevant portions of French law used to base this opinion and discussed the facts in detail and how they relate to the relevant French law. Mr. Delile included relevant exhibits (exhibits 1 - 8) used to make his determination. This memorandum meets the requirements of section 409.03(f) of the MPEP. Therefore, item (5) of 37 CFR 1.47(b) is satisfied.

However, the 37 CFR 1.47(b) applicant has still not satisfied item (2) with regards to Mr. Bachet. The 37 CFR 1.47(b) applicant submitted a declaration by Ms. Thibaudeau who claims that she had been told by another company who works for NDS "should not contact any of NDS's employees directly. Rather, I should correspond with NDS's HR Department." Accordingly, Ms. Thibaudeau "instructed Frédérique Dersoir to send a first e-mail to Mr. Cedric Ros, the HR Manager at NDS, on June 8, 2006. The e-mail included the Application, Declaration, and Assignment for the referenced application. In the e-mail, we asked Mr. Ros to provide Franck Bachet with the aforementioned document and obtainan executed Declaration from inventor Franck Bachet." Decl. at ¶ 6. She states then that "Mr. Ros confirmed to me that inventor Franck Bachet is in fact currently employed by NDS in an e-mail dated November 17, 2006. However, despite our requests and reminders, I have not received from Mr. Ros any signed Declaration from inventor Franck Bachet." *Id.* at ¶ 7. Copies of the emails discussed were submitted with the renewed petition.

This is not sufficient. The response from the NDS Human Resources Department does not verify whether a complete copy of the subject application was presented to the nonsigning inventor. Moreover, the fact that an inventor works for another company does <u>not</u> prevent the 37 CFR 1.47(b) applicant from sending a copy of the application and declaration to Mr. Bachet at his home address. Copies of the postal receipts must be provided. If Mr. Bachet refuses to accept delivery, this action would also constitute a refusal to cooperate.

For these reasons, item (2) is still not yet satisfied for Mr. Bachet.

10/513,195

CONCLUSION

For the reason listed above, the renewed 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. Extensions of time under 37 CFR 1.136(a) are available.

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

#9

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18 APR 2007

22511
OSHA LIANG LLP
1221 McKinney Street, Suite 2800
Houston, TX 77010

In re Application of	:	
BACHET, Frank *et al*	:	
U.S. Application No.: 10/513,195	:	
PCT No.: PCT/IB03/02369	:	
Int. Filing Date: 09 May 2003	:	**DECISION**
Priority Date: 10 May 2002	:	
Attorney Docket No.: 11345/16001	:	
For: PROVIDING CONTENT	:	

This decision is in response to matters brought to the attention of the Office of PCT Legal Administration on 17 April 2007.

BACKGROUND

The international application PCT/IB03/02369 was filed on 09 May 2003.

On 02 November 2004, applicant submitted papers to enter the national stage of PCT/IB03/02369 which included an unexecuted declaration.

On 02 May 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 surcharge fee was required.

On 02 December 2005, applicants filed a petition under 37 CFR 1.47(b) as a response to the Form PCT/DO/EO/905. This petition was dismissed on 25 April 2006. Applicants filed a renewed petition on 27 November 2006 which was again dismissed on 23 March 2007.

On 17 April 2007, applicant contacted the undersigned to discuss the underlying international application.

DISCUSSION

A review of the international application shows that a declaration of inventorship pursuant to PCT Rule 4.17(iv) executed by both named inventors' Franck Bachet and Claire Frezal-Hugonet was submitted with the international application.

As such, an executed declaration was <u>not</u> required upon entering the national stage in the United States.

Therefore, the Form PCT/DO/EO/905 mailed 02 May 2005 is **VACATED**.

CONCLUSION

For the reasons discussed above, applicants' petition under 37 CFR 1.47(b) is **MOOT**.

The $130.00 surcharge fee submitted by credit card on 02 December 2005 has been credited back.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 09 May 2003, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 02 November 2004.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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OFFICE OF PETITIONS

In re Application of	:	
Dal Piaz et al.	:	DECISION ON APPLICATION
Application No. 10/513,219	:	FOR PATENT TERM ADJUSTMENT
Filed: 06/29/2005	:	
Atty Docket No. 09605.0005	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT - PRE-GRANT," filed June 18, 2008. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from 70 days to 83 days.

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

On March 19, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 70 days. On June 18, 2008, applicants timely submitted the instant application for patent term adjustment[1].

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 applicants' delay is correct.

Applicants assert they are entitled to an additional patent term adjustment of 13 days for Office delay because the Office action mailed on July 2, 2007, "was later vacated and was replaced by the Office Action of July 18, 2007." *Petition dated 06/18/08, p.2.* Therefore, applicants contend that the period of adjustment under 37 CFR 1.703(a)(2) should have been calculated as beginning on the day after the date that is four months after the reply under § 1.111 was filed, July 5, 2007, and ending on

[1] The Office records show that the issue fee was also received on June 18, 2008.

the date of the mailing of the corrected Office action, July 18, 2007.

Upon review, applicants' assertion is without merit. On March 5, 2007, applicants filed a reply under § 1.111. On July 2, 2007, the Office mailed a final Office action within four months of the filing of the reply on March 5, 2007. Thereafter, the final Office action of July 2, 2007, was rescinded (not vacated as alleged by applicants) and a corrected final Office action was mailed on July 18, 2007. Pursuant to 37 CFR 1.703(a)(2), the four month clock for the Office to take action stopped on July 2, 2007, the date of mailing the action under 35 U.S.C. 132. The fact that the final Office action of July 2, 2007, was subsequently rescinded and a corrected final Office action was mailed on July 18, 2007, does not negate the fact that the Office took action within four months of the date the reply was filed on March 5, 2007.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance will remain **70 days**.

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

The application is being forwarded to the Office of Data Management for issuance of the patent.

The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent.

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Nancy Johnson
Senior Petitioners Attorney
Office of Petitions

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901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED

APR 26 2010

OFFICE OF PETITIONS

In re Patent No. 7,459,453	:	DECISION ON REQUEST FOR
DAL PIAZ et al.	:	RECONSIDERATION OF
Issue Date: December 2, 2008	:	PATENT TERM ADJUSTMENT AND
Application No. 10/513,219	:	NOTICE OF INTENT TO ISSUE
Filed: June 29, 2005	:	CERTIFICATE OF CORRECTION
Atty Docket No. 09605.0005	:	

This is a decision on the PETITION TO THE DIRECTOR UNDER 37 C.F.R. § 1.181 AND REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. § 1.705(d) filed January 2, 2009,[1] 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 two hundred thirty-nine (239) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The term of the above-identified patent is extended or adjusted by **four hundred fifty-two (452) days**.

In the present petition, patentees request that the Office reconsider the decision of November 4, 2008, dismissing the application for patent term adjustment. Additionally, patentees seek recalculation of the patent term adjustment indicated on the patent in view of the decision in Wyeth v. Kappos.

Patentees once again assert that they are entitled to a period of adjustment of 13 days pursuant to 37 CFR 1.702(a)(2) because

[1] The present petition was filed within two months of the mailing of the decision on November 4, 2008, as well as within two months after the issuance of the patent.

the final Office action of July 2, 2007, was rescinded by the examiner and replaced by the Office action of July 18, 2007. Patentees argue that the Office action of July 2, 2007, did not constitute a proper action under 35 U.S.C. 132, and thus, did not stop the 4 month clock for the Office to take action in response to applicant's reply of March 5, 2007. Applicants aver that the Office did not respond to the reply until the mailing of the final Office action on July 18, 2007, four months and 13 days later.

The Office has reconsidered patentees' argument, but finds it without merit. Pursuant to 37 CFR 1.702(a),

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

On July 2, 2007, the examiner responded to applicants' amendment after non-final Office action filed March 5, 2007. As this was within four months of the filing date of the reply, no period of adjustment for Office delay was entered. A review of the record confirms that no period of adjustment for Office delay was warranted.

The subsequent mailing of a communication by the examiner rescinding this action does not negate the fact that the Office took action in this application within the meaning of § 1.702(a)(2) on July 2, 2007. The examiner does not have the authority to vacate, rescind, or withdraw an Office action. Unless vacated by the Technology Center Director, for purposes of calculating patent term adjustment, the action originally mailed by the examiner on July 2, 2007, will be used.

With regard to patentees' request for recalculation of patent term adjustment, it is noted that patentees calculated the B delay incorrectly. The B delay period is 382 days, not 156 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 May 16, 2002. As the requirements for early commencement were not met, the national stage commenced in this application on November 16, 2004. Thus, B delay is 382 days, counting the number of days beginning on November 17, 2007, and ending on December 2, 2008, the date the patent issued. See 37 CFR 1.703(b). Furthermore, the A delay and B delay overlap by 45 days.

Accordingly, the patent term adjustment is 452 days (128 days of A delay + 382 days of B delay - 45 days of overlap - 13 days of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges 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 **four hundred fifty-two (452) days.**

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT: 7,459,453 B2

DATED: Dec. 2, 2008 **DRAFT**

INVENTOR(S): DAL PIAZ 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 143 days

Delete the phrase "by 143 days" and insert – by 452 days--

Day : Thursday
Date: 4/22/2010

PALM INTRANET

Time: 14:43:57

PTA Calculations for Application: 10/513219			
Application Filing Date:	06/29/2005	PTO Delay (PTO):	156
Issue Date of Patent:	12/02/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	13
Post-Issue Petitions:	0	Total PTA (days):	452
PTO Delay Adjustment:	309		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
74	04/22/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	309		
66.5	11/12/2008	PTA 36 MONTHS	28		
66	12/02/2008	PATENT ISSUE DATE USED IN PTA CALCULATION	45		59
65	11/07/2008	EXPORT TO FINAL DATA CAPTURE			
64	11/06/2008	DISPATCH TO FDC			
63	11/04/2008	MAIL-PETITION DECISION - DISMISSED			
62	11/04/2008	PETITION DECISION - DISMISSED			
61	06/18/2008	PETITION ENTERED			
60	06/19/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
59	06/18/2008	ISSUE FEE PAYMENT VERIFIED			
58	06/18/2008	ISSUE FEE PAYMENT RECEIVED			
57	05/29/2008	FINISHED INITIAL DATA CAPTURE			
56	03/24/2008	EXPORT TO INITIAL DATA CAPTURE			
55	03/19/2008	MAIL NOTICE OF ALLOWANCE			
54	03/17/2008	ISSUE REVISION COMPLETED			
53	03/17/2008	DOCUMENT VERIFICATION			
52	03/17/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
51	03/17/2008	NOTICE OF ALLOWABILITY			
50	03/04/2008	DATE FORWARDED TO EXAMINER			
49	02/27/2008	AMENDMENT AFTER FINAL REJECTION			
48	11/27/2007	MAIL FINAL REJECTION (PTOL - 326)			
47	11/26/2007	FINAL REJECTION			
46	10/18/2007	AMENDMENT AFTER FINAL REJECTION			
45	10/22/2007	DATE FORWARDED TO EXAMINER			

44	10/18/2007	AMENDMENT AFTER FINAL REJECTION			
43	08/06/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
42	03/08/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
41	07/18/2007	MAIL NOTICE OF WITHDRAWN ACTION			
40	07/18/2007	MAIL FINAL REJECTION (PTOL - 326)			
39	07/11/2007	FINAL REJECTION			
38	07/11/2007	LETTER WITHDRAWING / VACATING OFFICE ACTION			
37	07/02/2007	MAIL FINAL REJECTION (PTOL - 326)			
36	06/25/2007	FINAL REJECTION			
33	03/05/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32	03/05/2007	REFERENCE CAPTURE ON IDS			
31.7	03/05/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	29
31	03/05/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
30	03/21/2007	DATE FORWARDED TO EXAMINER			
29	03/05/2007	RESPONSE AFTER NON-FINAL ACTION		13	27
28	03/05/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
27	11/20/2006	MAIL NON-FINAL REJECTION	83		-1
26	11/15/2006	NON-FINAL REJECTION			
24	10/23/2006	CASE DOCKETED TO EXAMINER IN GAU			
22	12/05/2005	CLEARED BY OIPE CSR			
21	12/01/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
20	12/01/2005	CASE DOCKETED TO EXAMINER IN GAU			
19	06/29/2005	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
18	06/29/2005	REFERENCE CAPTURE ON IDS			
14	11/24/2005	CLEARED BY OIPE CSR			
13	11/24/2005	CLEARED BY OIPE CSR			
12	11/24/2005	CLEARED BY OIPE CSR			
11	11/24/2005	CLEARED BY OIPE CSR			
10	11/24/2005	CLEARED BY OIPE CSR			
9	06/29/2005	371 COMPLETION DATE			
8	11/04/2005	APPLICATION DISPATCHED FROM OIPE			

7	11/04/2005	NOTICE OF DO/EO ACCEPTANCE MAILED			
6	06/29/2005	ADDITIONAL APPLICATION FILING FEES			
4	06/29/2005	COPY OF THE INTERNATIONAL PRELIMINARY EXAMINATION REPORT			
3	06/29/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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WASHINGTON DC 20001-4413

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OCT 31 2006

OFFICE OF PETITIONS

In re Application of
Devendra Kumar, et al.
Application No. 10/513,221
Filed: June 29, 2005
Attorney Docket No. 01837-0008

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed July 14, 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, "Dana Corporation by BTU International, Inc., which has requested that the above-referenced application be transferred to their counsel", does not meet any the conditions set forth in 37 CFR 10.40.

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

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: Stanley Schurgin, Esq.
Weingarten, Schurgin, Gagenbin & Lebovici, LLP
Ten Post Office Square
Boston, MA 02109

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Dr. Judy Jarecki-Black
Merial Limited
3239 Satellite Boulevard
Duluth, GA 30096

Mail Date: 04/21/2010

Applicant	: Hans Tobler	: DECISION ON REQUEST FOR
Patent Number	: 7608595	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/513,247	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/02/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **864** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No.

RICHARD J. STREIT
LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
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JAN 07 2008

OFFICE OF PETITIONS

In re Application Of :
Liam Patrick Ellis : DECISION ON PETITION
Filed: May 11, 2005 :
Application No. 10/513,259 :
Title: DRILL BIT AND METHOD :
FOR PRODUCING A DRILL BIT :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a) filed August 20, 2007. Receipt of the accompanying Power of Attorney and Change of Correspondence Address is acknowledged and made of record.

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. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)" or "Renewed Petition under 37 CFR 1.137(b)," as appropriate. Extensions of time under § 1.136(a) are permitted.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed July 26, 2006. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply having been received and no extensions of time obtained, the application became abandoned effective October 27, 2006. A Notice of Abandonment was mailed on February 12, 2007.

Petitioner maintains that the entire delay in filing the required reply from the due date of the reply until the filing

of a grantable petition was unavoidable. Petitioner acknowledges that the Office action was received. Petitioner states that the applicant/assignee provided instructions for filing a response, via the Applicant's Australian Patent Agent. Moreover, the instructions were received by the agent before the January 26, 2007 deadline; however, Mr. Keefer failed to act on the applicant's instructions before the deadline. Moreover, Mr. Keefer never reported the abandonment to applicants.

35 U.S.C. 133 provides that:

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

A grantable petition to revive an unavoidably abandoned application under 37 CFR 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in §1.20(d)) required pursuant to § 1.137(d).

The instant petition includes the required reply in the form of an amendment and payment of the petition fee. No terminal disclaimer is required. The petition does not satisfy requirement (3) above. Petitioner has not met his burden of establishing that the delay in filing a proper reply to the final rejection was unavoidable within the meaning of § 1.137(a).

The burden of showing the cause of the delay is on the person seeking to revive the application. Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. 977, 982 (D.C. Cir. 1982). 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.

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 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 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, 671 F.2d at 538, 213 U.S.P.Q. at 982. Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32.

It is well-established that a delay caused by the mistakes or negligence of one's voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. 133. Haines v. Quigg, 673 F.Supp. 314, 316-317, (1987); Link v. Wabash, 370 U.S. 626, 633-634 (1962). The Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives, and applicant is bound by the consequences of those actions or inactions. Thus, reliance on an attorney per se does not provide petitioner with a showing of unavoidable delay within the meaning of 37 CFR 1.378(b) and 35 U.S.C. § 41(c). See California Medical Products v. Technol Med. Prod., 921 F.Supp. 1219, 1259. (D.Del. 1995). Rather, such reliance merely shifts the focus of the inquiry from petitioner to whether the attorney acted reasonably and prudently. Id. Nevertheless, petitioner is bound by any errors that may have been committed by the attorney. California, supra.

Thus, petitioner is bound by the inaction of Mr. Keefer. Further, the evidence appears to be clear that Mr. Keefer did not act reasonably and prudently.

Petitioner is not precluded from filing a petition to revive based on unintentional delay. However, a proper petition should include a statement from patent agent Keefer or evidence to support a conclusion that the failure to reply was unintentional. For example, petitioner's showing of unintentional delay would be better supported with a copy of the instructions to Mr. Keefer to take timely action in response to the Office action.

Regardless, petitioner should not delay filing a request for reconsideration as petitioner continues to bear the burden of establishing that the entire delay, including the delay from the due date for the reply until the filing of a grantable petition, was unavoidable or unintentional.

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

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

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

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

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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JAN 16 2008

OFFICE OF PETITIONS

In re Application Of	:	
Liam Patrick Ellis	:	DECISION ON PETITION
Filed: May 11, 2005	:	
Application No. 10/513,259	:	
Title: DRILL BIT AND METHOD	:	
FOR PRODUCING A DRILL BIT	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed January 10, 2007.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed July 26, 2006. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply having been received and no extensions of time obtained, the application became abandoned effective October 27, 2006. A Notice of Abandonment was mailed on February 12, 2007.

By decision mailed January 7, 2008, the initial petition filed August 20, 2007 based on unavoidable delay was dismissed. Petitioner failed to meet his burden of showing that the entire delay was unavoidable within the meaning of 37 CFR 1.137(a).

On instant petition, petitioner requested revival based on the less stringent standard of unintentional delay under 37 CFR 1.137(b). The required reply in the form of an amendment was previously filed on August 20, 2007. The petition includes the required statement of unintentional delay and payment of the petition fee. Moreover, the petition includes the facts and

circumstances of the delay, supporting a conclusion that the delay in filing a response was unintentional. No terminal disclaimer is required. Petitioner has now met all requirements for revival of this application.

Technology Center AU 3733 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the amendment submitted on petition filed August 20, 2007.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Birgit Riesinger : DECISION ON PETITION
Application No. 10/513,262 :
Filed: November 2, 2004 :
Attorney Docket No. HH 303-KFM:

This is a decision on the "PETITION TO THE DIRECTOR UNDER 37 CFR §1.181" filed June 11, 2007.

The above-identified application became abandoned for failure to reply to the non-final Office action mailed April 24, 2006. This Office action set a three-month shortened statutory period for reply, with extensions of time obtainable under § 1.136(a). No reply considered received and no extension obtained, the above-identified application became abandoned on July 25, 2006. A Notice of Abandonment was mailed on February 2, 2007.

In response, on February 8, 2007, applicant filed a letter and a copy of the amendment as they assert it was timely mailed, along with the required extension of time, on October 13, 2006 with the necessary certificate of mailing. In support thereof, petitioner submits *inter alia* a copy of the response as filed, and a copy of their return postcard receipt. On June 11, 2007, applicant supplied their response to the Notice of Abandonment with the instant petition.

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. A review of

petitioner's postcard receipt reveals that: 1) it was date stamped as received in the USPTO on October 16, 2006; 2) it specifically identifies the items being filed, including "an amendment", "a check $510" (for 3 mo. Ext.) and "Petition for Extension of Time" and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Thus, the postcard supports a conclusion that a response, including an extension of time, was timely received on October 16, 2006.

Moreover, 37 CFR 1.8(b) provides that:

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.

The amendment as resubmitted includes a certificate of mailing signed by Julian Gaddy and dated October 13, 2006. The extension of time as resubmitted does not include a certificate of mailing. Nonetheless, the amendment included an authorization to charge any required fees. Given the postcard evidence, in conjunction with the certificate of mailing, Attorney Milde attests to the satisfaction of the Director to the timely mailing. Petitioner has satisfied the requirements

of 1.8(b) to have the response considered timely filed by virtue of the certificate of mailing dated October 13, 2006.

The required extension of time has never been made of record in this application. Accordingly, the extension of time of $510, in effect on October 13, 2006, is being charged to petitioner's Deposit Account.

Accordingly, the Notice of Abandonment mailed February 2, 2007 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 3761 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical staff to withdraw the holding of abandonment and for the examiner to consider the response to the Office action resubmitted on February 8, 2007.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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LAFAYETTE LA 70502-3408

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FEB 28 2007

OFFICE OF PETITIONS

In re Patent No. 7,121,343	:	
Issued: 17 October, 2006	:	
Application No. 10/513,281	:	ON PETITION
Filed: 19 August, 2005	:	
For: SELECTIVELY OPERATIONAL	:	
CLEANING TOOL	:	

This is in response to the deficiency fee payment filed pursuant to 37 CFR 1.28(c) on 29 September, 2006.

37 CFR 1.28(c) states, "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full."

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**.

Small entity status will no longer apply.

Telephone inquiries should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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BRIARCLIFF MANOR NY 10510

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MAR 07 2007

OFFICE OF PETITIONS

In re Application of	:	
Geert Prummel	:	
Application No. 10/513,282	:	DECISION ON PETITION
Filed: 2 November, 2004	:	
Atty Docket No. NL020350	:	

This is a decision on the petition filed on 22 November, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 20 July, 2006, for failure to timely reply to the non-final Office action mailed on 19 April, 2006, which set a three (3) month shortened statutory period for

---

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

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

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

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

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

reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 2 November, 2006.

Petitioner has filed an amendment in response to the Office action as the required reply.

The application is being referred to Technology Center Art Unit 2121 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

#6

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04 JAN 2006

ABELMAN, FRAYNE & SCHWAB
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NEW YORK, NY 10017

In re Application of FOUNTAIN	:	
U.S. Application No.: 10/513,298	:	
PCT Application No.: PCT/AU03/00507	:	
Int. Filing Date: 30 April 2003	:	DECISION
Priority Date Claimed: 30 April 2002	:	
Attorney Docket No.: 206.716	:	
For: A CONNECTION ASSEMBLY FOR	:	
CONVERTING BETWEEN RECIPROCAL	:	
AND ROTARY MOTION	:	

This is in response to applicant's "Petition Under 37 C.F.R. §1.47(b) Refusal of Inventor to Sign Declaration" filed 14 November 2005.

BACKGROUND

On 30 April 2003, applicant filed international application PCT/AU03/00507, which claimed priority of an earlier Australia application filed 30 April 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 13 November 2003. The thirty-month period for paying the basic national fee in the United States expired on 30 October 2004.

On 29 October 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 13 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 an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 14 November 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. 01-0035 as authorized in the petition.

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 the sole inventor Graham Fountain refuses to sign the application papers. Although petitioner made an attempt to present a copy of the application papers to Fountain for signature, the papers did not actually reach Fountain (see affidavit of Frank Pappas, ¶¶5-6). It would be unreasonable to conclude at the present time that Fountain refuses to sign papers that he never received. Furthermore, Fountain indicated both in person and via electronic mail that he would be willing to sign the application papers under certain conditions (see affidavit of Sin Pyng Teng, ¶¶6-7). Thus, it cannot be reasonably stated at the present time that Fountain refuses to join in the application.

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 is improper. Specifically, the declaration fails to list the name of the true first inventor. Furthermore, MPEP 324 states that when an assignee files an application under 37 CFR 1.47(b), ownership of the application must be established. Under 37 CFR 3.73(b)(1), ownership of the application may be established by: (i) submitting documentary evidence of a chain of title from the original owner to the assignee; or (ii) specifying by reel and frame number where such evidence is recorded in the USPTO. In the present case, the petition fails to demonstrate ownership of the application by the purported assignee.

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).

The petition fails to establish that petitioner has sufficient proprietary interest in the present application. See MPEP 409.03(f).

With regard to item (6) above, the petition makes a sufficient showing that the present action is necessary to preserve the rights of the parties or to prevent 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. Extensions of time are available under 37 CFR 1.136. 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)." No additional petition fee is required.

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

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06 MAR 2006

#8

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In re Application of FOUNTAIN	:	
U.S. Application No.: 10/513,298	:	
PCT Application No.: PCT/AU03/00507	:	
Int. Filing Date: 30 April 2003	:	DECISION
Priority Date Claimed: 30 April 2002	:	
Attorney Docket No.: 206.716	:	
For: A CONNECTION ASSEMBLY FOR	:	
CONVERTING BETWEEN RECIPROCAL	:	
AND ROTARY MOTION	:	

This is in response to applicant's "Renewed Petition Under 37 C.F.R. §1.47(b) Refusal of Inventor to Sign Declaration" filed 17 February 2006.

BACKGROUND

On 30 April 2003, applicant filed international application PCT/AU03/00507, which claimed priority of an earlier Australia application filed 30 April 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 13 November 2003. The thirty-month period for paying the basic national fee in the United States expired on 30 October 2004.

On 29 October 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 13 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 an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 14 November 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).

Petitioner has previously satisfied items (1), (3), and (6) above.

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

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

The petition states that the sole inventor Graham Fountain refuses to sign the application papers. Petitioner made a bona fide attempt to present a copy of the application papers to Fountain for signature (see affidavit of Sin Pyng Teng, ¶¶5-6). Furthermore, petitioner has sufficiently demonstrated that Fountain refuses to sign. Specifically, Fountain made an express oral refusal to sign during a meeting on 07 February 2006 (see affidavit of Sin Pyng Teng, ¶6). Thus, it can be concluded with reasonable certainty that Fountain refuses to join in the application.

With regard to item (4) above, although an executed declaration has been submitted, ownership of the application has not been established. Under 37 CFR 3.73(b)(1), ownership of the application may be established by: (i) submitting documentary evidence of a chain of title from the original owner to the assignee; or (ii) specifying by reel and frame number where such evidence is recorded in the USPTO. In the present case, as discussed in paragraph (5) below, the petition fails to demonstrate ownership of the application by the purported assignee.

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).

The submitted evidence does not adequately demonstrate that CMC Power Systems Limited ("CMC") has proprietary interest in the application. The PCT power of attorney does not establish any transfer of ownership from Fountain to CMC. Furthermore, the Malaysian patent office document fails to identify the present application (i.e. international application PCT/AU03/00507 or U.S. Application Number 10/513,298) and is not equivalent to an assignment agreement. Also, a copy of the purported employment contract has not been provided, nor has an affidavit stating that the affiant personally observed the invention of the present subject matter by Fountain. Moreover, the statement of Frank Pappas dated 14 February 2006 fails to state that Mr. Pappas is an attorney familiar with the law of the jurisdiction involved and is not accompanied by a copy of the relevant statute or court decision as support.

CONCLUSION

For the reasons above, the renewed 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. Extensions of time are available under 37 CFR 1.136. 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)." No additional petition fee is required.

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

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09 MAY 2006

#10

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NEW YORK, NY 10017

In re Application of FOUNTAIN	:	
U.S. Application No.: 10/513,298	:	
PCT Application No.: PCT/AU03/00507	:	
Int. Filing Date: 30 April 2003	:	DECISION
Priority Date Claimed: 30 April 2002	:	
Attorney Docket No.: 206.716	:	
For: A CONNECTION ASSEMBLY FOR	:	
CONVERTING BETWEEN RECIPROCAL	:	
AND ROTARY MOTION	:	

This is in response to applicant's "Renewed Petition Under 37 C.F.R. §1.47(b) Refusal of Inventor to Sign Declaration" filed 01 May 2006.

BACKGROUND

On 30 April 2003, applicant filed international application PCT/AU03/00507, which claimed priority of an earlier Australia application filed 30 April 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 13 November 2003. The thirty-month period for paying the basic national fee in the United States expired on 30 October 2004.

On 29 October 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 13 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 an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 14 November 2005, applicant filed a petition under 37 CFR 1.47(b).

On 04 January 2006, this Office mailed a decision dismissing the 14 November 2005 petition.

On 17 February 2006, applicant filed a renewed petition under 37 CFR 1.47(b).

On 06 March 2006, this Office mailed a decision dismissing the 17 February 2006 renewed petition.

On 01 May 2006, applicant filed the present second renewed petition under 37 CFR 1.47(b).

DISCUSSION

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

Petitioner has previously satisfied items (1), (2), (3), and (6) above.

With regard to item (4) above, although an executed declaration has been submitted, ownership of the application has not been established. Under 37 CFR 3.73(b)(1), ownership of the application may be established by: (i) submitting documentary evidence of a chain of title from the original owner to the assignee; or (ii) specifying by reel and frame number where such evidence is recorded in the USPTO. In the present case, as discussed in paragraph (5) below, the petition fails to demonstrate ownership of the application by the purported assignee.

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).

The submitted evidence does not adequately demonstrate that CMC Power Systems Limited ("CMC") has proprietary interest in the application. The legal memorandum of James Vernon Maxwell sufficiently establishes that a court in Australia would award title of an invention made during the scope and time of employment to the employer. However, the assertion made in the legal memorandum that Graham Fountain made the present invention during the scope and time of his employment by CMC appears to be conclusory rather than based on a personal account. Applicant must supply an affidavit of a person with firsthand knowledge that the present invention was made by Fountain during the scope and time of his employment by CMC.

CONCLUSION

For the reasons above, the renewed 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. Extensions of time are available under 37 CFR 1.136. 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)." No additional petition fee is required.

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

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15 MAY 2006

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In re Application of FOUNTAIN	:	
U.S. Application No.: 10/513,298	:	
PCT Application No.: PCT/AU03/00507	:	
Int. Filing Date: 30 April 2003	:	DECISION
Priority Date Claimed: 30 April 2002	:	
Attorney Docket No.: 206.716	:	
For: A CONNECTION ASSEMBLY FOR	:	
CONVERTING BETWEEN RECIPROCAL	:	
AND ROTARY MOTION	:	

This application is before the Office of PCT Legal Administration for consideration of issues arising under 35 U.S.C. 371.

BACKGROUND

On 30 April 2003, applicant filed international application PCT/AU03/00507, which claimed priority of an earlier Australia application filed 30 April 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 13 November 2003. The thirty-month period for paying the basic national fee in the United States expired on 30 October 2004.

On 29 October 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 13 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 an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 14 November 2005, applicant filed a petition under 37 CFR 1.47(b).

On 04 January 2006, this Office mailed a decision dismissing the 14 November 2005 petition.

On 17 February 2006, applicant filed a renewed petition under 37 CFR 1.47(b).

On 06 March 2006, this Office mailed a decision dismissing the 17 February 2006 renewed petition.

On 01 May 2006, applicant filed a second renewed petition under 37 CFR 1.47(b).

On 09 May 2006, this Office mailed a decision dismissing the 01 May 2006 renewed petition.

DISCUSSION

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

Petitioner has previously satisfied items (1), (2), (3), and (6) above.

With regard to item (4) above, the requisite declaration has been submitted.

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).

Further review of the submitted evidence reveals that applicant has adequately demonstrated that CMC Power Systems Limited ("CMC") has proprietary interest in the application. The legal memorandum of James Vernon Maxwell sufficiently establishes that a court in Australia would award title of an invention made during the scope and time of employment to the employer. The 09 February 2006 affidavit of Sin Pyng Teng states that Graham Fountain created the present invention while employed by CMC. Thus, it is reasonable to conclude that CMC would be awarded title to the present invention.

CONCLUSION

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

This application has an international filing date of 30 April 2003 and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 17 February 2006.

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

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

Bryan Tung
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PCT Legal Office

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15 MAY 2006

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Graham Harry Fountain
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Australia

In re Application of FOUNTAIN
U.S. Application No.: 10/513,298
PCT Application No.: PCT/AU03/00507
Int. Filing Date: 30 April 2003
Priority Date Claimed: 30 April 2002
For: A CONNECTION ASSEMBLY FOR CONVERTING BETWEEN RECIPROCAL AND ROTARY MOTION

Dear Graham Harry Fountain:

You are named as the inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 118. Should a patent be granted, you will be designated as the inventor.

As the 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

ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE, 10TH FLOOR
NEW YORK, NY 10017
Attorney Docket No.: 206.716

24 JUN 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Anthony Natoli
ABELMAN, FRAYNE & SCHWAB
150 East 42nd Street
New York, NY 10017-5612

In re Application of	:
FRIEDMAN, Soloman	:
US Application No.: 10/10/513,299	: DECISION ON
PCT Application No.: PCT/US01/04300	:
Int. Filing Date: 09 February 2001	: PETITION UNDER
Priority Date: 10 February 2000	:
Attorney's File Reference: 206,715	: 37 CFR 1.37(b)
For: RECORDER ADAPTER	:
TO INTERFACE WITH	:
INTERNET BROWSER	:

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 29 October 2004. The petition is **GRANTED**.

BACKGROUND

On 09 February 2001, applicants filed international application PCT/US01/04300. 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, 10 August 2002. Applicant missed that date.

On 29 October 2004, applicants filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia,* an unexecuated declaration and power of attorney, a request for immediate examination, the basic national fee, a petition to revive. The Transmittal letter listed Deposit Account Number 01-0035 for additional fees that may be required.

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).

Payment of the basic national fees 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 "[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 C.F.R. § 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 of 37 CFR 1.137(b) have been met.

CONCLUSION

The petition to revive the application abandoned under 35 U.S.C. 371(d) is **GRANTED** to the National Stage in the United States of America.

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing, including the mailing of a Notification of Missing Requirements (PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) 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 A. Thompson
PCT Legal Administration Detailee
Office of PCT Legal Administration
Telephone: 571-272-6094
Facsimile: 571-272-0459

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

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14 AUG 2006

Anthony J. Natoli
ABELMAN, FRAYNE & SCHWAB
666 THIRD AVE, 10th Floor
NEW YORK, NY 10017-5621

In re Application of: FRIEDMAN, Solomon	:	
Application No.: 10/513,299	:	
PCT Application No.: PCT/US2001/04300	:	DECISION ON
Int. Filing Date: 09 February 2001	:	PETITION UNDER
Priority Date Claimed: 10 February 2000	:	37 CFR 1.137(b)
Attorney Docket No.: 206,715	:	
For: Recorder Adapted to Interface with Internet	:	
Browser	:	
	:	

This decision is a response to Applicants' "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)", which was filed on 28 June 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 09 February 2001, Applicants filed international application PCT/US01/04300. The international application claims a priority date of 10 February 2000 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 12 August 2002. Applicant missed that date; however, on 24 June 2005, a decision was rendered to grant the "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed by Applicant on 29 October 2004.

On 29 October 2004, along with the "Petition for Revival", Applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, a request for immediate examination, and the requisite basic national fee as required by 35 U.S.C. 371 (c)(1). An unexecuted oath or declaration of the inventors was also filed.

On 22 August 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 executed oath or declaration of the inventors, in compliance with 37 CFR 1.66 or 37 CFR 1.68, 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 28 June 2006, Applicants filed the instant petition to revive accompanied by, *inter alia*, the petition fee, and the $65 surcharge for filing the oath or declaration after the thirty-month period, is required.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) the required reply, (2) the petition as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

With regard to Item (1), the required reply, i.e. an executed declaration in compliance with 37 CFR 1.66 or 37 CFR 1.68, in response to the "Notification of Missing Requirements", has been received.

With regard to Item (2), the appropriate petition fee of $750 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.

With regard to Item (4), a 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**.

The application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing in accordance with this decision.

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Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

#6

12 JAN 2005

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Daniel A. Monaco
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In re Application of ZHANG et al. Application No.: 10/513,302 PCT No.: PCT/CA03/00620 Int. Filing: 02 May 2003 Priority Date: 02 May 2002 Attorney Docket No.: 09539-0008US1 For: STABLE CYTOCHROME P450 24 (CYP24) EXPRESSING CELL LINE AND METHODS AND USES THEREOF	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is in response to applicants' "Petition under 37 CFR 1.47(a) Inventor Refuses to Sign" filed 03 October 2005 to accept the application without the signature of joint inventor, Anqi Zhang. The $200 petition fee has been submitted.

BACKGROUND

On 02 May 2003, applicants filed international application PCT/CA03/00620, which claimed a priority date 02 May 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 13 November 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, 02 November 2003.

On 03 November 2004, applicants filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and a preliminary amendment.

On 04 April 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 03 October 2005, applicants filed the present petition under 37 CFR 1.47(a) and a petition for a four-month extension of time.

DISCUSSION

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

A review of the present petition and the accompanying papers reveal that applicants have satisfied item (2), in that, the applicants have shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Anqi Zhang. The steps taken are sufficient to show that the non-signing inventor, Anqi Zhang, has refused to execute the application.

CONCLUSION

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

The application has an international filing date of 02 May 2003 under 35 U.S.C. 363, and will be given a date of 03 October 2005 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

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

Anthony Smith
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Office PCT Legal Administration
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UNITED STATES PATENT AND TRADEMARK OFFICE

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Anqi Zhang
23 Grove Street
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Westboro, MA 01581

In re Application of
ZHANG et al.
Application No.: 10/513,302
PCT No.: PCT/CA03/00620
Int. Filing: 02 May 2003
Priority Date: 02 May 2002
Attorney Docket No.: 09539-0008US1
For: STABLE CYTOCHROME P450 24 (CYP24) EXPRESSING CELL LIEN AND METHODS AND USED THEREOF

Dear Anqi Zhang:

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

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

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Counsel of Record:
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FINNEGAN HENDERSON FARABOW
GARRETT & DUNNER LLP
901 NEW YORK AVENUE NW
WASHINGTON DC 20001-4413

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OFFICE OF PETITIONS

In re Application of	:	
KUMAR, et al.	:	
Application No. 10/513,305	:	DECISION ON PETITION
Filed: August 3. 2005	:	TO WITHDRAW
Attorney Docket No. 01837.0012	:	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 14, 2006.

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

A review of the file record indicates that the power of attorney to Gary J. Edwards of FINNEGAN HENDERSON FARABOW GARRETT & DUNNER LLP has been revoked by the assignee of the patent application on September 21, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **WEINGARTEN SCHURGIN**
GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON MA 02109

29 SEP 2005

#3

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Arthur R. Crawford
Nixon & Vanderye P.C.
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714

In re Application of MILLWARD, Stanley Application No.: 10/513,342 PCT No.: PCT/GB03/00887 Int. Filing Date: 03 March 2003 Priority Date: 08 March 2002 Attorney Docket No.: 978-81 For: COLLAPSIBLE VEHICLE STORAGE STRUCTURE	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 03 November 2004 in the above-captioned application is hereby **GRANTED** as follows:

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

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

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

Anthony Smith

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30 AUG 2007

Hoxie & Associates, LLC
75 Main Street, Suite 301
Suite 300 E
Millburn, NJ 07041

In re Application of LASSOIE, et al. Application No.: 10/513,347 PCT No.: PCT/EP03/03909 Int. Filing Date: 15 April 2003 Priority Date: 30 April 2002 Attorney Docket No.: UCB-04-US For: 2,6-QUINOLINYL AND 2,6 NAPHTHYL DERIVATIVES, PROCESSES FOR PREPARING THEM AND THEIR USES AS VLA-4 INHIBITORS	DECISION ON PETITION UNDER 37 CFR 1.497(d)

This decision is in response to applicant's "Response to Notification of Defective Response" filed 19 March 2007 in the United States Patent and Trademark Office (USPTO). For the reasons discussed below, the filing is being treated as a request under 37 CFR 1.497(d).

BACKGROUND

On 15 April 2003, applicant filed international application PCT/EP03/03909, which claimed priority of an earlier application filed 30 April 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 30 October 2004.

On 29 October 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a preliminary amendment.

On 29 April 2005, applicant was mailed a "Notification of Missing Requirements" (Form PCT/DO/EO/905) indicating that an executed oath or declaration of the inventors was required, as well as, payment of the surcharge for providing an executed oath or declaration later than thirty months from the earliest claimed priority date. Applicant was afforded two months to file a proper response.

On 23 June 2005, applicant responded with combined declaration and power of attorney, as well as, papers supporting the addition of Mr. Luc Quere as an inventor in the application.

On 03 November 2005, applicant was mailed a "Notification of Defective Response" (Form PCT/DO/EO/916) indicating that the filed declaration was not executed and that a

sequence listing was required. Applicant was afforded one month to file a proper response.

On 21 November 2005, applicant filed a response including an executed declaration and power of attorney and an explanation that a sequence listing was not required for the present application.

On 20 February 2007, applicant was mailed a "Withdrawal of Previously Sent Notice" withdrawing the paper of 03 November 2005 and an additional Form PCT/DO/EO/916 indicating that the declaration filed 21 November 2005 contained an additional inventor, Luc Quere, who did not appear on the published international application. Applicant was afforded one month to file a proper response.

On 19 March 2007, applicant filed the response discussed herein.

DISCUSSION

Applicant states that the inventor in question, Luc Quere, was accidently omitted from the international application and that a request for correction of inventorship had been requested in the filing of 23 June 2005. Applicant's present filing is being considered as a petition under 37 CFR 1.497(d) to add Luc Quere to the present U.S. National stage application.

37 CFR 1.497(d) [formally, 37 CFR 1.48] states in part: "If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application....applicant must submit:

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

(2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.63;

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

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

Applicant has satisfied items (1)- (3). Regarding item 3, the $130.00 petition fee will be charged to deposit account number 50-3464 as authorized.

As to Item (4), while applicant has provided a statement purporting to grant the consent of the assignee; the filed statement does not contain the title of the individual signing on behalf of the assignee and it is not readily apparent that Mr. Norris is authorized to execute documents on behalf of the assignee. In addition, the assignee is required to establish its ownership in accordance with 37 CFR 3.73 (See MPEP 201.03 and 324).

In light of the above, it is not possible to grant applicant's petition at this time.

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, "Renewed Petition 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
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15 OCT 2007

Hoxie & Associates, LLC
75 Main Street, Suite 301
Millburn, NJ 07041

In re Application of	:	
LASSOIE, et al.	:	DECISION ON RENEWED
Application No.: 10/513,347	:	
PCT No.: PCT/EP03/03909	:	PETITION UNDER
Int. Filing Date: 15 April 2003	:	
Priority Date: 30 April 2002	:	37 CFR 1.497(d)
Atty. Docket No.: UCB-04-US	:	
For: 2,6-QUINOLINYL AND 2,6 NAPHTHYL DERIVATIVES, PROCESSES FOR PREPARING THEM AND THEIR USES AS VLA-4 INHIBITORS	:	

This decision is in response to applicant's renewed petition under 37 CFR 1.497(d) filed 05 October 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 30 August 2007, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.497(d). Applicant was afforded two months to file any request for reconsideration.

On 05 October 2007, applicant responded with the present renewed petition.

DISCUSSION

As detailed in the decision mailed 30 August 2007, 37 CFR 1.497(d) [formally, 37 CFR 1.48] states in part: "If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application....applicant must submit:

(1) a 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) the fee set forth in 37 CFR 1.17(h); and

(3) 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); and

(4) any new oath or declaration required by paragraph (f) of this section.

Applicant previously satisfied items (1)-(3). Applicant has presently satisfied the remaining item in the form of a signed statement of consent from the assignee in compliance with 37 CFR 3.73(b).

CONCLUSION

For the reasons discussed above, the renewed 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 has an international application filing date of 15 April 2003 and will be given a date of **21 November 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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UNITED STATES DEPARTMENT OF COMMERCE
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HOXIE & ASSOCIATES LLC
75 MAIN STREET , SUITE 301
MILLBURN, NJ 07041

Mail Date: 04/21/2010

Applicant	: Marie-Agnes Lassoie	: DECISION ON REQUEST FOR
Patent Number	: 7638630	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/513,347	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **981** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

RATNERPRESTIA
P O BOX 980
VALLEY FORGE PA 19482-0980

In re Application of	:	
Laurence Moine et al.	:	
Application No. 10/513,357	:	ON PETITION
Filed: May 23, 2005	:	
Attorney Docket No. JMYT-334US	:	

This is a decision on the petition, filed, January 15, 2008, which is being treated as a request under 37 CFR 3.81(b) to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent to be issued from the above-identified application.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is "Anglo Platinum Limited Johannesburg, South Africa" 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.

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

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

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that "Anglo Platinum Limited Johannesburg, South Africa" is 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 be processed after issuance of this application into a patent.

The instant petition included a Petition fee of $400. However, the request for certificate of correction fee is $100 and the processing fee under 37 CFR 1.17(i) is $130. The overpayment of $170 is refunded to petitioner's credit card account.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-6842. 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 after issuance of this application into a patent.

Carl Friedman
Petitions Examienr
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

28 NOV 2005

Edward W. Grolz
Scully, Scott, Murphy & Presser
400 Garden City Plaza
Suite 300
Garden City, NY 11530

In re Application of	:	
BECK, et al.	:	DECISION ON PETITION
Serial No.: 10/513,363	:	
PCT No.: PCT/EP03/04282	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 24 April 2003	:	
Priority Date: 03 May 2002	:	
Atty Docket No.: 18233 (P26143)	:	
For: HYDRAULIC MOTOR UNIT	:	

This decision is in response to the applicant's "PETITION UNDER 37 C.F.R. § 1.47(a)" filed 14 July 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 24 April 2003, applicant filed international application PCT/EP03/04282 which claimed priority to an earlier application filed 03 May 2002. A copy of the International Application was forwarded to the United States Patent and Trademark Office (USPTO) from the International Bureau (IB) on 13 November 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 03 November 2004.

On 02 November 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 and an English translation of the international application.

On 13 May 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 14 July 2005, applicant filed the present petition under 37 CFR 1.47(a) to accept the filed declaration without the signature of joint inventor Jochen Beck. Applicant has included a check in the amount of $130.00 as payment of the petition fee. Applicant is advised that pursuant to 37 CFR 1.17(g), the petition fee is $200.00. As authorized, the $70.00 difference will be charged to deposit account 19-1013.

DISCUSSION

Applicant is advised that 37 CFR 1.47 applies only where a **known** legal representative of a deceased inventor cannot be found or reached after diligent effort, or refuses to make application. In such cases, the last known address of the legal representative must be given (see MPEP § 409.03(e)). In the present case, applicant has not provided any information regarding the deceased inventor's legal representative. The 25 February 2005 letter from the German authority states that a legal representative has yet to be appointed; thus, the petition under 37 CFR 1.47 to accept the application without the legal representative is inappropriate pursuant to MPEP 409.03(c). The letter states that a legal representative would probably not be named prior to March 01, 2005, therefore it is reasonable to assume that the matter has been settled by now. In order to proceed under 35 U.S.C. 371, applicant must seek Mr. Beck's current legal representative or heirs. Where there is no legal representative to the estate, any court of competent jurisdiction should appoint the legal representative for the sole purpose of prosecuting the application.

In a similar vein, the filed declaration does not comply with 37 CFR 1.497(a)-(b) in that no information has been provided on the declaration for the legal representative or heir(s). In order to proceed under 37 CFR 1.47(a), applicant is required to identify the non-signing party as detailed above. Accordingly, the petition under 37 CFR 1.47(a) is dismissed.

CONCLUSION

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

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." Extensions of time may be obtained under 37 CFR 1.136(a).

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

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

19 JUN 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

Edward W. Grolz
Scully, Scott, Murphy & Presser
400 Garden City Plaza
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Garden City, NY 11530

In re Application of BECK, et al. Application No.: 10/513,363 PCT No.: PCT/EP03/04282 Int. Filing Date: 24 April 2003 Priority Date: 03 May 2002 Attorney Docket No.: 18233 (P26143) For: HYDRAULIC MOTOR UNIT	DECISIONS ON PETITIONS UNDER 37 CFR 1.47 AND 1.42

This decision is in response to applicant's "Renewed Petition Under 37 C.F.R. §1.47(a)" filed 30 March 2006 in the United States Patent and Trademark Office (USPTO). The combined declaration and power of attorney is being treated as a request for status pursuant to 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 28 November 2005, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(a). Applicant was afforded two months to file a response and advised that this period was extendable pursuant to 37 CFR 1.136(a).

On 30 March 2006, applicant filed the present response accompanied by a petition for a two-month extension of time. The response has been certified as having been deposited for mailing on 28 March 2006 and is therefore considered timely filed.

DISCUSSION

I. Renewed Petition Under 37 CFR 1.47(a)

Applicant has presently filed a declaration executed by the legal representative of the inventor whose signature block was previously left unsigned. As such, the renewed petition under 37 CFR 1.47(a) is dismissed as moot.

II. Request For Status Under 37 CFR 1.42

Pursuant to 37 CFR 1.42, first sentence:

"In case of the death of the inventor, the legal representative (executor,

administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

The declaration filed 30 March 2006 was executed by Ulrich Heinz as the legal representative the estate of deceased inventor Jochen Beck. However, the declaration is not in compliance with 37 CFR 1.497 (a)-(b) in that it is unclear whether the declaration is setting forth the residence, post office address and country of citizenship of the deceased inventor or the heir. Under 37 CFR 1.497(b)(2) the information must be provided for both the deceased inventor, Jochen Beck and the legal representative, Ulrich Heinz.

CONCLUSION

For the reasons stated above, applicant's renewed petition under 37 CFR 1.47(a) is **DISMISSED as moot**.

Applicant's petition under 37 CFR 1.42 is **DISMISSED, without prejudice**.

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file an oath or declaration in compliance with 37 CFR 1.497 (a)-(b). Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.42." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

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

29 AUG 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

Edward W. Grolz
Scully, Scott, Murphy & Presser
400 Garden City Plaza
Suite 300
Garden City, NY 11530

In re Application of	:	
BECK, et al.	:	
Serial No.: 10/513,363	:	DECISION ON RENEWED
PCT No.: PCT/EP03/04282	:	
Int. Filing Date: 24 April 2003	:	PETITION UNDER
Priority Date: 03 May 2002	:	
Atty Docket No.: 18233 (P26143)	:	37 CFR 1.42
For: HYDRAULIC MOTOR UNIT	:	

This decision is in response to the applicant's "RENEWED PETITION UNDER 37 CFR 1.47(a)" filed 24 August 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 19 June 2006, applicant was mailed a decision dismissing as moot applicant's renewed petition under 37 CFR 1.47(a). In addition, applicant's request for status under 37 CFR 1.42 was refused. Applicant was afforded two months to file any request for reconsideration.

On 24 August 2006, applicant filed the present renewed petition. With a certification date under 37 CFR 1.8 of 21 August 2006, the response is considered timely filed.

DISCUSSION

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

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

The declaration submitted on 30 March 2006 was executed by Ulrich Heinz as legal representative to the estate of the deceased inventor, Jochen Beck. However, the citizenship, residence and mailing address for the deceased inventor was missing. Applicant has presently filed an executed declaration signed by the legal representative which provides the above information for both the deceased inventor and his legal representative. Thus, it is appropriate to grant applicant's renewed petition at this time.

CONCLUSION

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

This application will be given an international application filing date of 24 April 2003 and a date of **24 August 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.

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Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

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CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

Mail Date: 05/03/2010

Applicant	: Alan Timothy Gibbs	: DECISION ON REQUEST FOR
Patent Number	: 7666041	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/513,384	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

14 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
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CR Miles, P.C.
1 Old Town Square, Suite 200 B
Fort Collins, CO 80524

In re Application of GEISE, et al. U.S. Application No.: 10/513,387 PCT No.: PCT/US03/14378 Int. Filing Date: 05 May 2003 Priority Date: 03 May 2002 Attorney's Docket No.: PixEarthUSNP For: A SYSTEM TO NAVIGATE WITHIN IMAGES SPATIALLY REFERENCED TO A COMPUTED SPACE	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to applicant's papers filed 06 July 2005 which included copies of a "Petition to Revive Under 37 C.F.R. 1.137(b)" originally filed on 27 May 2005. Applicant has provided a stamped return postcard evidencing the 27 May 2005 filing in the USPTO. For the reasons discussed below, the current filing is being treated as a petition under 37 CFR 1.181 to accept the papers as timely filed and withdraw the holding of abandonment in the present National stage application.

BACKGROUND

On 05 May 2003, applicant filed international application PCT/US03/14378, which claimed priority of an earlier application filed 03 May 2002. The deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 03 November 2004.

On 02 November 2004, a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia: a check in the amount of $405.00; a declaration of the inventors and an assignment document for recording.

On 26 April 2005, applicant was mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) informing applicant that applicant had failed to provide payment of the full, U.S. basic national fee within thirty months of the priority date and that above-identified application was abandoned as to the United States.

On 06 July 2005, applicant filed the present petition under 37 CFR 1.181 requesting withdrawal of the abandonment and enclosed copies of the "Petition to Revive Under 37 C.F.R. 1.137(b)" detailed above.

DISCUSSION

A review of the fee record for the application file finds that applicant provided payment of $405.00 on 02 November 2004. According to the transmittal letter, $365.00 was to be directed as payment of the small entity U.S. basic national fee and $40.00 for payment of the recording of the enclosed assignment. In fact on 02 November 2004, the small entity U.S. basic national fee payment for an international application in which the IPER fee was paid to the USPTO was $375.00. Applicant has presently filed a petition to revive pursuant to 37 CFR 1.137(b) providing payment of the $10.00 shortfall. Applicant argues in the alternative for a refund of the petition fee, in effect seeking a withdrawal of the holding of abandonment pursuant to 37 CFR 1.181. Applicant's alternative interpretation is correct and therefore the petition will be treated under 37 CFR 1.181. As there is no petition fee required, $750.00 will be refunded to applicant.

While, applicant's original fee payment was $10.00 short in total, applicant did provide enough total monies prior to the expiration of thirty months from the claimed priority date. Although there is no specific statute or regulation on point, it is the general policy of the USPTO that filing fees be charged before other office fees. (See, i.e. Federal Register, Volume 70, number 17 at 3880.) As such, it is proper to grant applicant's petition at this time. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

CONCLUSION

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

The Notification of Abandonment mailed 26 April 2005 is hereby **VACATED**.

The application has an international filing date of 05 May 2003 under 35 U.S.C. 363 and will be given a date of **02 November 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

MAY 15 2009

OFFICE OF PETITIONS

In re Application of	:	
Kumar et al.	:	DECISION ON PETITION
Application No. 10/513,393	:	TO WITHDRAW
Filed: May 23, 2005	:	FROM RECORD
Attorney Docket No. BTU-A-123XX	:	

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 14, 2006.

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

A review of the file record indicates that the power of attorney to practitioners associated with Finnegan, Henderson, Farabow, Garrett, & Dunner LLP, has been revoked by the assignee of the patent application on September 8, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON, MA 02109

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

MAILED

JUN 0 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Kumar et al.	:	DECISION ON PETITION
Application No. 10/513,394	:	TO WITHDRAW
Filed: August 5, 2005	:	FROM RECORD
Attorney Docket No. BTU-A-124XX	:	

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 14, 2006.

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

A review of the file record indicates that the power of attorney to practitioners associated with Finnegan, Henderson, Farabow, Garrett & Dunner, LLP, has been revoked by the assignee of the patent application on September 8, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON, MA 02109

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

COPY MAILED
OCT 13 2006
OFFICE OF PETITIONS

In re Application of	:	
Satyendra Kumar et al.	:	
Application No. 10/513,397	:	DECISION ON PETITION
Filed: August 5, 2005	:	TO WITHDRAW
Attorney Docket No. 01837.0026	:	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 17, 2006.

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

A review of the file record indicates that the power of attorney to the attorneys and/or agents associated with Customer No. 22852 have been revoked by the assignee of the patent application on October 6, 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.

Diana C. Walsh for
Amelia Au
Petitions Examiner
Office of Petitions

cc: **Weingarten, Schurgin, Gagnebin & Lebovici**
Ten Post Office Square
Boston, MA 00207

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/513,397	08/05/2005	Satyendra Kumar	01837.0026

CONFIRMATION NO. 1289

OC000000020782356

OC000000020782356

Weingarten, Schurgin, Gagnebin & Lebovici LLP
Ten Post Office Square
Boston, MA 00207

Date Mailed: 10/11/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/06/2006.

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

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

ATTORNEY/APPLICANT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/513,397	08/05/2005	Satyendra Kumar	01837.0026

CONFIRMATION NO. 1289

OC000000020782285

OC000000020782285

22852
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Date Mailed: 10/11/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/06/2006.

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

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

NEW ATTORNEY/AGENT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/513,397	08/05/2005	Satyendra Kumar	01837.0026

CONFIRMATION NO. 1289

OC000000020782285

OC000000020782285

22852
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Date Mailed: 10/11/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/06/2006.

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

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

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

Mail Date: 04/20/2010

Applicant	: Bjorn Nordin	: DECISION ON REQUEST FOR
Patent Number	: 7653222	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/513,400	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON, DE 19899

Mail Date: 04/21/2010

Applicant	: Andreas Renz	: DECISION ON REQUEST FOR
Patent Number	: 7579517	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/513,412	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/04/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1269** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON, DE 19899

Mail Date: 05/18/2010

Applicant : Andreas Renz
Patent Number : 7579517
Issue Date : 08/25/2009
Application No : 10/513,412
Filed : 11/04/2004

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1315** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE, SUITE 100
SAN DIEGO CA 92130-2040

In re Application of	:	
ANDERLEI, et al.	:	
Application No. 10/513,424	:	DECISION ON PETITION
Filed: April 18, 2006	:	TO WITHDRAW
Attorney Docket No. 246152023600	:	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 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: **Britta Anderlei**
Guaitastrasse 19
Achen, Germany D-52064

cc: **Mr. Bryan H. Davidson**
Nixon & Vanderhye PC
901 North Glebe Road
Arlington, VA 22203-1808

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/513,424	04/18/2006	Britta Anderlei	246152023600

CONFIRMATION NO. 7350

OC000000021232017

25225
MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

Date Mailed: 11/15/2006

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

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United States Patent and Trademark Office
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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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JUN 09 2009

OFFICE OF PETITIONS

In re Application of	:	
Nilsson, et al.	:	
Application No. 10/513,437	:	ON APPLICATION FOR
Filed: June 14, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. 052209-0130	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705, filed April 27, 2009. Applicants request that the determination of patent term adjustment be corrected from eighty-four (844) days to three hundred ninety-seven (397) days. Applicants request this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008).

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, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b). (This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined[1]. Accordingly, it is still too soon to make a determination as to the correctness of

[1] The computer will also enter any additional periods of adjustment for Office delay and any additional periods of reduction for applicant delay after the mailing of the notice of allowance, such as pursuant to 37 CFR 1.703(a)(6) for Office delay and 37 CFR 1.704(c)(10) for applicant delay.

any period of adjustment that will or will not be entered pursuant to § 1.703(b)).

Applicants are given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicants may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

It is acknowledged that applicants are correct that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is noted that a Request for Continued Examination (RCE) was first filed in this application on September 15, 2008.

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

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

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Anders NILSSON, et al.

Title: ORODISPERSIBLE DOSAGE FORMS OF DESMOPRESSIN ACETATE (As Amended)

Appl. No.: 10/513,437

International Filing Date: 5/7/2003

371(c) Date: 06/14/2005

Examiner: Anish Gupta

Art Unit: 1654

Confirmation Number: 7377

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

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

Sir:

Applicants respectfully request reconsideration of the Patent Term Adjustment (PTA) determined for the application.

The Patent Office determined that the application was entitled to 84 days of PTA. Applicants believe that this PTA determination was made in accordance with 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)" published at 69 Fed. Reg. 34238 (Jun. 21, 2004). Under that interpretation of the PTA statute, any PTO delay under 35 U.S.C. § 154(b)(1)(A) is deemed to overlap with any 3-year maximum pendency delay under 35 U.S.C. § 154(b)(1)(B), and so, as a practical effect, PTA may be awarded under §154(b)(1)(A) or §154(b)(1)(B), but not both.

Adjustment date: 06/09/2009 CKHLOK
04/28/2009 INTEFSW 00002094 10513437
01 FC:1463 -200.00 OP

06/09/2009 CKHLOK 00000005 10513437
01 FC:1455 200.00 OP

On September 30, 2008, the United States District Court for the District of Columbia issued a decision finding that the U.S. Patent and Trademark Office's interpretation of the PTA statute is incorrect. *Wyeth v. Dudas*, Civ. Action No. 07-1492 (JR) (Sep. 30, 2008). The court determined that, under the correct interpretation of the PTA statute, periods of "overlap" are limited to "periods of time . . . [that] occur on the same day." *Wyeth*, slip op. at 8. Thus, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." *Id.*

Applicants have recalculated PTA for the captioned application under the court's interpretation of the PTA statute, and have determined that the application is entitled to 397 days:

(a) Total of non-overlapping PTO delay under §154(b)(1)(A) & (B):	558 days
(b) Total Applicant delay:	161 days
Final PTA Determination:	397 days

Applicants therefore respectfully request that the patent be accorded 397 days PTA.

The patent is not subject to a terminal disclaimer.

Payment of the requisite fee is submitted herewith. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

However, because this PTA error is due to a Patent Office error in interpreting and applying the PTA statute, a refund of the fee is respectfully requested.

Respectfully submitted,

Date April 27, 2009

By Courtenay C Brinckerhoff

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 295-4094
Facsimile: (202) 672-5399

Courtenay C. Brinckerhoff
Attorney for Applicant
Registration No. 37,288

Application Number: 10/513437
Patent Number: N/A

	Event Description	Event Date	Days from Filing	PTO Days	Applicant Days
Edit Delete	Priority Date	05/07/2002	-915		
Edit Delete	International Filing Date	05/07/2003	-550		
	PCT National Stage Commencement Date	11/07/2004	0		
Edit Delete	Notice of Missing Requirements	04/14/2005	158		
Edit Delete	National Stage Entry (All 371(c) Requirements Met)	06/14/2005	219		
Edit Delete	Response to Notice of Missing Requirements	06/14/2005	219		
	14 month From Application date	08/14/2006	645		
Edit Delete	Non-Final Office Action	03/27/2007	870	225	
	Non-Final Office Action + 3 months	06/27/2007	962		
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	08/20/2007	1,016		54
	3 Year Period Starts	11/07/2007	1,095		
Edit Delete	Final Office Action	11/15/2007	1,103		
	Final Office Action + 3 months	02/15/2008	1,195		
Edit Delete	Final Office Action Response Received at PTO	04/09/2008	1,249		
Edit Delete	Notice of Appeal Received at PTO	05/14/2008	1,284		89
Edit Delete	Advisory Action	08/07/2008	1,369		
Edit Delete	Request For Continued Examination	09/15/2008	1,408	313	
	3 Year Period Stopped	09/15/2008	1,408		
Edit Delete	Supplemental Reply under 1.704(c)(8) received at PTO	10/03/2008	1,426		18
	Request For Continued Examination + 4 months	01/15/2009	1,530		
Edit Delete	Notice of Allowance	02/04/2009	1,550	20	
	Projected Patent Grant Date	08/18/2009	1,745		
			Totals:	558	161
			PTA:	397	

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APR 21 2010

OFFICE OF PETITIONS

In re Patent of Nilsson et al.	:	DECISION ON REQUEST
Patent No. 7,560,429	:	FOR
Issued: July 14, 2009	:	RECONSIDERATION OF
Application No. 10/513,437	:	PATENT TERM ADJUSTMENT
Filed: June 14, 2005	:	AND
Atty Docket No. 052209-0130	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed September 3, 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 three hundred ninety-seven (397) 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 ninety-seven (397) days is **GRANTED to the extent indicated herein.**

The period of B delay in this case is 187 days, not 313 days as asserted by patentees. In an international application, the B period of delay is based on the failure of the Office to issue a patent within three years after the national stage commences under 35 U.S.C. 371(b) or (f). *See* 1.702(b). AS the expiration of the 30-month period pursuant to 35 U.S.C. 371(b) fell on a Sunday, the period expired on the subsequent business day. *See* PCT Rule 80.5. Accordingly, the national stage commenced in this application on Monday, November 8, 2004. The period of B delay is 187 days, beginning on the day three years after the application's commencement date, November 9, 2007, and ending on

Notice of Appeal was filed, May 14, 2008, and ending on September 14, 2004, the day before the RCE was filed. 35 U.S.C. 154(b)(1)(B)(ii).

Patentees' assertion the patent term adjustment is 397 days is based in part on an assertion the period of B delay is 313 days. As discussed above, the period of B delay is actually 187 days. As a result, the patent term adjustment is 271, not 397 days. *See* 37 CFR 1.703(b).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136. *See* 37 CFR 1.323(a)(4).

The Office acknowledges receipt of the $200.00 fee set forth in 37 CFR 1.18(e) on April 27, 2009. This fee is required and will not be refunded. 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 **two hundred seventy-one (271)** days.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,560,429 B2

DATED : **July 14, 2009** **DRAFT**

INVENTOR(S) : Anders Nilsson, 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 84 days

Delete the phrase "by 84 days" and insert – by 271 days--

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WASHINGTON DC 20007

MAILED
JUL 19 2010
OFFICE OF PETITIONS

In re Patent of Nilsson et al.	: DECISION ON REQUEST
Patent No. 7,560,429	: FOR
Issued: July 14, 2009	: RECONSIDERATION OF
Application No. 10/513,437	: PATENT TERM ADJUSTMENT
Filed: June 14, 2005	:
Atty Docket No. 052209-0130	:

This is a decision on the petition filed May 14, 2010, which is being treated as a renewed petition under 37 C.F.R. § 1.705(d).

The petition is **dismissed**.

On April 21, 2010, the Office mailed a decision in response to a prior petition under 37 C.F.R. § 1.705(d). The decision indicated the Certificates of Correction branch would be issuing a certificate of correction indicating the term of the patent is extended or adjusted by two hundred seventy-one (271) days. The Office notes the certificate of correction issued June 15, 2010.

The April 21, 2010 decision indicated a request for reconsideration of the decision could be filed. The instant request for reconsideration was timely filed on May 14, 2010.

The prior decision stated, "The period of B delay is 187 days, beginning on the day three years after the application's commencement date, November 9, 2007, and ending on September 14, 2004, the day before the RCE was filed, minus the excluded 124 day appellate period beginning on the date the Notice of Appeal was filed, May 14, 2008, and ending on September 14, 2008, the day before the RCE was filed. 35 U.S.C. 154(b)(1)(B)(ii). "

Petitioners argue the exclusion of the period from the filing of the Notice of Appeal to the filing of the RCE was improper. However, Petitioners have failed to establish the exclusion of appellate period was improper.

Pursuant to 35 U.S.C. § 154(b)(1)(B)(ii), B Delay does not include "any time consumed by appellate review by the Board of Patent Appeals and Interferences." Petitioners argue the period of appellate review does not begin until jurisdiction is transferred to the Board of Patent Appeals and Interferences ("Board") pursuant to 37 C.F.R. § 41.35.

The provisions of 37 C.F.R. § 1.703(b)(4) implement 35 U.S.C. § 154(b)(1)(B)(ii). Pursuant to 37 C.F.R. § 1.703(b)(4), the period of B Delay does not include,

> The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

The petition asserts 37 C.F.R. § 1.703(b)(4) excludes too many days "because the filing of a notice of appeal does not commence the time period of appellate review by the Board."

Although the petition asserts the period of appellate review begins when jurisdiction is transferred to the Board, the petition fails to cite any court decision or legislative history to support such an assertion.

The Office has considered the arguments in the petition and concluded the phrase "time consumed by appellate review by the Board" in 35 U.S.C. § 154(b)(1)(B)(ii) begins when a notice of appeal is filed.

The phrase "appellate review by the Board" appears twice in 35 U.S.C. § 154(b). The fact the identical phrase is used in another location in the same statute is relevant because "identical words used in different parts of the same statute are ... presumed to have the same meaning." *IBP, Inc. v. Alvarez*, 546 U.S. 21, 34 (2005).

Pursuant to 35 U.S.C. § 154(b)(1)(C)(iii), successful "appellate review by the Board" will result in an adjustment for delay resulting from the appeal. The Office has interpreted 35 U.S.C. § 154(b)(1)(C)(iii) to provide for an adjustment based on delay beginning when a notice of appeal has been filed. 37 C.F.R. § 1.703(e) states, with emphasis added,

> The period of adjustment under § 1.702(e) is the sum of the number of days, if any, in the period *beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed* under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of a final decision in favor of the applicant by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145.

The Office's interpretation of 35 U.S.C. § 154(b)(1)(C)(iii) is supported by language in 35 U.S.C. § 154(b) prior to passage of the Patent Term Guarantee Act of 1999, Pub. L. No. 106-113, § 4402, 113 Stat. 1501A-557. Prior to passage of the Patent Term Guarantee Act of 1999, 35 U.S.C. §§ 154(b)(2)-(3) stated, with emphasis added,

> Extension for *appellate review*. If the issue of a patent is delayed due to *appellate review* by the Board of Patent Appeals and Interferences or by a Federal court and the patent is

> issued pursuant to a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended for a period of time but in no case more than 5 years....
>
> The period of extension ... shall include any period *beginning on the date on which an appeal is filed under section 134 or 141 of this title*, or on which an action is commenced under section 145 of this title, and ending on the date of a final decision in favor of the applicant.

As shown by the language quoted above, the period of appellate review in the former version of 35 U.S.C. § 154(b) began when a notice of appeal was filed. When Congress passed the Patent Term Guarantee Act of 1999, Congress failed to take any action to indicate Congress wished to change the starting date for the period of "appellate review" from the date a notice of appeal is filed until the date the application file is transferred to the Board.

In view of the prior discussion, the Office has reasonably concluded the period of "appellate review by the Board" under 35 U.S.C. § 154(b)(1)(C)(iii) begins when a notice of appeal is filed. Since identical words or phrases in the same statute are presumed to have the same meaning, the Office asserts the period of "appellate review" under 35 U.S.C. § 154(b)(1)(B)(ii) also begins when a notice of appeal is filed. The Office recognizes the presumption the same word or phrase in a statue has the same meaning is rebuttable. *See Envtl. Def. v. Duke Energy Corp.*, 549 U.S. 561, 575-76 (2007). However, the context of each instance of the phrase in the statute at issue fails to clearly indicate Congress intended for the same phrase to have two different meanings.

The Office has considered the arguments in the petition and determined the petition fails to establish the provisions of 37 C.F.R. § 1.702(b)(4) are inconsistent with the provisions of 35 U.S.C. § 154(b)(1)(B)(ii). Pursuant to 37 C.F.R. § 1.702(b)(4), the time period excluded from delay under 37 C.F.R. § 1.702(b) begins when a notice of appeal is filed. In other words, the appellate review period excluded from the period of B Delay begins when a notice of appeal is filed.

In this case, the period of appellate review began when a notice of appeal was filed on May 14, 2008, and ended on September 14, 2008, the day before the request for continued examination was filed. The time consumed by the period of appellate review was 124 days. Therefore, the Office properly excluded 124 days from the period of B Delay as a result of time consumed by appellate review and the patent term adjustment remains 271 days.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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28 NOV 2006

Philip S. Johnson, Esq.
Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003

In re Application of	:	
SCHULDT-HEMPE, et al.	:	
U.S. Application No.: 10/513,457	:	DECISION ON PETITION
PCT No.: PCT/EP03/04566	:	
Int. Filing Date: 30 April 2003	:	37 CFR 1.181
Priority Date: 03 May 2002	:	
Attorney Docket No.: ETH1673	:	
For: SURGICAL THREAD AND SURGICAL IMPLANT WITH THE SAME	:	

This decision is in response to applicant's petition under 37 CFR 1.181 to withdraw the holding of abandonment filed 23 August 2006 in the United States Patent and Trademark Office (USPTO). No petition fee is required.

BACKGROUND

On 30 April 2003, applicant filed international application PCT/EP03/04566 which claimed priority of an earlier application filed 03 May 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 13 November 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 03 November 2004.

On 02 November 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 14 March 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 and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 11 July 2006, applicant was mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) informing applicant that applicant had failed to respond to the Form PCT/DO/EO/905 mailed 14 March 2005 within the time period set therein and that above-identified application was abandoned as to the United States.

On 23 August 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) above.

Regarding item(4), applicant has provided a copy of the docket record which purportedly shows where the paper would have been entered had it been received. However, the printout of the docket report for this specific application is not sufficient to establish that the Notification of Missing Requirements was not received and misdocketed to another application. Accordingly, applicant is required to provide docket records for 14 May 2005, indicating all applications for which a response was due on said date.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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15 FEB 2007

Philip S. Johnson, Esq.
Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003

In re Application of	:	
SCHULDT-HEMPE, et al.	:	
U.S. Application No.: 10/513,457	:	DECISION ON RENEWED
PCT No.: PCT/EP03/04566	:	
Int. Filing Date: 30 April 2003	:	PETITION UNDER
Priority Date: 03 May 2002	:	
Attorney Docket No.: ETH1673	:	37 CFR 1.181
For: SURGICAL THREAD AND SURGICAL	:	
IMPLANT WITH THE SAME	:	

This decision is in response to applicant's renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment filed 26 January 2007 in the United States Patent and Trademark Office (USPTO). No petition fee is required.

BACKGROUND

On 28 November 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 26 January 2007, applicant filed the renewed petition considered herein.

DISCUSSION

As detailed in the decision mailed 28 November 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) above.

With regard to item (4), applicant has currently provided a copy of the docket records where the non-received Office action would have been entered and therefore all four items have now been satisfied.

CONCLUSION

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

The NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) mailed 11 July 2006 is hereby **VACATED**.

This application is being returned to the DO/EO/US for processing in accordance with this decision, namely, the mailing of a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) as applicant is required to file an executed oath or declaration of the inventors and provide payment of the surcharge for providing an executed oath or declaration later than thirty months from the earliest claimed priority date.

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

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RUTAN & TUCKER, LLP.
611 ANTON BLVD
SUITE 1400
COSTA MESA CA 92626

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OFFICE OF PETITIONS

In re Application of :
KURESHY, Fareed et al. :
Application No. 10/513,458 :
Filed: November 02, 2004 :
Attorney Docket No. **100788.0006US** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 30, 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 Michelle R. Eason at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **ROBERT FISH**
FISH & ASSOCIATES, PC
2603 MAIN STREET
SUITE 1050
IRVINE, CA 92614

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In re Application of	:	
KURESHY, Fareed et al.	:	
Application No. 10/513,458	:	DECISION ON PETITION
Filed: November 02, 2004	:	TO WITHDRAW
Attorney Docket No. **100788.0006US**	:	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 October 07, 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 November 13, 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 Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **FISH & ASSOCIATES, PC**
ROBERT D. FISH
2603 MAIN STREET
SUITE 1050
IRVINE CA 92614-6232

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OFFICE OF PETITIONS

In re Application of
KURESHY, Fareed et al.
Application No. 10/513,459
Filed: November 02, 2004
Attorney Docket No. **100788.0008US**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 30, 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 Michelle R. Eason at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **ROBERT FISH**
FISH & ASSOCIATES, PC
2603 MAIN STREET
SUITE 1050
IRVINE, CA 92614

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SUITE 1400
COSTA MESA, CA 92626

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NOV 10 2008

In re Application of	:	
KURESHY, Fareed et al.	:	
Application No. 10/513,459	:	DECISION ON PETITION
Filed: November 02, 2004	:	TO WITHDRAW
Attorney Docket No. **100788.0008US**	:	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 October 07, 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 applicant of the patent assignee on October 29, 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 Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **ROBERT FISH**
FISH & ASSOCIATES, PC
2603 MAIN STREET, SUITE 1050
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08 AUG 2005

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Roger W. Parkhurst
Steptoe & Johnson, LLP
1330 Connecticut Avenue, N.W.
Washington, D.C. 20036

In re Application of HAYASHI, et al. Application No.: 10/513,467 PCT No.: PCT/JP03/05043 Int. Filing Date: 21 April 2003 Priority Date: 08 May 2002 Attorney Docket No.: HEIW:041 For: PROCESS FOR CONTINUOUS PRODUCTION OF BRANCHED POLYARYLENE SULFIDES	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to applicant's "Response to Notification of Missing Requirements and Notification of Prior Submission of Original Executed Declaration" filed 27 June 2005 in the United States Patent and Trademark Office (USPTO). The filing is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the present National stage application. No petition fees are required.

BACKGROUND

On 21 April 2003, applicant filed international application PCT/JP03/05043, which claimed priority of an earlier application filed 08 May 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 20 November 2003. The deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 08 November 2004.

On 08 November 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the international application; an Application Data Sheet and a First Preliminary Amendment.

On 06 May 2005, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International Application number and international filing date. In addition, applicant was advised of the need to pay the surcharge for providing an oath or declaration of the inventor later than thirty months from the priority date. Applicant was given two months to respond and advised that this time period could be extended

with a proper petition and payment of fees.

On 27 June 2005, applicant filed the present petition.

DISCUSSION

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. Here, applicant has provided a copy of the date-stamped postcard receipt. The postcard identifies the application by first named inventor and docket number. The receipt identifies the application number as "10/513,467." Among the items listed on the receipt are "Subm of Orig Ex Decl w/Ex Decl (2 pages" and "Ck 18178 $130" The receipt is stamped "OIPE JC25 Patent and Trademark Office NOV 19 2004" across its face. Thus, it is clear that applicant filed an executed declaration on 19 November 2004. For the reasons stated above, it is proper to grant applicant's petition at this time and accept the copy of the declaration filed 27 June 2005 as a substitute for the declaration originally filed 19 November 2004. In addition, a review of the fee records for the present application shows a $130.00 payment made by check on 19 November 2004.

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 on 19 November 2004.

CONCLUSION

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

This application will be given an international application filing date of 21 April 2003 and a date of **19 November 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

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ALAMEDA CA 94501

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OFFICE OF PETITIONS

In re Application of

TORDAY, J. S. et al.
Application No. 10/513,474
Filed: May 18, 2005
Attorney Docket No. **317-000130US**

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 13, 2007.

The request is **APPROVED**.

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

The request was signed by Jonathan Quine on behalf of all attorneys of record who are associated with customer No. 22434. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **J. D. TORDAY**
1904A HAVEMEYER LANE
RODONDO BEACH, CA 90278

cc: **BEYER WEAVER LLP**
P.O. BOX 70250
OAKLAND CA 94612-0250

25 AUG 2006

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William Evans
Ladas & Parry LLP
26 West 61st
New York, N.Y. 10023

In re Application of	:	DECISION ON
Ehud GAL	:	
Application No.: 10/513,481	:	
PCT No.: PCT/IL03/00382	:	
Int. Filing Date: 12 May 2003	:	PETITION UNDER
Priority Date: 14 May 2002	:	
Attorney's Docket No.: U 015440-1	:	
For: SPEHRICAL AND NEARLY SPHERICAL VIEW	:	
IMAGING ASSEMBLY	:	37 CFR 1.181

This is in response to petitioner's "Request to Withdraw Holding of Abandonment" filed 20 January 2006, which is being treated as a petition under 37 CFR 1.181 requesting that the above-identified international application to withdraw holding of abandonment because the response was filed timely as evidenced by the USPTO stamped postcard.

BACKGROUND

On 12 May 2003, this international application was filed, claiming an earliest priority date of 14 May 2002.

On 03 November 2004, applicant filed a Transmittal letter for entry into the national stage in the United States Patent and Trademark Office (USPTO), which was accompanied by, the basic national fee. No executed declaration or oath was filed at such time.

On 15 April 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the oath or declaration complying with 37 CFR 1.497(a) and (b), identifying the application by the International application number and International filing date must be furnished within the time period set forth. The notification set a two months time limit or 32 months from the priority date for the application, whichever is later to respond, and that failure to properly respond would result in abandonment

On 06 June 2006, the USPTO mailed applicant a Notification of Abandonment (Form PCT/DO/EO/909) indicating the application was abandoned because applicant failed to respond to the notification of Missing Requirements (Form PCT/DO/EO/905), mailed 04/15/2005 within the time period set therein.

On 26 June 2006, applicant filed the current petition indicating that a response was timely on April 22, 2005 as evidence by the Express Mail Receipt EV 480459448 US and USPTO stamped postcard.

DISCUSSION

Applicant's present petition is accompanied by a copy of the following documents, filed purportedly, *inter alia*, with the USPTO as indicated in the USPTO stamped postcard:

(1) Completion of Filing Requirements
(2) Declaration and Power of Attorney
(3) Small Entity Status

The postcard lists the above items and bears a USPTO date of stamp as 22 April 2005.

MPEP 503 provides:

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

Applicant's postcard is accepted as *prima facie* that a Declaration was deposited with the U.S. Patent and Trademark Office on 22 April 2005.

Accordingly, the date of receipt for the executed Declaration is 22 April 2005.

DECISION

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

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision. The 35 U.S.C.§ 371(c)(1), (c)(2), and (c)(4) date is **22 April 2005**.

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

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Rutan & Tucker, LLP.
611 ANTON BLVD
SUITE 1400
COSTA MESA CA 92626

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In re Application of	:	
Fareed Kureshy, et al.	:	
Application No. 10/513,485	:	DECISION ON PETITION
Filed: November 2, 2004	:	TO WITHDRAW
Attorney Docket No. 100788.0011US	:	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 30, 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. 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, ***attorney and agents left this customer number 3/3/07. It was agreed that attorney or his agents would file new powers of attorney for requested client transfers. Attorney has not filed a new power of attorney or has not changed their correspondence address. Therefore, we request withdrawal as power of attorney, and that the correspondence address be changed***, 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.

Terri Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Robert Fish**
Fish & Associates, PC
2603 Main Street, Suite 1050
Irvine, CA 92614

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Suite 1400
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OFFICE OF PETITIONS

In re Application of	:	
Fareed Kureshy, et al.	:	
Application No. 10/513,485	:	DECISION ON PETITION
Filed: November 2, 2004	:	TO WITHDRAW
Attorney Docket No. 100788.0011US	:	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 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. Wight 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: **Fareed Kureshy**
2132 Pinar Place
Del Mar, CA 92014

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
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/513,485	11/02/2004	Fareed Kureshy	100788.0011US

CONFIRMATION NO. 9365

POWER OF ATTORNEY NOTICE

34284
Rutan & Tucker, LLP.
611 ANTON BLVD
SUITE 1400
COSTA MESA, CA 92626

OC000000032888908

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

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HARRINGTON & SMITH
4 RESEARCH DRIVE, Suite 202
SHELTON, CT 06484-6212

Mail Date: 04/21/2010

Applicant	: Miikka Poikselka	: DECISION ON REQUEST FOR
Patent Number	: 7606556	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/513,510	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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PEARL COHEN ZEDEK LATZER, LLP
1500 BROADWAY 12TH FLOOR
NEW YORK NY 10036

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OFFICE OF PETITIONS

In re Application of	:	
Yechzkel Albag et al.	:	
Application No. 10/513,538	:	DECISION ON PETITION
Filed: June 21, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 13071/3	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 28, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of the applicant, Zeev Orbach's passport proving that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

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

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2623 for action on the merits commensurate with this decision.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

19 JUL 2005

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

In re Application of Utku Serial No.: 10/513,539 PCT No.: PCT/EP02/14734 Int. Filing Date: 23 December 2002 Priority Date: 21 December 2001 Attorney's Docket No.: 72384/JPW/MJW For: THERAPEUTIC ANTI-TIRC7 ANTIBODIES FOR USE IN IMMUNE RELATED AND OTHER DISEASES	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This decision is responsive to the "PETITION FOR REVIVIAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(b)" filed 05 November 2004.

BACKGROUND

On 23 December 2002, applicants filed international application PCT/EP02/14734, which claimed priority of an earlier European application filed 21 December 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 03 July 2003. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 21 June 2004.

On 05 November 2004, applicants filed the current petition along with a transmittal letter for entry into the national stage in the United States. The transmittal letter was accompanied by, *inter alia*, a the petition to revive, a check for the petition to revive and a check for the basic national fee. These papers were assigned Application No. 10/513,539.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional delay must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied (1) by a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," (2) by a proper reply, (3) by the petition fee required by law (37 CFR 1.17(m)), and (4) if the international filing date of the application is before June 8, 1995, any petition to revive under 37 CFR 1.137(b) must be accompanied by a terminal disclaimer and small entity fee of $55

Applicants have provided the required statement, a proper reply and the petition fee. Therefore, the petition to revive is GRANTED.

CONCLUSION

The petition to revive the application abandoned under 35 U.S.C. 371(d) is **GRANTED** as to the National Stage in the United States of America.

This application is being forwarded to the national stage office for preparation of 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)."

Debra Brittingham
PCT Special Programs Examiner
Office of PCT Legal Administration

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

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

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Joe Liebeschuetz
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and Crew
Two Embarcadero Center
8th Floor
San Francisco, CA 94111

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DEC 09 2009

OFFICE OF PETITIONS

In re Patent No. 7,541,008	:	
Chambers, et al.	:	DECISION DISMISSING
Application No. 10/513,546	:	REQUEST FOR
Issue Date: June 2, 2009	:	RECONSIDERATION OF
Filed: November 4, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 025687-000100US	:	UNDER 37 CFR 1.705

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION, filed June 17, 2009. The petition is properly treated under 37 CFR 1.705(d).

Patentees request that the determination of patent term adjustment be corrected from three hundred eleven (311) days to four hundred seventy-seven (477) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 311 days.

BACKGROUND

This application was filed on November 4, 2004. On April 18, 2008, a request for continued examination (RCE) was filed. On June 2, 2009, the application matured into U.S. Patent No. 7,541,008, with a revised patent term adjustment of 311 days. The Office determined that the 158 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)[1] overlaps with the 485 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and

[1] As of the filing of the RCE on April 18, 2008, the application was pending three years and 158 days.

37 CFR 1.702(a)(1)[2,3] accorded prior to the filing of the request for continued examination. As such, the Office allowed only entry of the adjustment of 485 days for Office delay. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 174 days, the patent issued with a revised patent term adjustment of 311 (485 - 174) days.

On June 17, 2009, 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 477 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentee maintains that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 651 (485 + 166) days as these periods do not occur on the same day. Further, given the applicant delay of 174 days, patentees assert entitlement to 477 (651 - 174) days of patent term adjustment.

OPINION

At the outset, it is noted that patentees are asserting that the period of adjustment accrued under 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) for the Office taking in excess of three years to issue the patent is 166 days, not 158 days. Patentees did not use the 35 U.S.C. 371(b) national stage commencement date of November 11, 2004, in calculating the period of adjustment under

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[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 first Office action was not mailed until May 4, 2007, fourteen months and 485 days after the date of completion of all 35 U.S.C. 371 requirements on November 11, 2004.

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) in an international application and ending on the date a patent was issued, not including the period beginning on the date on which a request for continued examination of application was filed and ending on the date the patent was issued. Accordingly, the date the national stage commenced under 35 U.S.C. 371(b), November 11, 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 is 158 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, November 12, 2007, and ending on the day before the date the request for continued examination was filed, April 17, 2008.

Patentees' interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

As explained in *Explanation of 37 CFR 1.703(f)*[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

---

[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.

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

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of

adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office, November 11, 2004, the date of commencement under 35 USC 371(b), to June 2, 2009, the date of the issuance of the patent (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). The relevant period ends with the filing of the RCE as the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) does not include the period subsequent to the filing of the RCE. 35 U.S.C. 154(b)(1)(B)(i).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 485 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the request for continued examination. There were no Office delays subsequent to the filing of the request for continued examination. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 158 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

All of the 158 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 485 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 485 days and the 159 days is neither permitted nor warranted. 485 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment.

CONCLUSION

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 311 days.

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

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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01 FEB 2006

McDonnell Boehnen Hulbert & Berghoff LLP
300 South Wacker Drive, 32nd Floor
Chicago, IL 60606

In re Application of :
MONTES et al. :
Application No.: 10/513,552 :
PCT No.: PCT/US03/14727 :
Int. Filing: 09 May 2003 :
Priority Date: 11 May 2002 :
Attorney Docket No.: 04-622-A :
For: 1,1- AND 1,2 BISPHOSPHONATES AS APOLIPOPROTEIN E MODULATORS :

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 21 October 2005 to accept the application without the signature of joint inventor, Emanuele Burattini. The $200 petition fee has been submitted.

BACKGROUND

On 09 May 2003, applicants filed international application PCT/US03/14727, which claimed a priority date 11 May 2002. 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, 02 November 2004.

On 05 November 2004, applicants filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and a preliminary amendment.

On 22 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 21 October 2005, applicants filed the present petition under 37 CFR 1.47(a) and a petition for a five-month extension of time.

DISCUSSION

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

missing 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) - (4) have been satisfied.

A review of the present petition and the accompanying papers reveal that applicants have satisfied item (2), in that, the applicants have shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Emanuele Burattini. The steps taken by Sherri Oslick are sufficient to show that the missing inventor, Emanuele Burattini, could not be found or reached after diligent effort.

CONCLUSION

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

The application has an international filing date of 09 May 2003 under 35 U.S.C. 363, and will be given a date of 21 October 2005 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

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

Anthony Smith

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

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01 FEB 2006

Emanuele Burattini
Rue De Merk -D
Aubigne 4
1207 Geneva
Switzerland

In re Application of
MONTES et al.
Application No.: 10/513,552
PCT No.: PCT/US03/14727
Int. Filing: 09 May 2003
Priority Date: 11 May 2002
Attorney Docket No.: 04-622-A
For: 1,1- AND 1,2 BISPHOSPHONATES AS APOLIPOPROTEIN E MODULATORS

Dear Emanuele Burattini:

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:
MCDonnell Boehnen Hulbert & Berghoff LLP
300 South Wacker Drive, 32nd Floor
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06 FEB 2006

McDonnell Boehnen Hulbert & Berghoff
300 South Wacker Drive
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Chicago IL 60606

In re Application of MONTES et al. Application No.: 10/513,553 PCT No.: PCT/US03/14728 Int. Filing Date: 09 May 2003 Priority Date: 11 May 2002 Attorney Docket No.: 04-621-A For: HYDROXYPHOSPHONATES AND PHOSPHONOPHOSPHATES AS APOLIPOPROTEIN E MODULATORS	DECISION on PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 21 October 2005 in the United States Patent and Trademark Office (USPTO) in response to the 23 March 2005 Notification of Missing Requirements. Applicants also request a five month extension of time, which 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), was required. The NOTIFICATION set a two-month extendable period for response. Extensions of time were available under 37 CFR 1.136(a).

On 21 October 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 Sherri L. Oslick.

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 Item (1) with the payment of the petition fee.

With regard to Item (2), applicant provided evidence that the nonsigning inventor Emanuele Burattini cannot be reached by the first hand statement of Sherri L. Oslick. Ms Oslick demonstrate her attempt to reach Mr. Burattini via E-mail, internet searches, contact with his last known employer and an attempted delivery to his last known address. All were unsuccessful. This is sufficient evidence to demonstrate that the 37 CFR 1.47(a) applicant is unable to locate the nonsigning inventor. Item (2) is satisfied.

The last known address of the nonsigning inventor was provided satisfying Item (3).

Item (4) has been satisfied. The declaration filed 21 October 2005 is acceptable as the declaration submitted identifies all inventors and their respective citizenship, residency and mailing address.

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 21 October 2005. The application has an international filing date of 09 May 2003 under 35 U.S.C. 363, and a date of 21 October 2005 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

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06 FEB 2006

Mr. Emanuele Burattini
Rue De Merk-D
Aubigne 4
1207 Geneva
Switzerland

In re Application of MONTES et al. Application No.: 10/513,553 PCT No.: PCT/US03/14728 Int. Filing Date: 09 May 2003 Priority Date: 11 May 2002 Attorney Docket No.: 04-621-A For: HYDROXYPHOSPHONATES AND PHOSPHONOPHOSPHATES AS APOLIPOPROTEIN E MODULATORS	DECISION on PETITION UNDER 37 CFR 1.47(a)

Dear Mr. Burattini:

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

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

Cynthia M. Kratz
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JUN 25 2010

OFFICE OF PETITIONS

In re Application of :
Michael S. Brogan, et al. :
Application No. 10/513,555 : ON PETITION
Filed: November 5, 2004 :
Attorney Docket No.: L2013-7000US :

This is a decision on the petition, filed June 24, 2010, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee and supplement filed June 25, 2010. This is also a decision on the petition under 37 CFR 1.78(a)(6), filed June 24, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed Application Data Sheet.

The petition under 37 CFR 1.313(c)(2) 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 14, 2010, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

As to the 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 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.*

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

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 3762 for further processing of the RCE under 37 CFR 1.114 filed June 25, 2010, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/513,555	11/05/2004	3762	1265	L2013-7000US	18	3

CONFIRMATION NO. 4182

CORRECTED FILING RECEIPT

37462
LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE, MA 02142

OC000000042307057

Date Mailed: 06/28/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Michael S. Brogan, Buffalo, NY;
Laura E. Edsberg, Newfane, NY;
Douglas P. Kalinowski, Newstead, NY;

Power of Attorney: The patent practitioners associated with Customer Number 37462

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US03/14780 05/09/2003
which claims benefit of 60/379,207 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 06/25/2010

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/513,555**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

ELECTRICAL STIMULATION UNIT AND WATERBATH SYSTEM

Preliminary Class

607

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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HODGSON RUSS LLP
THE GUARANTY BUILDING
140 PEARL STREET
SUITE 100
BUFFALO NY 14202-4040

MAILED

OCT 26 2009

OFFICE OF PETITIONS

In re Application of Francesca Curry Application No. 10/513,559 Filed: June 13, 2005 Attorney Docket No. 018872.00155	: : : : :	DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 6, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed October 7, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 8, 2008

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

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571)272-4584.

This application is being referred to Technology Center AU 3764 for appropriate action by the Examiner in the normal course of business on the reply received.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES 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 MAR 2007

Michael A. Gollin
VENABLE, LLP
P.O. Box 34385
Washington, DC 20043-9998

In re Application of	:	
PINAUD, et al.	:	
Application No.: 10/513,567	:	DECISION ON PETITION
PCT No.: PCT/US03/14401	:	
Int. Filing Date: 07 May 2003	:	UNDER 37 CFR 1.181
Priority Date: 07 May 2002	:	
Attorney Docket No.: 58086-223912	:	
For: BIOACTIVATION OF PARTICLES	:	

This decision is in response to applicant's petition to withdraw the holding of abandonment filed 26 May 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 07 May 2003, applicant filed international application PCT/US03/14401, which claimed priority of an earlier application filed 07 May 2002. Pursuant to 37 CFR 1.485, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 07 November 2004.

On 03 November 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1).

On 25 April 2005, applicant was mailed a NOTIFICATION TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS 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 which complied with 37 CFR 1.821-1.825 was required. Applicant was afforded two months to file a proper response.

On 28 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 25 April 2005 within the time period set therein and that above-identified application was abandoned as to the United States.

On 26 May 2006, applicant filed the present petition to withdraw the holding of abandonment arguing that a response had been filed on 02 June 2005.

DISCUSSION

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. Here, applicant has provided a copy of the date-stamped postcard receipt. The postcard identifies the application by applicant, title and attorney docket number. Among the items listed on the receipt is: "Copy of New Sequence Listing (2 pages)" The receipt is stamped "JC02 Rec'd PCT/PTO 07 JUN 2005." Thus, it is clear that applicant filed a new sequence listing on 07 June 2005 and it is proper to grant applicant's petition to withdraw the holding of abandonment for failure to file a response.

It is noted that the sequence listing supplied has been held to be non-compliant. As such, this application will be returned to the U.S. designated/elected office (US/DO/EO/) for the mailing of a "Notification of Defective Response" (Form PCT/DO/EO/916). A copy of the "Raw Sequence Listing Error Report" accompanies this decision.

CONCLUSION

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

The Form PCT/DO/EO/909 mailed 28 March 2006 is hereby **VACATED**.

This application is being returned to the US/DO/EO for the mailing of a Form PCT/DO/EO/916.

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

Encl: Raw 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: 10/513,567
Source: 1600
Date Processed by STIC: 6/1/06

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

1600

RAW SEQUENCE LISTING
PATENT APPLICATION: US/10/513,567

DATE: 06/01/2006
TIME: 12:09:18

Input Set : N:\513567.txt
Output Set: N:\CRF4\06012006\J513567.raw

Suggestion: Consult Sequence Rules

```
     2 <110> APPLICANT: PINAUD, Fabien
     3       KING, David
     4       WEISS, Shimon
     6 <120> TITLE OF INVENTION: BIOACTIVATION OF NANOPARTICLES
     8 <130> FILE REFERENCE: 0180.0041
C--> 10 <140> CURRENT APPLICATION NUMBER: US/10/513,567
C--> 11 <141> CURRENT FILING DATE: 2004-11-03
    13 <150> PRIOR APPLICATION NUMBER: 60/378,720
    14 <151> PRIOR FILING DATE: 2002-05-07
    16 <160> NUMBER OF SEQ ID NOS: 7
    18 <170> SOFTWARE: Word for Windows
    20 <210> SEQ ID NO: 1
    21 <211> LENGTH: 10
    22 <212> TYPE: PRT
    23 <213> ORGANISM: Artificial Sequence
    25 <220> FEATURE:
    26 <222> LOCATION: 1, 4, 7 and 10
    27 <223> OTHER INFORMATION: Xaa is ala substituted with a hydrophobic group
    29 <400> SEQUENCE: 1
W--> 31 Xaa Cys Cys Xaa Cys Cys Xaa Cys Cys Xaa
    32   1               5                  10
    34 <210> SEQ ID NO: 2
    35 <211> LENGTH: 20
    36 <212> TYPE: PRT
    37 <213> ORGANISM: Artificial Sequence
    39 <220> FEATURE:
    40 <222> LOCATION: 11, 14, 17 and 20
    41 <223> OTHER INFORMATION: Xaa is ala substituted with a hydrophobic group
    43 <400> SEQUENCE: 2
W--> 45 Gly Ser Glu Ser Gly Gly Ser Glu Ser Gly Xaa Cys Cys Xaa Cys Cys
    46   1               5                  10                  15
W--> 48 Xaa Cys Cys Xaa
    49                  20
    51 <210> SEQ ID NO: 3
    52 <211> LENGTH: 20
    53 <212> TYPE: PRT
    54 <213> ORGANISM: Artificial Sequence
    56 <220> FEATURE:
    57 <222> LOCATION: 11, 14, 17 and 20
    58 <223> OTHER INFORMATION: Xaa is ala substituted with a hydrophobic group
    60 <400> SEQUENCE: 3
W--> 62 Gly Ser Ser Ser Gly Gly Ser Ser Ser Gly Xaa Cys Cys Xaa Cys Cys
    63   1               5                  10                  15
```

pp 1-4

Does Not Comply
Corrected Diskette Needed

needs explanation

see p. 3 for error explanation

same error

same

RAW SEQUENCE LISTING
PATENT APPLICATION: US/10/513,567

DATE: 06/01/2006
TIME: 12:09:18

Input Set : A:\513567.txt
Output Set: N:\CRF4\06012006\J513567.raw

```
W--> 65 Xaa Cys Cys Xaa
     66                 20
     68 <210> SEQ ID NO: 4
     69 <211> LENGTH: 29
     70 <212> TYPE: PRT
     71 <213> ORGANISM: Artificial Sequence
     73 <220> FEATURE:
     74 <222> LOCATION: 20, 23, 26 and 29
     75 <223> OTHER INFORMATION: Xaa is ala substituted with a hydrophobic group
     77 <400> SEQUENCE: 4
     79 Gly Pro Lys Lys Lys Arg Lys Val Gly Gly Ser Glu Ser Gly Gly Ser
     80   1               5                  10                  15
W--> 82 Glu Ser Gly Xaa Cys Cys Xaa Cys Cys Xaa Cys Cys Xaa
     83                 20                  25
     85 <210> SEQ ID NO: 5
     86 <211> LENGTH: 21
     87 <212> TYPE: PRT
     88 <213> ORGANISM: Artificial Sequence
     90 <220> FEATURE:
     91 <222> LOCATION: 12, 15, 18 and 21
     92 <223> OTHER INFORMATION: Xaa is ala substituted with a hydrophobic group
     94 <400> SEQUENCE: 5
W--> 96 Lys Gly Ser Glu Ser Gly Gly Ser Glu Ser Gly Xaa Cys Cys Xaa Cys
     97   1               5                  10                  15
W--> 99 Cys Xaa Cys Cys Xaa
     100                20
     102 <210> SEQ ID NO: 6
     103 <211> LENGTH: 10
     104 <212> TYPE: PRT
     105 <213> ORGANISM: Artificial Sequence
W--> 107 <220> FEATURE:
W--> 107 <223> OTHER INFORMATION:
W--> 107 <400> 6
     109 Gly Ser Glu Ser Gly Gly Ser Glu Ser Gly
     110   1               5                  10
     112 <210> SEQ ID NO: 7
     113 <211> LENGTH: 10
     114 <212> TYPE: PRT
     115 <213> ORGANISM: Artificial Sequence
W--> 117 <220> FEATURE:
W--> 117 <223> OTHER INFORMATION:
W--> 117 <400> 7
     119 Gly Ser Ser Ser Gly Gly Ser Ser Ser Gly
     120   1               5                  10
```

same

see p. 3

p. 3

RAW SEQUENCE LISTING ERROR SUMMARY DATE: 06/01/2006
PATENT APPLICATION: US/10/513,567 TIME: 12:09:19

Input Set : A:\513567.txt
Output Set: N:\CRF4\06012006\J513567.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#:1; Xaa Pos. 1,4,7,10
Seq#:2; Xaa Pos. 11,14,17,20
Seq#:3; Xaa Pos. 11,14,17,20
Seq#:4; Xaa Pos. 20,23,26,29
Seq#:5; Xaa Pos. 12,15,18,21

Use of <220> Feature(NEW RULES): error explanation
Sequence(s) are missing the <220> Feature and associated headings.
Use of <220> to <223> is MANDATORY if <213> ORGANISM is "Artificial Sequence" or"Unknown". Please explain source of genetic material in <220> to <223> section (See "Federal Register," 6/01/98, Vol. 63, No. 104,pp.29631-32) (Sec.1.823 of new Rules)

Seq#:6,7,1-5

10/513,567 4

<110> PINAUD, Fabien
KING, David
WEISS, Shimon

<120> BIOACTIVATION OF NANOPARTICLES

<130> 0180.0041

<140> 10/513,567 ~~(PCT/US03/14401)~~ this goes in prior application data section
<141> 2003-05-07

<150> 60/378,720
<151> 2002-05-07

<150> PCT/US03/14401
<151> 2003-05-27

<160> 7

<170> Word for Windows

5

VERIFICATION SUMMARY DATE: 06/01/2006
PATENT APPLICATION: US/10/513,567 TIME: 12:09:19

Input Set : A:\513567.txt
Output Set: N:\CRF4\06012006\J513567.raw

L:10 M:270 C: Current Application Number differs, Replaced Current Application Number
L:11 M:271 C: Current Filing Date differs, Replaced Current Filing Date
L:31 M:258 W: Mandatory Feature missing, <221> Tag not found for SEQ ID#:1
L:31 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:1 after pos.:0
L:45 M:258 W: Mandatory Feature missing, <221> Tag not found for SEQ ID#:2
L:45 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:2 after pos.:0
L:48 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:2 after pos.:16
L:62 M:258 W: Mandatory Feature missing, <221> Tag not found for SEQ ID#:3
L:62 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:3 after pos.:0
L:65 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:3 after pos.:16
L:82 M:258 W: Mandatory Feature missing, <221> Tag not found for SEQ ID#:4
L:82 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:4 after pos.:16
L:96 M:258 W: Mandatory Feature missing, <221> Tag not found for SEQ ID#:5
L:96 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:5 after pos.:0
L:99 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:5 after pos.:16
L:107 M:258 W: Mandatory Feature missing, <220> Tag not found for SEQ#:6, <213>
ORGANISM:Artificial Sequence
L:107 M:258 W: Mandatory Feature missing, <223> Tag not found for SEQ#:6, <213>
ORGANISM:Artificial Sequence
L:107 M:258 W: Mandatory Feature missing, <223> Blank for SEQ#:6,Line#:107
L:117 M:258 W: Mandatory Feature missing, <220> Tag not found for SEQ#:7, <213>
ORGANISM:Artificial Sequence
L:117 M:258 W: Mandatory Feature missing, <223> Tag not found for SEQ#:7, <213>
ORGANISM:Artificial Sequence
L:117 M:258 W: Mandatory Feature missing, <223> Blank for SEQ#:7,Line#:117

UNITED STATES PATENT AND TRADEMARK OFFICE

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13 SEP 2007

VENABLE, LLP
P.O. Box 34385
Washington, DC 20043-9998

In re Application of	:	
PINAUD, et al.	:	
Application No.: 10/513,567	:	DECISION ON PETITION
PCT No.: PCT/US03/14401	:	
Int. Filing Date: 07 May 2003	:	UNDER 37 CFR 1.181
Priority Date: 07 May 2002	:	
Attorney Docket No.: 58086-223912	:	
For: BIOACTIVATION OF PARTICLES	:	

This decision is in response to applicant's "Petition to Enter Corrected Sequence Listing Under 37 CFR 1.181" filed 15 August 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 15 March 2007, applicant was mailed a decision granting applicant's petition to withdraw the holding of abandonment. Applicant was informed that the application would be forwarded to the US/DO/EO for the mailing of a Form PCT/DO/EO/916 regarding the need for a corrected sequence listing.

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

DISCUSSION

Applicant is advised that there is no procedure under 37 CFR 1.181 for the expedited processing of communications. As such, applicant's petition is dismissed as moot. However, the papers currently filed will be forwarded to the USPTO Scientific and Technical Information Center for consideration. Should the filed sequence listing be found to be defective, applicant will be mailed the "Notification of Defective Response" (Form PCT/DO/EO/916) referenced in the decision mailed 15 March 2007.

CONCLUSION

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

This application is being forwarded to the USPTO Scientific and Technical Information Center for consideration of applicant's current 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

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

19 DEC 2006

PEPPER HAMILTON LLP
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTSBURGH PA 15219

In re Application of GRUSKIN et al. Application No.: 10/513,573 PCT No.: PCT/US03/14156 Int. Filing Date: 05 May 2003 Priority Date: 04 May 2002 Attorney Docket No.: 127304.00601 For: COMPOSITIONS AND METHODS FOR GROWING NEUTRONAL OUTGROWTH	DECISION ON PETITION UNDER 37 CFR 1.182

This is a decision on applicants' "PETITION UNDER 37 CFR 1.182 TO CHANGE NAME OF INVENTOR" filed in the United States Patent and Trademark Office (USPTO) on 11 October 2006. Applicants request that the application reflect joint inventor Sarah Hogan's name change to Sarah Kasperbauer. The $130 petition fee has been paid.

Applicant submitted the petition under 37 CFR 1.182 along with the declaration of Sarah Kasperbauer. The declaration states that Sarah Hogan changed her name to Sarah Kasperbauer upon her divorce. Thus, the evidence is sufficient to conclude that inventor Hogan changed her name to Sarah Kasperbauer.

For the above reasons, the declaration submitted on 07 March 2006 now meets the requirements of 37 CFR 1.497(a) and (b) and is acceptable.

The petition under 37 CFR 1.182 to change the inventor's name from Sarah Hogan to Sarah Kasperbauer is **GRANTED**.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 07 March 2006.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571) 272-3286

15 AUG 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PEPPER HAMILTON LLP
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTSBURGH PA 15219

In re Application of GRUSKIN et al. Application No.: 10/513,573 PCT No.: PCT/US03/14156 Int. Filing Date: 05 May 2003 Priority Date: 04 May 2002 Attorney Docket No.: 127304.00601 For: COMPOSITIONS AND METHODS FOR GROWING NEUTRONAL OUTGROWTH	DECISION ON DECLARATION

This is a decision on the submission of a declaration filed in the United States Patent and Trademark Office (USPTO) on 07 March 2006.

BACKGROUND

On 04 November 2004, applicant filed a request for entry into the national stage under 35 U.S.C. 371(c) with the United States Designated/Elected Office (DO/EO/US) along with the basic national fee.

On 09 January 2006, a Notification of Missing Requirements was mailed to applicant 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 07 March 2006, applicant responded to the Notification of Missing Requirements with an executed declaration. The declaration indicated the name of fourth inventor as "Sarah Kasperbauer (formerly known as Sarah Hogan)". The declaration was signed as Sarah Kasperbauer. However, the published international application identified the inventor as S.J. Hogan. No explanation was provided.

A petition under 37 CFR 1.182 is required to accept the change in the name of the inventor. As explained in MPEP 605.04(c), applicant must provide a signed affidavit setting forth both names and the procedure whereby the change of name was effected, or a certified copy of the court order. Here, applicant should submit the statement of Sarah Hogan regarding her respective change of name. The declaration, indicating Sarah Kasperbauer as an inventor, is not in compliance with 37 CFR 1.497 and unacceptable.

The requirements of 37 CFR 1.497 have not been met and the declaration is unacceptable.

CONCLUSION

For the above reasons, the declaration does not meet the requirements of 37 CFR 1.497(a) and (b) and is unacceptable.

Applicant is required to correct the above-noted defects including the furnishing of an oath/declaration in compliance with 37 CFR 1.497 within **TWO (2) MONTHS** from the mail date of this Decision. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571) 272-3286

A8

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19 DEC 2006

PEPPER HAMILTON LLP
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PITTSBURGH PA 15219

In re Application of GRUSKIN et al. Application No.: 10/513,573 PCT No.: PCT/US03/14156 Int. Filing Date: 05 May 2003 Priority Date: 04 May 2002 Attorney Docket No.: 127304.00601 For: COMPOSITIONS AND METHODS FOR GROWING NEUTRONAL OUTGROWTH	DECISION ON PETITION UNDER 37 CFR 1.182

This is a decision on applicants' "PETITION UNDER 37 CFR 1.182 TO CHANGE NAME OF INVENTOR" filed in the United States Patent and Trademark Office (USPTO) on 11 October 2006. Applicants request that the application reflect joint inventor Sarah Hogan's name change to Sarah Kasperbauer. The $130 petition fee has been paid.

Applicant submitted the petition under 37 CFR 1.182 along with the declaration of Sarah Kasperbauer. The declaration states that Sarah Hogan changed her name to Sarah Kasperbauer upon her divorce. Thus, the evidence is sufficient to conclude that inventor Hogan changed her name to Sarah Kasperbauer.

For the above reasons, the declaration submitted on 07 March 2006 now meets the requirements of 37 CFR 1.497(a) and (b) and is acceptable.

The petition under 37 CFR 1.182 to change the inventor's name from Sarah Hogan to Sarah Kasperbauer is **GRANTED**.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 07 March 2006.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571) 272-3286

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United States Patent and Trademark Office
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MARIA GERARDA WILHELMINA GUNNEWIJK
ROMEOSTRAAT 9
GRONINGEN 9746BA NL
NETHERLANDS

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OFFICE OF PETITIONS

In re Application of

GUNNEWIJK, et al.
Application No. 10/513,575
Filed: November 3, 2004
Attorney Docket No. 246152023500

DECISION ON REQUEST FOR REVOCATION OF POWER OF ATTORNEY

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed October 2, 2006.

The request is **NOT APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The request cannot be approved because the statement under 3.73(b) is incomplete and therefore not proper.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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12531 HIGH BLUFF DRIVE, SUITE 100
SAN DIEGO CA 92130-2040

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OFFICE OF PETITIONS

In re Application of
GUNNEWIJK, et al.
Application No. 10/513,575
Filed: November 3, 2004
Attorney Docket No. 246152023500

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 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.

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 October 2, 2006 included an improper statement under 37 CFR 3.73(b) and is therefore not accepted.

There is an outstanding Office action mailed July 28, 2006 that requires a reply from the applicant.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MARIA GERARDA WILHELMINA GUNNEWIJK**
ROMEOSTRAAT 9
GRONINGEN, THE NETHERLANDS 9746BA

cc: **MR. BRYAN H. DAVIDSON**
NIXON & VANDERHYE PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203-1808

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Goudreau Gage Dubuc
2000 McGill College
Suite 2200
Montreal, Canada H3A 3-H3

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OFFICE OF PETITIONS

In re Application of	:	
Naim Karazivan et al.	:	
Application No. 10/513,578	:	DECISION ON PETITION
Filed: November 5, 2004	:	TO WITHDRAW
Attorney Docket No. MS/13757.71	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 25, 2006.

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

A review of the file record indicates that the power of attorney to Gwendoline Bruneau and all attorneys/agents of record has been revoked by the assignee of the patent application on May 30, 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: Angelhart et al.
Suite 1, Sutton House
186, Place Sutton
Beaconsfield QC H9W 5S3 CA
CANADA

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Anglehart et al.
Suite 258
393 St.-Jacques
Montreal QC H2Y 1N9 CA
Canada

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OFFICE OF PETITIONS

In re Application of	:	
Naim Karazivan et al.	:	
Application No. 10/513,578	:	DECISION ON PETITION
Filed: November 5, 2004	:	
Attorney Docket No. P1011US00	:	

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 for failure to file a proper reply in a timely manner to the non-final Office action mailed January 13, 2009, 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 April 14, 2009.

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 after non-final, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on July 16, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

This application is being referred to Technology Center AU 3737 for appropriate action by the Examiner in the normal course of business on the reply received July 16, 2009.

Carl Friedman
Petitions Examiner
Office of Petitions

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APPLIED MEDICAL RESOURCES CORPORATION
22872 Avenida Empresa
Rancho Santa Margarita CA 92688

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OFFICE OF PETITIONS

In re Application of	:	
John C. Alverdy	:	
Application No. 10/513,583	:	DECISION ON PETITION
Filed: November 2, 2004	:	TO WITHDRAW
Attorney Docket No. 2464-USP-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 October 4, 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, ***change in ownership***, 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.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **John C. Alverdy**
921 Club Circle
Glenview, IL 60025

04 AUG 2005

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KRAMER LEVIN NAFTALIS & FRANKEL LLP
INTELLECTUAL PROPERTY DEPARTMENT
1177 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

In re Application of	:	
CHEN, Jiaqing et al.	:	
Application No.: 10/513,586	:	DECISION
PCT No.: PCT/US03/13936	:	
Int. Filing Date: 05 May 2003	:	ON REQUEST UNDER
Priority Date: 03 May 2002	:	
Attorney's Docket No.: 57637/1082	:	37 CFR 1.497(d)
For: RADIOPHARMACEUTICAL	:	
FORMULATIONS	:	

This decision is in response to "Request to Correct Inventorship Under 37 C.F.R. §1.497(d)," filed on 16 May 2005.

BACKGROUND

On 05 May 2003, applicant filed international application PCT/US03/13936, which claimed a priority date of 03 May 2002. The deadline for entry into the national stage in the United States was midnight on 03 November 2004.

On 03 November 2004, applicant filed a submission for entry into the national stage in the United States, accompanied by, *inter alia*, the U.S. Basic National Fee.

On 23 March 2005, the Office mailed Notification of Missing Requirements, indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 16 May 2005, applicant filed a declaration of the inventors and the instant request.

DISCUSSION

Applicants file this request to add Aldo Cagnolini as inventor.

A request under 37 CFR 1.497(d) requires: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in §1.17(i); and (3) the written consent of the assignee, if an original named inventor has executed an assignment.

Items (1), (2) and (3) have been satisfied. Applicants provided as statement by Aldo Cagnolini, the processing fee and the consent of the assignee.

CONCLUSION

For the above reasons, applicants' request under 37 CFR 1.497(d) is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including accordation of a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of **16 May 2005**.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/513,595	11/05/2004	King L K Cheng	36-1868	7859

23117 7590 05/26/2009
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER
SMARTH, GERALD A

ART UNIT	PAPER NUMBER
2446	

MAIL DATE	DELIVERY MODE
05/26/2009	PAPER

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

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

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MAY 26 2009

TECHNOLOGY CENTER 2100

Larry S Nixon
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of:
King L K CHENG
Application No. **10/513595**
Filed: November 05, 2004
For: METHOD AND APPARATUS FOR SELECTING USER POLICIES

DECISION ON PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW FINALITY OF OFFICE ACTION

This is a decision on the petition filed March 26, 2009 under 37 CFR § 1.181 to invoke Supervisory Authority and require the Examiner to withdraw the Finality of office action mailed March 13, 2009.

The petition is **DISMISSED**.

RELEVANT PROSECUTION HISTORY

In the first Office action, mailed Sept. 11, 2007, the Examiner rejected claims 1-20 under 102(b) as being anticipated by Gai (US Patent Number 6,167,445).

Applicant responded on April 05, 2006 by amending claims 1-4, 6-10, 12-20 and cancelled claim 11. Amended claim includes the limitation 1) "a method for selecting [[a]] user network usage policies for use respectively with [[an]] each of a plurality of application sessions, said method comprising: a) storing a plurality of user network usage policies [[;]]and performing the following in respect of each said application sessions;" (the change in scope stemming from the specific functions in each of said application session and a plurality of the application sessions).

On April 15, 2008, the Examiner issued a final action rejecting claims 1-10, 12-20 under 102(b) as being anticipated by Gai (US Patent Number 6,167,445). The examiner maintained the same ground of rejection relying on Gai to teach the plurality of application sessions and responded to applicant's arguments. The examiner held that applicants' amendment did not overcome the art rejection but that and necessitated the new grounds of rejection (changing the mapping and removal of claim 11).

On August 15, 2008, applicant filed an after-final amendment fixing some typographical issues on some claims and changing the scope of claim 14 by amending it as follows: "environmental comparing means for comparing one or more contemporary environmental conditions with one or more (a) predetermined policy characteristics ~~and/or~~ and (b) predetermined application session characteristics of each of said application sessions according to one or more predetermined logical conditions contained in a user policy."

On September 15, 2008, a notice of appeal was received.

In an advisory action dated September 29, 2008, the examiner did not enter this amendment after final as a change in scope made after finality was drawn requiring further search and consideration.

On August 17, 2008, an appeal brief was filed appealing the 102(b) rejection on claims 1-10, 12-20.

In an action dated March 13, 2009, the examiner reopened prosecution and presented a new grounds of rejection rejecting claims 1-10, 12-20 under 103(a) as unpatentable over Richter (U.S. Patent Publication 2003/0046396) in view of Klinker (U.S. Patent Publication No. 2003/0088671). In this rejection, the examiner did not properly indicate entering the after final filed August 15, 2008, according to MPEP 1207.04, but the limitations are addressed in the Richter reference.

Richter, page 3, para 13, 14, and 16 among other locations, teaches the limitations in a conjunctive case. The step of environmental comparing of conditions is seen in para 13-14, 16 by the steps of tracking and reporting. The conditions are compared against a) predetermined policy characteristics (interpreted as the service level agreements of para 13). The conditions are also compared against the b) predetermined application session characteristics of each of said application sessions according to one or more predetermined logical conditions contained in a user policy by way of para 16 of Richter. The predetermined applications session characteristics are mapped to bandwidth requirements from service level agreements (SLA) policies (interpreted as user policy) for each application (see "implemented across all applications hosted, as well as across multiple user and multiple applications, systems, and system configurations").

On March 26, 2009, a petition for withdrawal of "final" designation of the office action dated March 13, 2009 was received. In the petition applicant states that "even if this rule 1.116 amendment has now been entered, ..., it clearly could not "necessitate" any new grounds of rejection.

REGULATION AND PRACTICE

MPEP 706.07(a) states in part that:

> Under present practice, **second or any subsequent action on the merits *shall* be made final**, except where the examiner introduces a new ground of rejection not necessitated by amendment of the application by the applicant, whether or not the prior art is already of record.

MPEP 706.07(d) states in part that:

> If, on request by applicant for reconsideration, the primary examiner finds the final rejection to have been premature, he or she should withdraw the finality of the rejection. Once the finality of the Office action has been withdrawn, the next Office action may be made final if the conditions set forth in MPEP § 706.07(a) are met.

MPEP. 1207.04 states in part that:

> The Office action containing a **new ground of rejection may be made final** if the new ground of rejection was (A) **necessitated by amendment**, or (B) based on information presented in an information disclosure statement under 37 CFR 1.97(c) where no statement under 37 CFR 1.97(e) was filed. See MPEP § 706.07(a). Any after final amendment or affidavit or other evidence that was not entered before must be entered and considered on the merits.

37 C.F.R. § 1.181(f) states, in part:

> The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings...

DECISION

A review of the prosecution history in the instant application indicates that the Final rejection of claims 1-10, 12-20 is proper since the new ground of rejection was necessitated by the amendments filed in the response dated April 15, 2008.

Claims 1-10, 12-20 have been rejected under 35 U.S.C. §§ 103(a). Since the action is not the first office action (meeting the requirement that is a 'second or any subsequent action on the merits'), and the amendment dated April 5, 2008, necessitates a new grounds of rejection, the finality is properly made.

Pursuant to MPEP § 1201, the petition is **DISMISSED.**

Further, pursuant to 37 C.F.R. § 1.181(f), the shortened statutory period for reply is continued to run three months from the mailing date of the Final Office Action.

Any inquiry concerning this decision should be directed to Kim Huynh whose telephone number is (571) 242-4147.

Jack Harvey, Director
Technology Center 2400
Network, Multiplexing, Cable and Security

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/513,595	11/05/2004	King L K Cheng	36-1868	7859

23117 7590 07/31/2009
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER
SMARTH, GERALD A

ART UNIT	PAPER NUMBER
2446	

MAIL DATE	DELIVERY MODE
07/31/2009	PAPER

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

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

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

Larry S. Nixon
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of: CHENG, King L.K.
Application No. **10/513,595**
Filed: November 05, 2004
Docket No. 36-1868
Title: METHOD AND APPARATUS FOR SELECTING USER POLICIES

DECISION ON PETITION
UNDER 37 C.F.R. § 1.181

This is a decision on the Request for reconsideration filed *June 01, 2009* for reconsideration of previous decision filed May 26, 2009. This is additionally a decision on subsequent petition filed *July 13, 2009* under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner to seek prompt consideration on earlier request for reconsideration filed June 1, 2009.

Petition to the Director under 37 CFR § 1.181 seeks relief from Examiner's action in relation to the Final Office Action mailed ***March 13, 2009, namely,*** requesting the withdrawal of the finality thereof.

This petition is **DISMISSED AS MOOT.**

RELEVANT HISTORY PROSECUTION

04/15/08 Final office action was mailed, which rejected claims 1-10, and 12-20 as being anticipated by Gai et. al. (US 6,167,445). The action additionally rejected claim 14 under 35 U.S.C. 112 second as being indefinite apparently because of the use of the phrase "and/or" in the claim.

08/15/08 After-final amendment/reply under 37 C.F.R. §1.116 was filed which included amendments to: (i) claims 3, 4 and 9 to correct typographical errors; and (ii) claim 14 was amended to obviate previous rejection under 35 U.S.C. 112 second by restricting the alternative language "and/or" amended to "and".

09/15/08 Notice of Appeal was filed.

09/29/08 Advisory Action was mailed by which entry of After Final amendment/reply mailed 8/15/08. Advisory Action denied entry to said After Final because (a) "it raised new issues that would require further consideration and/or search", according to PTOL-300 form.

11/17/08	Appeal Brief which purported that amended filed 08/14/08 under 37 C.F.R. §1.116 was not entered, thus the status of the claims are in accordance with amendment entered under 37 C.F.R. §1.111 filed January 10, 2008.
03/13/09	Final office action reopening prosecution after Appeal Brief was filed. The action contained new grounds of rejection, namely, claims 1-10, 12-20 rejected under 35 U.S.C. 103(a) as being unpatentable over Richter et. al. (US 2003/00463396) in view of Klinker et. al. (US 2003/0088671)
03/26/09	Petition for withdrawal of finality of action mailed March 13, 2009 was filed.
05/26/09	Dismissal petition decision for petition filed 3/26/09 was mailed.
06/01/09	Request of reconsideration on decision filed 5/26/09 was filed.
07/13/09	RCE with enclosed amendment/reply was filed. Amendment reply included amendment to claims independent claims 1 and 12.
07/13/09	Petition under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner to seek prompt consideration on earlier request for reconsideration filed June 1, 2009 was filed.

REGULATION AND PROCEDURES

803.02 Amendments submitted after the final rejection further restricting the scope of the claim may be denied entry *if they do not* comply with the requirements of 37 C.F.R. §1.116. See MPEP § 714.13.

1.115 Preliminary Amendments: § 1.116 Amendments and affidavits or other evidence after final action and prior to appeal. (a) An amendment after final action must comply with § 1.114 or this section. (b) After a final rejection or other final action (§ 1.113) in an application or in an ex parte reexamination filed under § 1.510, or an action closing prosecution (§ 1.949) in an inter partes reexamination filed under § 1.913, but before or on the same date of filing an appeal (§ 41.31 or § 41.61 of this title): (1) An amendment may be made canceling claims or complying with any requirement of form expressly set forth in a previous Office action.

706.07(a) [R-6] Final Rejection, When Proper on Second Action

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. See MPEP § 904 et seq. 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).

1207.04 [R-3] Reopening of Prosecution After Appeal

The examiner may, with approval from the supervisory patent examiner, reopen prosecution to enter a new ground of rejection after appellant's brief or reply brief has been filed. The Office action containing a new ground of rejection may be made final if the new ground of rejection was (A) necessitated by amendment, or (B) based on information presented in an information disclosure statement under 37 CFR 1.97(c) where no statement under 37 CFR 1.97(e) was filed. See MPEP § 706.07(a). Any after final amendment or affidavit or other evidence that was not entered before must be entered and considered on the merits.

DECISION

Final office action mailed March 13, 2009 for which Petitioner seeks relief of Examiner's action, specifically, the finality designation of this office action has been considered. Office action mailed March 13, 2009 appears to be filed in response to Appeal Brief filed November 17, 2008. The corresponding status of the claims in the Appeal Brief stated that amended filed 08/14/08 under 37 C.F.R. §1.116 was *not* entered, thus the status of the claims are in accordance with amendment entered under 37 C.F.R. §1.111 filed January 10, 2008 (see page 6, section IV).

RCE with enclosed amendment/reply filed 7/13/09 enclosing amendment to claims independent claims 1 and 12, further including amendment to: (i) claims 3, 4 and 9 to correct typographical errors; and (ii) claim 14 was amended to obviate previous rejection under 35 U.S.C. 112 second by restricting the alternative language "and/or" amended to "and", and thereby renders the decision to this petition **dismissed as moot**.

Application has been forwarded to examiner for proper treatment of Request for Continued Prosecution with enclosed amendment to the claims, filed July 13, 2009.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-3902. If attempts to reach the undersigned by telephone are unsuccessful, Kim Huynh, Quality Assurance Specialist, can be reached at (571) 272-4147.
/bp/

/Beatriz Prieto/
Beatriz Prieto, Quality Assurance Specialist
Technology Center 2400,
Network, Multiplexing, Cable and Security

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

11/18/08

In re Application of:
TSUCHIYA, SUSUMU et al
Serial No. 10/513,600
Filed: Nov. 5, 2004
Docket: Q84336
Title: HARD DISK DRIVING CARRIAGE AND METHOD OF PRODUCING THE SAME

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the Request to Reset Time to Respond to Office Action filed May 5, 2008 requesting reset of time period to respond the outstanding Office action mailed on Feb. 15, 2008.

The petition is **granted.**

The Office action of Feb. 15, 2008 set a period of three months for reply. Petitioner alleges non-receipt of the Office action and has provided supporting evidence of non-receipt. In support of the petition, petitioner alleges that the outstanding Office action mailed on Feb. 15, 2008 was not received until a routine status check. Subsequently, the currently petition was filed on May 5, 2008. In the petition, petitioner requests the Office to re-mail the Office action and re-set the time period to respond.

In the absence of any irregularity in the mailing of the non-final Office action, there is a strong presumption that the Office communication was properly mailed to the correspondence address designated by applicant. This presumption may be overcome by a showing that the non-final Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from someone with firsthand knowledge stating that the Office communication was not received at the correspondence address of record 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).

In the petition, the applicant's attorney, Howard Bernstein has included statements regarding the surrounding facts of the non-receipt of the Office action and the supporting docket printout showing non-receipt of the Office action of Feb. 15, 2008.

Under the circumstances, the requirements of MPEP 710.06[1] are considered to have been met. This petition to re-mail the Office action and reset time to respond to the Office action mailed on Feb. 15, 2008 is granted. The period for reply is now reset to expire three months from the mailing date of the Office action.

The application is being forwarded to Examiner Debra Sullivan of Art Unit 3725 for further processing. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

Donald T. Hajec, Director
Technology Center 3700

[1] Relevant portion of MPEP 710.06 I. PETITIONS TO RESET A PERIOD FOR REPLY DUE TO LATE RECEIPT OF AN OFFICE ACTION The Office will grant a petition to restart the previously set period for reply to an Office action to run from the date of receipt of the Office action at the correspondence address when the following criteria are met: (A) the petition is filed within 2 weeks of the date of receipt of the Office action at the correspondence address; (B) a substantial portion of the set reply period had elapsed on the date of receipt (e.g., at least 1 month of a 2- or 3-month reply period had elapsed); and (C) the petition includes (1) evidence showing the date of receipt of the Office action at the correspondence address (e.g., a copy of the Office action having the date of receipt of the Office action at the correspondence address stamped thereon, a copy of the envelope (which contained the Office action) having the date of receipt of the Office action at the correspondence address stamped thereon, etc.), and (2) a statement setting forth the date of receipt of the Office action at the correspondence address and explaining how the evidence being presented establishes the date of receipt of the Office action at the correspondence address. There is no statutory requirement that a shortened statutory period of longer than 30 days to reply to an Office action be reset due to delay in the mail or in the Office. However, when a substantial portion of the set reply period had elapsed on the date of receipt at the correspondence address (e.g., at least 1 month of a 2- or 3-month period had elapsed), the procedures set forth above for late receipt of action are available. Where an Office action was received with less than 2 months remaining in a shortened statutory period of 3 months the period may be restarted from the date of receipt. Where the period remaining is between 2 and 3 months, the period will be reset only in extraordinary situations, e.g., complex Office action suggesting submission of comparative data.

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

In re Application of	:	
KUMAR, et al.	:	
Application No. 10/513,604	:	DECISION ON PETITION
Filed: August 5, 2005	:	TO WITHDRAW
Attorney Docket No. 0183.0032.00000	:	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 17, 2006.

The request is **NOT APPROVED**.

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

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

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

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

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: **Stanley Schurgin, Esq.**
Weingarten Schurgin Gagenbin & Lebovici LLP
Ten Post Office Square
Boston, MA 02109

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WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON, MA 02109

Mail Date: 04/27/2010

Applicant	: Satyendra Kumar	: DECISION ON REQUEST FOR
Patent Number	: 7638727	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/513,604	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **65** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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In re Application of	:	
Michael Dougherty et al.	:	
Application No. 10/513,605	:	DECISION ON PETITION
Filed: May 7, 2003	:	TO WITHDRAW
Attorney Docket No. 01837.0027	:	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 17, 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, **BTU International Inc. has requested that the application be transferred**, do not meet any the conditions set forth in 37 CFR 10.40 because BTU International Inc. has not properly intervened with a 3.73(b) that shows (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.

Diana P. Walsh for
Amelia Au
Petitions Examiner
Office of Petitions

cc: **Stanley Schurgin, Esq.**
Weingarten, Schurgin, Gagenbin & Lebovici, LLP
Ten Post Office Square
Boston, MA 02109

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In re Application of	:	
KUMAR, et al.	:	
Application No. 10/513,607	:	DECISION ON PETITION
Filed: July 05, 2005	:	TO WITHDRAW
Attorney Docket No. BTU-A-125XX	:	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 14, 2006.

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

A review of the file record indicates that the power of attorney to FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP has been revoked by the assignee of the patent application on September 08, 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 address indicated below until otherwise notified by applicant.

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

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: **WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI, LLP**
TEN POST OFFICE SQUARE
BOSTON, MA 02109

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#3

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

In re Application of	:	DECISION ON
Nalan Utku	:	
Application No.: 10/513,611	:	
PCT No.: PCT/EP02/14733	:	
Int. Filing Date: 23 December 2002	:	PETITION UNDER
Priority Date: 21 December 2001	:	
Attorney's Docket No.: 1427/73287/JPW/MJW	:	
For: ANTI-TIR7 ANTIBODIES IN THERAPY	:	
OF INFLAMMATORY DISEASES	:	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 05 November 2004.

BACKGROUND

On 23 December 2002, this international application was filed, claiming an earliest priority date of 21 December 2001.

On 05 November 2004, applicant filed the instant petition under 37 CFR 1.137(b) and Transmittal letter for entry into the national stage in the United States, which was accompanied by, basic national fee. No executed declaration or oath was submitted at such time.

DISCUSSION

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

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

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

DECISION

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

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

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

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OFFICE OF PETITIONS

In re Application of	:	
WATSON, et al.	:	
Application No. 10/513,614	:	DECISION ON PETITION
Filed: November 5, 2004	:	TO WITHDRAW
Attorney Docket No. **25791.104.05**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 18, 2007.

The request is **NOT APPROVED.**

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

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

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **TODD MATTINGLY**
KING & SPALDING LLP
1100 LOUISIANA STREE, SUITE 4000
HOUSTON, TX 77002

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OFFICE OF PETITIONS

Charles R Hoffmann
Hoffmann & Baron
6900 Jericho Turnpike
Syosset NY 11791

In re Application of Lutz et al. Application No. 10/513,615 In re Patent No. 7,368,217 Filing Date: January 13, 2005 Issue Date: May 6, 2008 Attorney Docket Number: 1093-116 PCT/US Title: MULTILAYER IMAGE, PARTICULARLY A MULTICOLOR IMAGE	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 3.81(B)

This is a decision on the "SECOND PETITION TO CORRECT THE NAME OF THE ASSIGNEE ON THE COVER PAGE OF A PATENT UNDER 37 CFR 3.81(b)," filed September 26, 2008, to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b).

The petition is **GRANTED**.

With this petition, Petitioner requests that a Certificate of Correction be issued to correct the assignee information that appears on the face of the patent. Petitioner has previously submitted a "Certificate of Correction" for this purpose, which indicates that the assignee "ORA Systems GmbH" should be changed to "ORA Systems GmbH and Leonhard Kurz GmbH & Co. KG"

37 C.F.R. §3.81(b), effective June 25, 2004, reads:

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

> by the fee set forth in 1.20(a)) and the processing fee set forth in 1.17(i) of this chapter.

Petitioner has set forth that the assignment was submitted for recordation as set forth in 37 C.F.R. § 3.11 before issuance of the patent, and Office records confirm that an assignment was received in the Office on February 22, 2005.

Payment of the required $130 processing fee and the required $100 certificate of correction fee[1] is acknowledged.

The Certificates of Correction Branch will be notified of this decision so that the requested Certificate of Correction can be issued.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Paul Shanoski
Senior Attorney
Office of Petitions

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1 Petitioner has paid the $130 petition fee twice, instead of submitting $130 and $100. The $30 overpayment will be refunded to Petitioner's Deposit Account in due course, as authorized on the second page of this petition.

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SCULLY SCOTT MURPHY & PRESSER, PC
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

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OFFICE OF PETITIONS

In re Application of	:	
Tsuyoshi Yanai, et al.	:	
Application No. 10/513,616	:	DECISION GRANTING PETITION
Filed: November 4, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 18348	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 7, 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 4, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1797 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

---

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

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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510

Mail Date: 07/09/2010

Applicant	: Alexander Schrey	: DECISION ON REQUEST FOR
Patent Number	: 7645814	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/513,630	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/05/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **969** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

In re Application of	:	
Pellecuer et al.	:	
Application No. 10/513,635	:	DECISION ON PETITION
Filed: May 13, 2005	:	
Attorney Docket No. 1429-144	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 25, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) 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 3611 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

14 MAR 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

Anthony P. Venturino
Stevens, Davis, Miller & Mosher, LLP
1615 L Street, Suite 850
Washington, D.C. 20036

In re Application of :
ASLIN et al. :
Application No.: 10/513,642 :
PCT No.: PCT/AU03/00519 :
Int. Filing Date: 02 May 2003 :
Priority Date: 03 May 2002 :
Attorney Docket No.: APV31830 :
For: REDUCING POWER CONSUMPTION IN ELECTRO-REFINING OR ELECTRO-WINNING OF METAL

DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 05 November 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 $130 surcharge for filing the oath or declaration after the thirty-month period is required.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 571-272-3298
Facsimile: 571-273-0459

20 MAY 2005

#4

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David G. Dolezal
Freescale Semiconductor, Inc.
Law Department
7700 W Parmer Lane
Mail Drop PL02
Austin TX 78729

In re Application of	:
BOURZEIX, *et al.*	:
US Application No.: 10/513,646	:
PCT Application No.: PCT/EP03/03437	:
Int. Filing Date: 02 April 2003	: DECISION ON
Priority Date: 26 April 2002	:
Attorney's File Reference: SC0965EG	: PETITION UNDER
For: APPARATUS AND METHOD FOR SCHEDULING TASKS IN A COMMUNICATIONS NETWORK	: 37 CFR 1.137(b)

This decision is in response to applicants' "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 05 November 2004. The petition is **GRANTED**.

BACKGROUND

On 02 April 2003, applicants filed international application PCT/EP03/03437. 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 26 October 2004. Applicant missed this deadline.

On 05 November 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 unexecuted declaration, the petition fee of $1370, charged (as authorized) to Deposit account 503079 on 10 November 2004, and the basic national fee of $920, charged (as authorized) to Deposit account 503079 on 10 November 2004.

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 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 basic national fee satisfies 37 CFR 1.137(b)(1). The payment of the petition fee satisfies the requirement under 37 CFR 1.137(b)(2). 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.

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 in compliance with 37 CFR 1.497(a)-(b).

Craig Thompson
PCT Legal Administration Detailee
Office of PCT Legal Administration
Telephone: 571-272-6094
Facsimile: 571-272-0459

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

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JUL 18 2005

In re Application of		:	
Jan Bjerregaard et al.		:	
Serial No.	10/513,648	:	DECISION ON PETITION
Filed:	November 5, 2004	:	
For:	A METAL PACKAGING	:	

This is a decision on the petition to make special filed on March 28, 2005. The petition is submitted pursuant to the practice established in MPEP § 708.02(II) "Infringement." The $130.00 petition fee has been received.

The petition is granted.

A review of the petition shows that petitioners have satisfied all of the requirements of the above-cited MPEP section. Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The Supervisory Patent Examiner of Patent Examining Art Unit 3728 will be notified of this decision, and will inform the assigned examiner to take action not inconsistent with this decision.

PETITION GRANTED.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

Pitney Hardin LLP
7 Times Square
New York, NY 10036-7311

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CHRISTIAN D. ABEL
ONSAGERS AS
POSTBOKS 6963 ST. OLAVS PLASS
NORWAY N-013-0 NO NORWAY

MAILED

JUN 11 2009

OFFICE OF PETITIONS

Applicant: Storm
Appl. No.: 10/513,654
International Filing Date: November 5, 2004
Title: METHOD AND APPARATUS FOR MONITORING THE AUTONOMOUS NERVOUS SYSTEM OF A SEDATED PATIENT
Attorney Docket: P18504 USPC
Pub. No.: US 2005/0229478 A1
Pub. Date: October 20, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on December 21, 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 in the publication, as the wrong application was published. The Office improperly published rather than PCT/NO03/00148.

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 request for corrected publication, received on December 21, 2005, was not timely filed under 37 CFR 1.221(b).

Due to the nature of the errors in this publication, the office will *sua sponte* publish a corrected patent application publication. The corrected patent application publication will be published in

[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).

due course, unless the application is allowed and the patent issues before the application is republished.

The application papers (PCT/INO03/00148) which were improperly scanned into the application file and published have been merged into a single entry and relabeled as a non-entered specification.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

Mail Date: 04/20/2010

Applicant	: Tamaki Nakano	: DECISION ON REQUEST FOR
Patent Number	: 7585931	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/513,658	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **994** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MAR 13 2006

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVE., N.W.
WASHINGTON DC 20005

In re Application of	:
Austin G. Smith et al	:
Serial No.: 10/513,675	: PETITION TO MAKE SPECIAL
Filed: May 10, 2005	:
Attorney Docket No.: 2325.0030000	:

This is in response to applicants' petition filed February 10, 2006, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII. Therefor the petition is **GRANTED**.

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision.

The application will be forwarded the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the general Office facsimile number, 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

#8

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09 JAN 2006

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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

In re Application of SVENSSON et al Application No.: 10/513,679 PCT No.: PCT/EP03/04377 Int. Filing Date: 25 April 2003 Priority Date: 07 May 2002 Attorney's Docket No.: 9342-27 For: METHOD FOR COMMUNICATING MESSAGES TO AN ELECTRONIC COMMUNICATION EQUIPMENT	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed 11 October 2005, to permit the applicant to file the above-captioned application on behalf of the non-signing inventor Jan Gajdos. The petition under 37 CFR 1.47(a) is DISMISSED.

BACKGROUND

On 25 April 2003, applicant filed international application PCT/EP03/04377, which claimed priority of earlier European patent applications, the earliest being filed 07 May 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 20 November 2003. A Demand for international preliminary examination, in which the United States was elected, was filed on 19 November 2003. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 08 November 2004 (07 November 2004 was a Sunday).

On 08 November 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; and a preliminary amendment. An oath or declaration was not submitted.

On 06 May 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/905) indicating that an oath or declaration and surcharge for filing the oath and declaration later than 30 months from the priority date must be filed. The notification set a two-month time limit in which to respond.

On 11 November 2005 applicant filed the present petition accompanied by the required petition fee, a petition and fee for a three-month extension of time, a declaration executed by Mr. Svensson, the surcharge for submitting a late declaration, a statement of Mr. Gajdos last know address, and a declaration by Nena Luburic.

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. A review of the papers reveals that applicant has satisfied items (1), (3) and (4).

The evidence submitted to show Mr. Gajdos has refused to sign is insufficient. The declaration by Nena Luburic indicates that a complete copy of the application was sent to the applicant. However, a review of the letters sent by Anna Sandstrom does not list the application as part of the package sent to Mr. Gajdos. Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature. Copies of documentary evidence such as a certified mail return receipt, cover letter of instructions, telegrams, etc., which support a finding that a complete copy of the application papers had been sent to the applicant should be made a part of the declaration or affidavit.

Furthermore, there is not a first-hand statement from the person who tried to contact Mr. Gajdos. In the present instance, statements from those persons attempting to correspond with Mr. Gajdos have not been presented. Instead a declaration by Nena Luburic has offered an explanation of the facts and copies of letters purportedly sent to Mr. Gajdos. The letters reportedly signed by Anna Sandstrom do not set forth any facts that a complete set of application papers were presented to Mr. Gajdos and that Mr. Gajdos refused to signed the papers. Furthermore, the letters do not identify the international application for which Ms. Sandstrom is requesting signatures on the declaration and assignment. Applicant has not submitted a statement of a person having firsthand knowledge of the facts. Ms. Luburic has not indicated that she has any firsthand knowledge of the facts. In the present instance, statements from those persons attempting to correspond with Mr. Gajdos should be presented.

CONCLUSION

The petition under 37 CFR 1.47(b) is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(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, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration

LES:ls

Telephone: (571) 272-3297
Facsimile: (571) 273-0459

#10

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14 SEP 2006

D. Scott Moore
Myers Bigel Sibley & Sajovec, P.A.
P.O. Box 37428
Raleigh, NC 27627

In re Application of	:	
SVENSSON, et al.	:	
U.S. Application No.: 10/513,679	:	DECISION ON RENEWED
PCT No.: PCT/EP03/04377	:	
Int. Filing Date: 25 April 2003	:	PETITION UNDER
Priority Date: 07 May 2002	:	
Attorney Docket No.: 9342-27	:	37 CFR 1.47(a)
For: METHOD FOR COMMUNICATING MESSAGES: TO AN ELECTRONIC COMMUNICATION EQUIPMENT	:	

This decision is in response to the applicant's "Response to Decision on Petition Under 37 C.F.R. 1.47(b)" filed 13 March 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 09 January 2006, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(a) to accept the application without an executed declaration of co-inventor Jan Gajdos. 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 13 March 2006, applicant filed the response discussed herein.

DISCUSSION

The renewed petition under 37 CFR 1.47(a) is moot since the presently filed declaration has been executed by the previous non-signing co-inventor. The filed declaration is acceptable under 37 CFR 1.497.

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 **25 April 2003** and will be given a date

of **13 March 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

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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AUG 31 2005

In re Application of		:	
Poul Erik Jespersen		:	
Serial No.	10/513,685	:	DECISION ON PETITION
Filed:	November 8, 2004	:	
For:	CYLINDRIC DRUM WITH SANDING ELEMENTS	:	

This is a decision on the petition to make special filed on May 31, 2005. The petition is submitted pursuant to the practice established in MPEP § 708.02(II) "Infringement." The $130.00 petition fee has been received.

The petition is granted.

A review of the petition shows that petitioners have satisfied all of the requirements of the above-cited MPEP section. Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The Supervisory Patent Examiner of Patent Examining Art Unit 3723 will be notified of this decision, and will inform the assigned examiner to take action not inconsistent with this decision.

PETITION GRANTED.

Frederick R. Schmidt

Frederick R. Schmidt, Director
Technology Center 3700

James C. Wray
1493 Chain Bridge Road, Suite 300
McLean, VA 22101

2 8 NOV 2006

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of	:	
BREUER et al.	:	
Application No.: 10/513,689	:	
PCT No.: PCT/EP03/04752	:	DECISION
Int. Filing Date: 06 May 2003	:	
Priority Date: 06 May 2002	:	
Attorney's Docket No.: 1454.1581	:	
For: METHOD AND RADIO COMMUNICATION	:	
SYSTEM FOR TRANSMITTING USER INFORMATION	:	
AS A SERVICE TO SEVERAL USER STATIONS	:	

This decision is in response to applicant's "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. § 1.137" filed on 25 April 2006, which has properly been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 06 May 2003, applicant filed international application PCT/EP03/04752, which designated the United States and claimed a priority date of 06 May 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 13 November 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 08 November 2004 (06 November 2004 being a Saturday).

On 08 November 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 translation of the international application into English.

On 21 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 an oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) were required.

On 13 July 2006, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to timely respond to the Notification mailed 21 April 2005.

On 14 August 2006, applicants submitted the instant "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. § 1.137", which has properly been treated as a petition under 37 CFR 1.181.

DISCUSSION

If applicants can establish nonreceipt of the NOTIFICATION OF MISSING REQUIREMENTS, then the application was never abandoned. In such case, the holding of abandonment will be withdrawn pursuant to 37 CFR 1.181. See MPEP § 711.03(c), para. I.A. The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Items (1) and (2) have been satisfied.

Item (3) has not been satisfied. As to item (3), MPEP § 711.03(c)), para. I.A. states that "[f]or 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). Such a docket report has not been provided. Rather, the docket report provided shows only the entries made for application number 10/513,689.

A copy of the NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 mailed 21 April 2005 is enclosed.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

The application remains abandoned.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Daniel Stemmer
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty

Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

Enc.: copy of the NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 mailed 21 April 2005

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/513,689	Volker BREUER	1454.1581

INTERNATIONAL APPLICATION NO.
PCT/EP03/04752

I.A. FILING DATE	PRIORITY DATE
05/06/2003	05/06/2002

21171
STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

CONFIRMATION NO. 5911
371 FORMALITIES LETTER

OC000000015762905

Date Mailed: 04/21/2005

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Copy of the International Application filed on 11/08/2004
- English Translation of the IA filed on 11/08/2004
- Copy of the International Search Report filed on 11/08/2004
- Copy of IPE Report filed on 11/08/2004
- Information Disclosure Statements filed on 11/19/2004
- Request for Immediate Examination filed on 11/08/2004
- U.S. Basic National Fees filed on 11/08/2004
- Substitute Specification filed on 11/08/2004
- Priority Documents filed on 11/08/2004

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.

- **$130** Surcharge for providing the oath or declaration later than 30 months from the priority date (37 CFR 1.492(e)) is required.

SUMMARY OF FEES DUE:

Total additional fees required for this application is **$130** for a Large Entity:

- **$130** Late oath or declaration Surcharge.

ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice **MUST** be returned with the response.*

FRANCINE YOUNG

Telephone: (703) 308-9140 EXT 215

PART 2 - OFFICE COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/513,689	PCT/EP03/04752	1454.1581

FORM PCT/DO/EO/905 (371 Formalities Notice)

UNITED STATES 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

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of	:	
BREUER et al.	:	
Application No.: 10/513,689	:	
PCT No.: PCT/EP03/04752	:	DECISION
Int. Filing Date: 06 May 2003	:	
Priority Date: 06 May 2002	:	
Attorney's Docket No.: 1454.1581	:	
For: METHOD AND RADIO COMMUNICATION	:	
SYSTEM FOR TRANSMITTING USER INFORMATION	:	
AS A SERVICE TO SEVERAL USER STATIONS	:	

This decision is in response to applicant's "REQUEST FOR RECONSIDERATION AND RENEWED PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. § 1.137 AND § 1.181" filed on 06 December 2006, which has properly been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 06 May 2003, applicant filed international application PCT/EP03/04752, which designated the United States and claimed a priority date of 06 May 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 13 November 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 08 November 2004 (06 November 2004 being a Saturday).

On 08 November 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 translation of the international application into English.

On 21 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 an oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) were required.

On 13 July 2006, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT

(Form PCT/DO/EO/909) indicating that the application was abandoned for failure to timely respond to the Notification mailed 21 April 2005.

On 14 August 2006, applicants submitted a "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. § 1.137", which was properly treated as a petition under 37 CFR 1.181.

On 28 November 2006, a decision was mailed dismissing applicants' petition under 37 CFR 1.181 without prejudice. Specifically, it was noted that a docket report showing all replies docketed for a date two months from the mail date of the nonreceived Office action had not been submitted.

On 06 December 2006, applicants submitted the instant "REQUEST FOR RECONSIDERATION AND RENEWED PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. § 1.137 AND § 1.181", which has properly been treated as a petition under 37 CFR 1.181.

DISCUSSION

If applicants can establish nonreceipt of the NOTIFICATION OF MISSING REQUIREMENTS, then the application was never abandoned. In such case, the holding of abandonment will be withdrawn pursuant to 37 CFR 1.181. See MPEP § 711.03(c), para. I.A. The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

As noted in the decision mailed 28 November 2006, items (1) and (2) have been satisfied.

Item (3) has now been satisfied as well.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

For the reasons set forth above, the NOTIFICATION OF ABANDONMENT mailed 13 July 2006 is VACATED.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a new NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an executed oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b)

and the surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage.

Daniel Stemmer
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 26 2007

OFFICE OF PETITIONS

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

In re Application of :
Nozaki, et al. : DECISION ON PETITION
Application No. 10/513,698 :
Filed: November 8, 2004 :
Docket No.: 2004_1726A :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed March 14, 2007.

This application was held abandoned for failure to timely submit a proper reply to the Office action mailed April 18, 2006. Notice of Abandonment was mailed March 6, 2007.

Petitioners assert that a response to the Office action was timely submitted on May 19, 2006 and have provided as proof of mailing and proof of USPTO receipt a return postcard dated May 19, 2006 acknowledging receipt of the reply. A copy of the reply submitted May 19, 2006 was submitted with the instant petition.

The original response submitted May 19, 2006 has not been located in the application file.

However, 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 the Technology Center 2800 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

12 SEP 2006

Morris O'Bryant Compagni, PC
136 South Main, Suite 700
Salt Lake City UT 84101

In re Application of	:	
HUANG, Xudong, et al.	:	
U.S. Application No.: 10/513,704	:	DECISION ON PETITION
PCT No.: PCT/SG02/00084	:	
International Filing Date: 08 May 2002	:	
Priority Date: None	:	
Attorney's Docket No.: 3161.ARTH.PT	:	
For: REVERSAL IMPRINT TECHNIQUE	:	

This decision is issued in response to the "Petition For Withdrawal Of Holding Of Abandonment" filed on 18 August 2006, treated herein under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 08 May 2002, applicants filed international application PCT/SG02/00084. The international application did not claim an earlier priority date, and it designated the United States. On 20 November 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 08 November 2004, i.e., thirty months from the priority date.

On 08 November 2004, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other items, payment of the basic national fee.

On 13 May 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for providing the oath or declaration later than 30 months from the priority date were required.

On 17 July 2006, the DO/EO/US mailed a "Notification Of Abandonment" (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a response to the Notification Of Missing Requirements.

On 18 August 2006, applicants filed the "Petition For Withdrawal Of Holding Of Abandonment" considered herein, which asserts that the Notification Of Missing Requirements mailed 13 May 2005 was never received by applicants. The petition is accompanied by, among other materials, an executed declaration and payment of the required surcharge.

DISCUSSION

As noted above, in the present petition applicants argue that the Notification Of Missing Requirements mailed on 13 May 2005 was never received. Section 711.03(c)(I)(A) of the MPEP sets forth the requirements for such a petition:

> 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 includes the required statement that the Notification was never received; however, the petition does not contain the required statement from the practitioner that "a search of the file jacket and docket records in our office indicates that the Office communication was not received." As for the docket records requirement, petitioner has attached a copy of the firm's mail log listing Office communications received from 13 May 2005 to 15 August 2005. However, this mail log is not sufficient to satisfy the docket records requirement. Rather, petitioner must provide a copy of the firm's office docket listing all responses due in the USPTO for the date on which a response to the Notification Of Missing Requirements would have been due, had the Notification been received (i.e., 13 July 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 13 May 2005 was not received. Accordingly, withdrawal of the holding of abandonment on the present record is not appropriate.

It is noted that the declaration filed with the present petition is not in compliance with 37 CFR 1.497. Specifically, the seven page declaration document submitted by applicants appears to be a compilation of multiple copies of a four-page declaration (the filed materials include three copies of "Page 3" and two copies of "Page 2"). Such compilation is impermissible; see MPEP § 201.03: "Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration." Copies of the complete declaration executed by each of the inventors is required before the declarations can be accepted under 37 CFR 1.497.

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[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."

CONCLUSION

Applicants' petition for withdrawal of the holding of abandonment based on the failure to receive the Notification Of Missing Requirements mailed 13 May 2005 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 13 May 2005 (i.e., the required practitioner's statement and the additional docket materials discussed above).

Complete copies of the declarations executed by each of the inventors herein are also required.

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

UNITED STATES 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 DEC 2006

Morris O'Bryant Compagni, PC
136 South Main, Suite 700
Salt Lake City, Utah 84101

In re Application of:	:	
HUANG, Xudong, et al.	:	DECISION ON RENEWED
U.S. Application No.: 10/513,704	:	PETITION TO WITHDRAW
PCT No.: PCT/SG02/00084	:	HOLDING OF ABANDONMENT
International Filing Date: 08 May 2002	:	(37 CFR 1.181)
Priority Date: None	:	
Atty Docket No.: 3161.ARTH.PT	:	
For: REVERSAL IMPRINT TECHNIQUE	:	

In a decision mailed by this Office on 12 September 2006, applicants' petition to withdraw the holding of abandonment was dismissed without prejudice for failure to satisfy the requirements of a grantable petition. Specifically, applicant had not provided the statements and docket records required for a grantable petition to confirm that applicant did not receive the Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 13 May 2005. The decision also noted that the declaration filed by applicants appeared to be an unacceptable compilation of multiple declarations.

On 13 November 2006, applicants filed the renewed petition considered herein. The renewed petition includes the required statement from practitioner that a search of the file jacket and the docket records indicates that the Notification Of Missing Requirements was not received. The submission also includes the required docket records. Applicants have now satisfied all the requirements for a grantable petition to withdraw the holding of abandonment based on applicants' failure to receive the Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 13 May 2005.

The renewed petition for withdrawal of the holding of abandonment is **GRANTED**.

The Notification Of Abandonment (Form PCT/DO/909) mailed 17 July 2006, based as it was on applicants' failure to respond to the Notification Of Missing Requirements that applicants did not receive, is appropriately **VACATED**.

It is noted that the renewed petition was accompanied by complete copies of the declarations executed by each of the inventors. These declarations are in compliance with 37 CFR 1.497.

The application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 13 November 2006.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORRISS O'BRYANT COMPAGNI, PC
734 EAST 200 SOUTH
SALT LAKE CITY, UTAH 84102

COPY MAILED

JUN 0 6 2008

Applicant: Huang et al.
Appl. No.: 10/513,704
International Filing Date: May 8, 2002
Title: REVERSE IMPRINT TECHNIQUE
Attorney Docket No.: 3161-Arth.PT
Pub. No.: US 2007/0059497-A1
Pub. Date: March 15, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on May 7, 2007, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on the front page of the application wherein the inventor's name Albert F. Yee has been omitted.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The omission of an inventor's name and residence do not affect the understanding of the application. The mistakes do not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The Declaration forms submitted by applicant on August 18, 2006 are improper because each Declaration does not include a complete listing of the inventors. When multiple Declarations are

[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).

submitted, each Declaration must be complete and contain a complete listing of all the inventors. See MPEP 201.03(II)(B) and MPEP 605.04(a).

On December 8, 2006, a Filing Receipt was mailed by the Office, which improperly listed the inventive entity. To avoid this type of problem in the future, applicant's representative should review the Filing Receipt and make a request for a Corrected Filing Receipt.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

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
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COHEN, PONTANI, LIEBERMAN & PAVANE LLP
551 FIFTH AVENUE
SUITE 1210
NEW YORK, NY 10176

COPY MAILED
SEP 15 2008

In re Application of	:	
Frank Jermann, et al.	:	
Application No. 10/513,724	:	DECISION ON PETITION
Filed: June 30, 2005	:	
Attorney Docket No. 502902-187PUS	:	

This is a decision on the petition under 37 CFR 1.182, filed, May 9, 2008, to change the name of inventor "Markus Zornik" to – Markus Richter --.

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) 272-3204. Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1793 for further prosecution.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/513,724	06/30/2005	1793	1470	502902-187PUS	30	2

CONFIRMATION NO. 4802

CORRECTED FILING RECEIPT

OC000000032060867

27799
COHEN, PONTANI, LIEBERMAN & PAVANE LLP
551 FIFTH AVENUE
SUITE 1210
NEW YORK, NY 10176

Date Mailed: 09/12/2008

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)

Frank Jermann, Munchen, GERMANY;
Markus Richter, Neutraubling, GERMANY;
Wolfgang Rossner, Holzkirchen, GERMANY;
Martin Zachau, Geltendorf, GERMANY;

Assignment For Published Patent Application

Osram Opto Semiconductors GmbH, Regensburg, GERMANY
Patent-Treuhand-Gesselschaft fur elektrische Gluhlampen mbH, Munchen, GERMANY

Power of Attorney: The patent practitioners associated with Customer Number 27799

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/DE03/01749 05/28/2003

Foreign Applications

GERMANY 102 23 988.6 05/29/2002

If Required, Foreign Filing License Granted: 11/22/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/513,724**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Luminescent powder, method for producing the luminescent powder and luminescent body provided with luminescent powder

Preliminary Class

252

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
SUITE 702
UNIONDALE NY 11553

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AUG 3 1 2007

OFFICE OF PETITIONS

In re Application of	:	
Barbara A. Williams et al	:	
Application No. 10/513,744	:	DECISION GRANTING PETITION
Filed: May 20, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1321-10 PCT US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 30, 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 August 2, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1711 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

05 MAY 2005

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Blakely Sokoloff Taylor & Zafman
12400 Wilshire Boulevard
7th Floor
Los Angeles CA 90025

In re Application of LE CORRE Serial No.: 10/513,763 PCT App. No.: PCT/FR02/01371 Int'l Filing Date: 22 April 2002 Priority Date: 23 April 2001 Attorney Docket No.: 15675P551 For: DEVICE FOR MONITORING AN ANATOMICAL IMAGING UNIT OR A RADIOTHERAPY UNIT	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 05 November 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $950 has been provided. The required petition fee of $1370 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 the 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
Office of PCT Legal Administration

Telephone: 571-272-3286
Facsimile: 571-273-0459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/7/08

TO SPE OF : ART UNIT 3616

SUBJECT : Request for Certificate of Correction for Appl. No.: 10513775 Patent No.: 7339871

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

/PAUL N. DICKSON/ — **SPE**

3616 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

APR 12 2007

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

In re Application of	:
Masataka Kagawa et al	:
Serial No.: 10/513,784	: PETITION DECISION
Filed: November 16, 2004	:
Attorney Docket No.: P26110.A03	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed August 29, 2005. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings. This is not to be construed that all of the drawings are accepted, only that the color drawings are acceptable.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

12 APR 2005

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Raymond E. Farrell
Carter DeLuca, Farrell & Schmidt LLP
445 Broadhollow Road, Suite 225
Melville, New York 11747

In re Application of	:	
STRENSLAND, Arnulv	:	
Application No.: 10/513,802	:	DECISION ON PETITION
PCT No.: PCT/US03/13038	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 28 April 2003	:	
Priority Date: 26 April 2002	:	
Attorney Docket No.: 1316-2PCT	:	
For: METHOD OF MAKING PLANTS OR FLOWERS AND KIT THEREOF	:	

The petition to revive under 37 CFR 1.137(b) filed 08 November 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[1] and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration is required.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

---

[1]The international search report was conducted by the European Patent Office, therefore, Deposit Account No.50-2140 will be charged an additional $505, as authorized in the transmittal letter.

29 SEP 2005

#2

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STITES & HARBISON PLLC
424 CHURCH STREET
SUITE 1800
NASHVILLE TN 37219-2376

In re Application of HASELTON et al. Serial No.: 10/513,803 PCT App. No.: PCT/US02/32000 Int'l Filing Date: 07 October 2002 Priority Date: 05 October 2001 Attorney Docket No.: 11672N/031144 For: CAPILLARY TUBE PRINTING TIPS FOR MICROARRAY PRINTING	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 08 November 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $395 has been provided. The required petition fee of $685 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.

Applicant's deposit account will be charged the $65 surcharge for filing the declaration after the thirty month period per his authorization.

This application is being forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 08 November 2004.

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

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THE GLIDDEN COMPANY
15885 WEST SPRAGUE ROAD
STRONGVILLE OH 44136

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DEC 3 1 2008
OFFICE OF PETITIONS

In re Application of	:	
Louise Heather et al.	:	
Application No. 10/513,811	:	DECISION ON PETITION
Filed: November 8, 2004	:	
Attorney Docket No.51046	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 20, 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 Notice of Non-Compliant Amendment (Notice) mailed, January 29, 2008, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 1, 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.

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.

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. 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. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 3781 for appropriate action by the Examiner in the normal course of business on the reply received.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: George W. Moxon II
222 South Main Street
Akron, OH 44308

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/513,822	11/09/2004	Fumiyoshi Abe	SON-2988	7736

23353 7590 08/26/2009
RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

EXAMINER
DUNN, MISHAWN N

ART UNIT	PAPER NUMBER
2621	

MAIL DATE	DELIVERY MODE
08/26/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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AUG 24 2009

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON DC 20036

In re Application of:
ABE, FUMIYOSHI, et al.
Application Serial No.: 10/513,822
Filed: November 9, 2004
For: **VIDEO IMAGE EDITING APPARATUS AND METHOD, RECORDING MEDIUM, AND PROGRAM**

DECISION
ON PETITION

This is a decision on the petition to withdraw the final action as premature, filed March 31, 2009 pursuant to 37 CFR § 1.181.

Petitioner alleges that the examiner erred in holding the Office action mailed February 18, 2009 final and requests removal of the alleged premature final action.

A non-final Office action was mailed June 24, 2008. This action included a rejection of claim 2 under 35 USC 103 as being unpatentable over Sai, et al (US Pub. No. 2002/0012526) in view of Official Notice. In response thereto, applicant filed an argument challenging the Official Notice assertion by the examiner. The applicant requested that the examiner cite evidence to support the Official Notice assertion.

In the final Office action of February 18, 2009, the examiner complied by citing the Janevski reference (US Patent No. 6,988,245) in combination with Sai, et al. to reject claim 2 under 35 USC 103. At paragraph 3 of the final Office action the Examiner states "A reference to support the previous position of official notice has been cited below."

Petitioner argues that "...the use of Janevski in the Final Office Action for the rejection of claim 2 is anew ground of rejection that was ***neither necessitated by an amendment*** of claim 2 within the Amendment in Response to Non-Final Office Action of October 24, 2008 ***nor based on information submitted in an information disclosure statement.***" (Emphasis in original.)

It is noted that the inclusion of Janevski was for showing only the element(s) as set forth in the original Official Notice position taken by the Examiner. The Examiner states at page 4 first paragraph "...Janevski teaches controlling the display of a configuration table based on configuration-table related to the video content data..." Compare this with the statement of Official Notice at paragraph 8 on page three of the non-final Office action mailed June 24, 2008: "...the examiner takes official notice that it is well known in the art to control the display of menus or table of contents related to the video data."

> MPEP 2144.03(D) states in part "...If the examiner adds a reference in the next Office action after applicant's rebuttal, and the newly added reference is added only as directly corresponding evidence to support the prior common knowledge finding, and it does not result in a new issue or constitute a new ground of rejection, the Office action may be made final. If no amendments are made to the claims, the examiner must not rely on any other teachings in the reference if the rejection is made final..."

The examiner did not rely on Janevski for any teaching other than that of the element(s) taken by Official Notice to be obvious.

Accordingly, the examiner properly made the Office action final *vis-à-vis* the issue of Official Notice in accordance with accepted procedure.

For reasons set forth above, the petition is **DENIED**.

Any request for reconsideration must be filed within two months from the date of this decision.

The application file will be forwarded to the examiner for appropriate action in due course.

Mark R. Powell

Mark R. Powell, Director
Technology Center 2600
Communications

29 SEP 2005

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ROBERT W STROZIER, P.L.L.C
PO BOX 429
BELLAIRE TX 77402-0429

In re Application of	:	
JOHNSON, Michael H.	:	
Application No.: 10/513,829	:	DECISION ON
PCT No.: PCT/US03/05904	:	
Int. Filing Date: 25 February 2003	:	PETITION UNDER
Priority Date: 25 February 2002	:	
Attorney Docket No.: 01019/02US	:	37 CFR 1.137(b)
For: A SYSTEM AND METHOD FOR	:	
FRACTURING AND GRAVEL PACKING A	:	
WELL BORE	:	

This decision is in response to applicants' submission filed 08 November 2004.

BACKGROUND

On 25 February 2003, applicants filed international application PCT/US03/05904 which designated the U.S. and claimed a priority date of 25 February 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 04 September 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 25 August 2004.

On 08 November 2004, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee, an assertion of small entity status, and a petition under 37 CFR 1.137(b) to revive the application.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee on 08 November 2004.

As to item (2), applicant submitted the petition fee on 08 November 2004.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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BASF Performance Products LLC
Patent Department
540 White Plains Road
P.O. Box 2005
Tarrytown, NY 10591

Mail Date: 04/20/2010

Applicant	: Hugo Camenzind	: DECISION ON REQUEST FOR
Patent Number	: 7615522	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/513,837	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/04/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1398** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

29 MAR 2005

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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NORRIS, McLAUGHLIN & MARCUS
875 Third Avenue, 18th Floor
New York, NY 10022

In re Application of
EHRFELD, Wolfgang *et al*
U.S. Application No.: 10/513,845
PCT No.: PCT/EP03/03657
Int. Filing Date: 09 April 2003
Priority Date: 17 April 2002
Docket No.: 100717-663/BAYER 10306-WCG
For: METHOD AND DEVICE FOR HOMOGENIZING EMULSIONS

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

Applicants' "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed with the national stage papers on 05 November 2004 is hereby **GRANTED** as follows:

The basic national fee and petition fee have been paid. Applicant states that "[t]he entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration was not included with any of the papers submitted.

This application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a $130.00 surcharge fee is required.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

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COMPUTER PATENT ANNUITIES
225 REINEKERS LANE
SUITE 400
ALEXANDRIA, VA 22314

Mail Date: 04/21/2010

Applicant	: Takeshi Yura	: DECISION ON REQUEST FOR
Patent Number	: 7612113	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/513,848	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/02/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **794** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

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OFFICE OF PETITIONS

In re Application of	:	
Politi et al.	:	
Application No. 10/513,859	:	DECISION ON PETITION
Filed: May 31, 2005	:	
Attorney Docket No. POLITI3	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed on both June 30, 2008 and November 19, 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 December 17, 2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 18, 2008. A Notice of Abandonment was mailed September 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 a response to the Restriction Requirement, (2) the petition fee of $770.00 and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571)272-7751.

This application is being referred to Technology Center AU 1626 for appropriate action by the Examiner in the normal course of business on the reply received.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HAMRE, SCHUMANN, MUELLER & LARSON, P.C.
P.O. BOX 2902
MINNEAPOLIS MN 55402-0902

RECEIVED

DEC 29 2008

OFFICE OF PETITIONS

In re Patent No. 7,270,863
Application No. 10/513,863
Filed: April 28, 2005
Issued: September 18, 2007
Attorney Docket No. 8279.811USWO

ON PETITION

This is a decision on the petition filed October 19, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to add the names of the second and third assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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DINSMORE & SHOHL, LLP
FIFTH THIRD CENTER
ONE SOUTH MAIN STREET, SUITE 1300
DAYTON, OH 45402

MAILED

JUN 07 2010

OFFICE OF PETITIONS

In re Application of	:	
Volker GERSTLE, *et al.*	:	
Application No. 10/513,870	:	DECISION ON PETITION
Filed: November 5, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **21244 US-pd/d**	:	

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 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 July 1, 2009, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on September 2, 2009. *See* MPEP 1215.04.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 1795 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.

Thurman K. Page
Petitions Examiner
Office of Petitions

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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE, SUITE 100
SAN DIEGO CA 92130-2040

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NOV 20 2006

OFFICE OF PETITIONS

In re Application of

RUFFER, et al.
Application No. 10/513,894
Filed: June 15, 2005
Attorney Docket No. 246152023900

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 30, 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: **Nicole Ruffer**
Reumontstrasse 13
Aachen, Germany D-52064

cc: **Bryan H. Davidson**
Nixon & Vanderhye PC
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/513,894	06/15/2005	Nicole Ruffer	246152023900

CONFIRMATION NO. 2124

OC000000021294919

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 08/30/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

Mail Date: 04/21/2010

Applicant	: Matthias Suchan	: DECISION ON REQUEST FOR
Patent Number	: 7625114	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/513,897	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **369** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

10 MAR 2005
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#3

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WILMER CUTLER PICKERING HALE AND DORR LLP
60 STATE STREET
BOSTON, MA 02109

In re Application of	:	
HIGGINS, Linda S. et al.	:	
U.S. Application No.: 10/513,900	:	
PCT No.: PCT/US03/35716	:	
Int. Filing Date: 10 November 2003	:	DECISION
Priority Date: 11 November 2002	:	
Attorney Docket No.: 286969.130 US1	:	
For: SYSTEM AND METHOD ... AN	:	
ARBITRARY PROBLEM	:	

This application is before the Office of PCT Legal Administration for consideration of issues arising under 35 U.S.C. §371.

BACKGROUND

On 10 November 2003, applicant filed international application PCT/US03/35716, claiming a priority date of 11 November 2002. Accordingly, the thirty-month period for paying the basic national fee in the United States expires at midnight on 11 May 2005.

On 09 November 2004, applicants filed three transmittal letters for entry into the national phase in the United States, accompanied by declarations, authorizations to charge the deposit account and preliminary amendments.

On 02 December 2004, applicants filed "Letter to the Office of PCT Legal Administration," clarifying applicants' intent.

DISCUSSION

Applicants submitted three sets of papers to enter the national stage for international application number PCT/US03/35716. The end result for an international application designating the United States of America is a single U.S. national stage application. Therefore, the submission of three sets of national stage papers to enter the United States was improper.

Applicants have indicated that they are satisfied with pursuing the international application in a single national stage filing. As such, all of applicants' papers have been placed in 10/513,900.

CONCLUSION

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further national stage processing. Applicant should use application number 10/513,900 in all future communications with the Patent and Trademark Office regarding the U.S. National stage of international application PCT/US03/35716. Applicants' requests for expedited processing will remain in the application to be addressed in the technology center.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

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Princeton NJ 08543-5312

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APR 18 2007

OFFICE OF PETITIONS

In re Application of :
Pugel, et al. : DECISION ON PETITION
Application No. 10/513,903 :
Filed: November 9, 2004 :
Atty. Dkt. No.: PU020233 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 20, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned February 15, 2007 for failure to timely file a proper reply to the final Office action mailed August 14, 2006. This decision precedes Notice of Abandonment.

A grantable petition pursuant to 37 C.F.R. § 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 C.F.R. § 1.137(b) was unintentional; and (4)any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the final Office action is accepted as having been unintentionally delayed.

The Notice of Appeal has been entered and made of record. The two-month period for filing an appeal brief (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

This application will be forwarded to Technology Center 2600 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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FEB 28 2007

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

In re Application of	:
Najib et al.	:
Serial No.: 10/513,916	: PETITION DECISION
Filed: November 10, 2004	:
Attorney Docket No.: 2665-124	:

This is in response to the petition under 37 CFR 1.181, filed December 18, 2006, requesting the Director to reconsider the lack of unity requirement.

BACKGROUND

This application is a national stage filing under 35 USC 371 of PCT/FR03/01888 and, as such, is eligible for PCT unity of invention practice.

On February 14, 2006, the examiner mailed a lack of unity determination in which the original 33 claims were divided in 11 groups.

On March 3, 2006, applicants requested that the Preliminary Amendment filed November 10, 2004 be considered. The Amendment canceled claims 1-33 and had presented 34-65.

On June 21, 2006, the examiner mailed a supplemental lack of unity determination in which claims 34-65 were divided in 14 groups, as follows.

Group I, claims 34-37 and 65, drawn to a polypeptide SEQ ID No 1 or 2.
Group II, claims 38-42, 60 and 62 and 65 drawn to an antibody to a polypeptide SEQ ID No 1 or 2.
Group III, claim 43, drawn to a method of making the antibody.
Group IV, claim 44, drawn to the first method of using the antibody.
Group V, claim 45-50, 52 drawn to the second method of using the antibody.
Group VI, claim 51, drawn to a third method of using the antibody.
Group VII, claim 53-54, drawn to a fourth method of using the antibody.
Group VIII, claim 55-6, drawn to a fifth method of using the antibody.
Group IX, claim 57, drawn to the sixth method of using the antibody.
Group X, claim 58, drawn to the seventh method of using the antibody.

Group XI, claim 59, drawn to a eighth method of using the antibody.
Group XII, claim 61, drawn to a ninth method of using the antibody
Group XIII, claim 63, drawn to the second method of using the polypeptide of SEQ ID NO 1 or 2 for a screening assay.
Group XIV, claim 64 drawn to the third method of using the polypeptide of SEQ ID No 1 or 2 for therapeutic treatment.

The examiner further required selection of a single peptide having SEQ ID NO: 1 or 2.

On July 21, 2006, applicants responded by electing Group I (claims 34-37 and 65) and SEQ ID NO: 1. Applicants further amended their claim set such that the claims no longer recited "an immunogenic fragment or a derivative of said sequence". Applicants argued that the Examiner has not established, such as by citation to any art, that the subject matter of the claims do not share a single general inventive concept. Applicants asserted that the claims share a single general inventive concept and requested withdrawal of the lack of unity requirement and search and examination of all the claims.

On October 19, 2006, the examiner mailed to applicants a first non-final Office action. The examiner maintained that the polypeptides and antibodies have completely different structures and different functions, and thus they lack the same or corresponding special technical features. The examiner further argued that polypeptides having SEQ ID NO: 1 and SEQ ID NO: 2 are separate inventions because their structures differ and thus their functions also differ from one another. The examiner examined claims 34, 36, 37 and 65.

On December 18, 2006, applicants filed this petition to request that the Office reconsider the lack of unity determination.

DISCUSSION

The petition and file history have been carefully considered.

First, with regard to the groupings, it is noted that claim 65 should also be placed in Group II to the extent that it reads upon the antibody. It is also noted that Group III could be considered a method of making an antibody or a method of using a polypeptide. Because the polypeptide invention was elected, Group III is being considered as the first method of using the polypeptide.

Turning now to the substance of the petition, Applicants argue that the withdrawn claims share a single general inventive concept in that the subject matter of all the claims results from the identification by the inventors of specific polypeptides of Claim 34. Claims 34, 36, 37, and 65 are currently under examination.

PCT Rule 13.2 states that unity of invention is present when the groups share a technical feature that makes a contribution over the prior art.

Group I is directed to a polypeptide; Group II is directed to an antibody. Applicant argues that the antibodies of Group II are specific for the polypeptides of Group I and thus have a single

general inventive concept. This is not persuasive. A single polypeptide can be used to produce millions of different antibodies, each of which binds to a small, shape (epitope). The antibodies do not exclusively bind to the polypeptide- they will bind to any protein which carries that epitope. Moreover, the individual antibodies do not require the polypeptide having SEQ ID No 1 for their production- they can be made from fragments of SEQ ID No 1 or from proteins which share sequence homology with SEQ ID No 1. Finally, any novelty and unobviousness determination made for the protein invention would not confer novelty and unobviousness to the antibody invention and vice versa. For these reasons, Group I and II lack a same or corresponding technical feature and restriction between Group I and II is appropriate.

The Examiner has found unity lacking between products and processes of using the products. The method for determining unity of invention under PCT Rule 13 shall be construed as permitting, in particular, an independent claim for a given product, an independent claim for a process specially adapted for the manufacture of the said product, and an independent claim for a use of the said product. Moreover, 37 CFR 1.475(d) states:

> 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).

In the instant application, Claim 43 is drawn to the first process for using the elected peptide. There are no outstanding prior art rejections elected invention so rejoinder of the first method of using the polypeptide is appropriate.

Second and subsequent methods of making or using the elected invention (claims 63 and 64) may be eligible for rejoinder practice under MPEP 821.04(b) should (i) all the claims directed to the elected invention be placed in condition for allowance and (ii) the withdrawn process claims be amended to require all the limitations of an allowable claim.

Next, applicant argues the lack of unity determination between the polypeptide having SEQ ID No 1 and the polypeptide having SEQ ID No 2. SEQ ID NO: 1 corresponds to residues 4105-4215 of the mature human Apo-B sequence. SEQ ID NO: 2 corresponds to residues 3955-4062 of the mature human Apo-B sequence. The petition asserts that the sequences are related by structure and function as being specific for Apo-B in containing epitopes specific of Apo-B100 and in being free of epitopes specific of Apo-B48. This argument has been reviewed but is not convincing because while each of these structures may be part of the mature human Apo-B sequence they are not overlapping in structure or scope and are directed to the same region. Moreover, an antibody which binds SEQ ID No 1 is not likely to bind to SEQ ID No 2 and an antibody raised to SEQ ID NO 2 is not likely to bind to a polypeptide having SEQ ID No 1.

It is noted that SEQ ID NO 1 and 2 are claimed in the alternative of a single claim. As provided by 37 CFR 1.475(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."

It is appropriate for the examiner to find unity lacking whether the polypeptides are claimed in separate claims or within a single claim.

DECISION

The petition is **GRANTED-IN-PART** for the reasons set forth above.

Group II (Claim 43) is directed to the first method of using the elected product of Group I. Group II will be rejoined with the claims already under examination.

The lack of unity determination between Group I and each of Groups II, IV-XIV is maintained.

The lack of unity determination between the polypeptide having SEQ ID No 1 and the polypeptide having SEQ ID No 2 is maintained.

Should all the claims directed to the elected invention become allowable, and should all claims directed to methods of using the elected invention (Groups XIII and XIV) be amended to depend from or otherwise require all the limitations of the allowable claims, the lack of unity determination between the elected invention and the processes of Groups XIII and XIV will be reconsidered.

The application will be forwarded to the examiner for further action consistent with this decision and to consider the papers filed 19 January 2007.

Any request for consideration must be filed within two (2) months of the mailing date of this decision.

Should there be any questions about this decision, please contact Special Program Examiner Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Bruce Kisliuk
Director, Technology Center 1600
jb/jg

16 MAR 2006

#8

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OSHA LIANG L.L.P.
1221 MCKINNEY STREET
SUITE 2800
HOUSTON TX 77010

In re Application of PING LEE et al. Application No.: 10/513,933 PCT No.: PCT/CN03/00344 Int. Filing: 12 May 2003 Priority Date: 10 May 2002 Attorney Docket No.: 09669/039001 For: METHOD AND SYSTEM OF REPLACING SMART CARD	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 09 December 2005, to accept the application without the signatures of joint inventors, Simon Choi and HongWei Cao. Petitioner requests a five month extension of time, which is granted.

BACKGROUND

On 10 November 2004, applicant filed a transmittal letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee.

On 09 May 2005, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating *inter alia*, that an oath or declaration in accordance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period was required.

On 09 December 2005, applicant filed the instant petition along with a declaration, executed by the joint inventors on behalf of the nonsigning inventors. The petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4) requested the acceptance of the application without the signatures of inventors Simon Choi and Hong Wei Cao alleging that Messrs. Choi and Cao are refusing to sign and unavailable.

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 non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

The petition included authorization to charge the requisite petition fee to applicant's

deposit account, satisfying Item (1). Item (3) is satisfied because the last known addresses of non-signing inventors were provided.

Inventors Refusal to Sign

With respect to Item (2) above, Petitioner indicates that "after diligent effort, AXALTO S.A.[the assignee] has been unable to obtain signed declarations from Simon Choi and Hong Wei Cao". Petitioner provided a brief chronology of facts relating to these efforts. A statement of first- hand knowledge was not provided and is required. Furthermore, the only effort appears to be a letter sent to each of the non-signing inventors, allegedly sent by registered mail. However, there is no indication that the letters were delivered to either Mr. Choi or Mr. Cao. French language mail receipts were provided, without an English translation. These mail receipts do not appear to indicate that the letter was delivered to the inventors. Thus, there is no indication that the inventors received the application papers. It is unclear whether the non-signing inventors were not at the address at the time of delivery or whether the addressee no longer resides at that address.

Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. 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.

Petitioner has not provided evidence that a complete copy of the application papers, including specification, claims and drawings and declaration, were delivered to both Mr. Choi and Mr. Cao. What is required is that Mr. Choi and Mr. Cao be presented with a copy of all of the national stage application papers (specification, including claims and drawings, oath or declaration) for this application. See Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP), Proof of Unavailability or Refusal. [1]

---

[1] A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or , if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.... It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted. Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which the conclusion is based should be stated in a statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or any

Unavailability of Inventor

Petitioner has not detailed the diligent efforts made to locate Mr. Choi and Mr. Cao that were pursued and documented, such as Internet searches, E-mail contact to obtain a current address, contact with his former employer or joint inventor to obtain a forwarding address or a request from the Postal Service for his forwarding address. Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a "diligent effort" was made.[2] Petitioner's statement of facts under 37 CFR 1.47(a) does not indicate that any search for a new address for Mr. Choi or Mr. Cao was conducted. Since no attempts to locate the inventors were documented, it can not be concluded that "a diligent effort" was made to locate the non-signing inventors.

The action taken by petitioner is not sufficient to prove that "a diligent effort" was made to contact the nonsigning inventor. Under these circumstances, it cannot be concluded that Mr. Choi or Mr. Cao are unavailable or refuse to sign the application.

With regard to Item (4), the declaration submitted with the petition contained duplicate page 3 and page 4 signature pages. Each page is signed by different inventors and combined into one declaration. The declaration is not properly executed. It appears that either the attorney pieced together separate complete declarations into one composite declaration or the inventors were presented with an incomplete declaration. What is required is one declaration where all inventors have signed or separate complete declarations. Thus, the requirements of 37 CFR 1.497 (a) and (b) have not been met and the declaration is unacceptable as filed. Where individual declarations are executed, they must be submitted as individual declaration rather than combined into one declaration." See MPEP 201.03.

In sum, Petitioner has satisfied Items (1) and (3) above. Petitioner has not satisfied Item (2) by demonstrating: (1) a *bona fide* attempt was made to present a copy of the application papers for U.S. application 10/513,933 (specification, including claims, drawings, and declaration) to the nonsigning inventors for their signature and that Mr. Choi and Mr. Cao's refuse to sign the application papers or (2) that "a diligent effort" was made to locate the nonsigning inventors. Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

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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.

[2]T MPEP Section 409.03(d) states that 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.

CONCLUSION

The petition under 37 CFR §1.47(a) is **DISMISSED WITHOUT PREJUDICE**.

Any reconsideration on the merits of the petition under 37 CFR §1.47(a) must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.47(a)." No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile (571) 272-0459

#10

UNITED STATES PATENT AND TRADEMARK OFFICE

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01 FEB 2007

OSHA LIANG L.L.P.
1221 MCKINNEY STREET
SUITE 2800
HOUSTON TX 77010

In re Application of PING LEE et al.	:
Application No.: 10/513,933	: DECISION ON
PCT No.: PCT/CN03/00344	:
Int. Filing: 12 May 2003	: RENEWED PETITION
Priority Date: 10 May 2002	:
Attorney Docket No.: 09669/039001	:UNDER 37 CFR 1.47(a)
For: METHOD AND SYSTEM OF REPLACING	:
SMART CARD	:

This is a decision on applicant's renewed petition under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 16 October 2006, to accept the application without the signature of joint inventor HongWei Cao. Petitioner requests a five month extension of time, which is granted.

BACKGROUND

On 10 November 2004, applicant filed a transmittal letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee.

On 09 May 2005, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating *inter alia*, that an oath or declaration in accordance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period was required.

On 09 December 2005, applicant filed the instant petition along with a declaration, executed by the joint inventors on behalf of the nonsigning inventors. The petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4) requested the acceptance of the application without the signatures of inventors Simon Choi and Hong Wei Cao alleging that Messrs. Choi and Cao refused to sign and are unavailable.

On 16 March 2006, a decision dismissing the petition was mailed to applicant indicating that Petitioner had not provided evidence that a complete copy of the application papers, including specification, claims and drawings and declaration, were delivered to both Mr. Choi and Mr. Cao and demonstrated their refusal to sign the application. Furthermore, the declaration submitted with the petition contained duplicate signature pages and was not properly executed.

On 16 October 2006, Petitioner filed a renewed petition under 37 CFR 1.47(a), along with a declaration signed by previously nonsigning inventor, Simon Choi and evidence that Mr. Cao refuses to sign the application.

DISCUSSION

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(g), (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 Item (3). Item (4) is satisfied with the submission of five declarations, executed by the joint inventors on behalf of the non-signing inventor. The declarations meet the requirements of 37 CFR 1.497 (a) and (b) and are acceptable as filed.

With respect to Item (2) above, Petitioner provided a statement of first- hand knowledge from Sophie Diouf, employee of law firm Osha Liang, LLP. Ms. Diouf states that she sent a letter to the non-signing inventor Cao on 14 September 2006, including a copy of the PCT international application and declaration. This correspondence was delivered on 18 September 2006. Ms. Dioue also communicated with Mr. Cao via e-mail from 8 October -11 October 2006. On 11 October 2006, Mr. Cao indicated his unwillingness to sign the application papers.

The action taken by petitioner is sufficient to demonstrate that a *bona fide* attempt was made to present a copy of the application papers for U.S. application 10/513,933 (specification, including claims, drawings, and declaration) to the nonsigning inventor for his signature and that Mr. Cao refuses to sign the application papers. Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a).

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 16 October 2006. The application has an international filing date of 12 May 2003 under 35 U.S.C. 363, and a date of 16 October 2006 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventors at their respective last known address of record. Also, a notice of the filing of this application will be published in the Official Gazette.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile (571) 272-0459

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01 FEB 2007

HONG WEI CAO
JAI LI YUAN 1-208 ROOM
LUO ZHUANG SOUTH ROAD
HAIDAN DISTRICT
BEIJING 100004
CHINA

In re Application of PING LEE et al. Application No.: 10/513,933 PCT No.: PCT/CN03/00344 Int. Filing: 12 May 2003 Priority Date: 10 May 2002 Attorney Docket No.: 09669/039001 For: METHOD AND SYSTEM OF REPLACING SMART CARD	DECISION ON PETITION UNDER 37 CFR 1.47(a)

Dear Mr. Cao:

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

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HOUSTON TX 77010

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NOVOZYMES NORTH AMERICA, INC.
500 FIFTH AVENUE
SUITE 1600
NEW YORK, NY 10110

Mail Date: 04/20/2010

Applicant	: Sanne Schroder Glad	: DECISION ON REQUEST FOR
Patent Number	: 7601529	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/513,951	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **992** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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CHICAGO, IL 60603-5803

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OCT 31 2007

OFFICE OF PETITIONS

In re Application of	:	
Tomoyuki Tachikawa et al	:	
Application No. 10/513,954	:	ON PETITION
Filed: November 9, 2004	:	
Attorney Docket No. 37569-407600	:	

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**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 28, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 29, 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 1756 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

17 MAR 2006

#7

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Viering Jentschura & Partners
Attn: Alexander R Schlee
3770 Highland Avenue
Suite 203
Manhattan Beach CA 90266

In re Application of	:	
Viczena	:	
Application No.: 10/513,976	:	DECISION
PCT No.: PCT/IB03/01767	:	
Int. Filing Date: 07 May 2003	:	ON
Priority Date: 10 May 2002	:	
Attorney Docket No.: P400460	:	PETITION
For: Control Of Air Conditioning	:	
Cooling Or Heating Coil	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 26 January 2006.

BACKGROUND

This international application was filed on 07 May 2003, claimed an earliest priority date of 10 May 2002, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 20 November 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 10 November 2004. Applicant filed *inter alia* the basic national fee on 09 November 2004.

On 14 March 2005, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant, requiring the submission of an executed oath or declaration in compliance with 37 CFR 1.497(a) and (b).

On 18 January 2006, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicant, stating that this international application had become abandoned with respect to the national stage in the United States for failure to timely reply to the Form PCT/DO/EO/905 mailed on 14 March 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" in the form of a declaration in compliance with 37 CFR 1.497(a) and (b) accompanied the petition.

Regarding requirement (2), the $750.00 small entity petition fee accompanied the petition.

Regarding requirement (3), the petition includes an appropriate statement.

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to the United States Designated/Elected Office for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the payment of 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

30 SEP 2005

#3

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Peter Weissman
2912 Upton Street NW
Washington DC 20008

In re Application of	:	
WEISSMAN, Peter, et al.	:	
Application No.: 10/513,978	:	DECISION
PCT No.: PCT/US02/37902	:	
Int. Filing Date: 27 November 2002	:	ON PETITION UNDER
Priority Date: 28 November 2001	:	
Docket No.: none	:	37 CFR 1.137(b)
For: MAIL PROGRAM FOR PROCESSING	:	
MULTIPLE EMAIL MESSAGES	:	

Applicants' "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 10 November 2004 is **GRANTED**.

Applicants state "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," as required by 37 CFR 1.137(b)(3). 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.

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 the surcharge for late filing of the oath or declaration is required.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

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RUTAN & TUCKER, LLP.
611 ANTON BLVD
SUITE 1400
COSTA MESA CA 92626

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OCT 24 2008

OFFICE OF PETITIONS

In re Application of	:	
Roberts Jr., Kenny	:	
Application No. 10/513,980	:	ON PETITION
Filed: November 8, 2004	:	
Attorney Docket No. 100923.0001US1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 10, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amended Appeal Brief under 37 CFR 1.192, (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 3751 for further processing.

Liana Walsh
Petitions Examiner
Office of Petitions

03 NOV 2005

#4

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Michael Y. Epstein
387 King Street, Suite H
Charleston, SC 29403

In re Application of
LIAO, Zaiyi
Application No.: 10/513,999
PCT No.: PCT/GB03/00994
Int. Filing Date: 07 March 2003
Priority Date: 07 March 2002
Attorney Docket No.: None
For: HEATING SYSTEM

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 10 November 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.

A declaration executed by Zaiya Liao has been submitted with the present petition. However, the declaration submitted is not in compliance with 37 CFR 1.497(a)(3) which requires that the oath or declaration identify each inventor and the country of citizenship of the inventor. In this case, the declaration does not identify the citizenship of the inventor, Zaiya Liao. Since the declaration does not clearly identify the citizenship of the inventor, it is considered defective under 37 CFR 1.497(a)(3) and 37 CFR 1.63(c)(1).

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 a new oath or declaration is required.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office PCT Legal Administration
Tel.: 571-272-3298
Facsimile: 571-273-0459

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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

Mail Date: 06/28/2010

Applicant	: Grace Desantis	: DECISION ON REQUEST FOR
Patent Number	: 7608445	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/514,004	: OF WYETH
Filed	: 06/13/2005	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/514,010	10/27/2004	1743	1662	10921.0254USWO	39	40	7

CONFIRMATION NO. 7933

52835
HAMRE, SCHUMANN, MUELLER & LARSON, P.C.
P.O. BOX 2902
MINNEAPOLIS, MN 55402-0902

FILING RECEIPT
OC000000020051141
OC000000020051141

Date Mailed: 08/16/2006

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)

Koji Fujimoto, Kyoto, JAPAN;
Shigeru Kitamura, Kyoto, JAPAN;
MNasaki Hori, Kyoto, JAPAN;

Assignment For Published Patent Application

ARKRAY, Inc., Kyoto-shi, JAPAN

Power of Attorney: The patent practitioners associated with Customer Number **23552**.

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/JP03/05481 04/28/2003

Foreign Applications

JAPAN 2002-128952 04/30/2002
JAPAN 2002-312962 10/28/2002
JAPAN 2002-370927 12/20/2002

If Required, Foreign Filing License Granted: 08/15/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/514,010

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Analysis instrument, sample analysis method and analysis device using the instrument, and method of forming opening in the instrument

Preliminary Class

436

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).

21 APR 2005

#3

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In re Application of THOMAS TOTH Serial No.: 10/514,033 PCT App. No.: PCT/AU03/00486 Int'l Filing Date: 17 April 2003 Priority Date: 09 May 2002 Attorney Docket No.: 15574-47492 For: APPARATUS AND METHOD FOR SECURING A MOORING LINE OF A VESSEL	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 26 January 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 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 review of the application file reveals that the basic national fee of $395 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 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

20 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

John P White
Cooper & Dunham
1185 Avenue of the Americas
New York, NY 10036

In re Application of NALAN UTKU Application No.: 10/514,053 PCT No.: PCT/EP03/01083 Int. Filing: 04 February 2003 Priority Date: 04 February 2002 Attorney Docket No.:73367/JPW/MJW For: COMPOSITIONS AND METHODS FOR MODULATION OF EFFECTS ON PHYGOCYTE AND LYMPHOID CELL POPULATION	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 08 November 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $950 has been provided. The required petition fee of $1370 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing including the issuance of a Notification of Missing Requirements indicating that the oath or declaration in compliance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period, is required.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: 571-272-3286
Facsimile: 571-273-0459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070814

DATE : August 14, 2007

TO SPE OF : ART UNIT 1652

SUBJECT : Request for Certificate of Correction on Patent No.: 7192749

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: Ponnathapura N. Achutamurthy **Art Unit** 1652

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/514,078	06/30/2005	Masahi Enomoto	S1459.70050US00	9041

7590 01/11/2008
WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

EXAMINER
BARTON, JEFFREY THOMAS

ART UNIT	PAPER NUMBER
1795	

MAIL DATE	DELIVERY MODE
01/11/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Ricardo Clemons
Patent Publication Branch
Office of Data Management

Adjustment date: 01/10/2008 RCLEMONS
07/06/2005 MKAYPAGH 00000126 10514078
01 FC:1617 -130.00 OP

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/514,078	06/30/2005	Masahi Enomoto	S1459.70050US00	9041

23628 7590 01/10/2008
WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

EXAMINER
BARTON, JEFFREY THOMAS

ART UNIT	PAPER NUMBER
1795	

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)	
	10/514,078	ENOMOTO ET AL.	
	Examiner	Art Unit	
	Barton, Jeffrey	1795	

-- 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.

27 JUL 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 Lanza
Lahive & Cockfield, LLP
28 State Street
Boston, MA 02109

In re Application of BALOGH	:	
U.S. Application No.: 10/514,079	:	
PCT Application No.: PCT/US03/16892	:	
Int. Filing Date: 30 May 2003	:	DECISION
Priority Date Claimed: 31 May 2002	:	
Attorney Docket No.: WCZ-029DV	:	
For: A HIGH SPEED COMBINATION MULTI-MODE IONIZATION SOURCE FOR MASS SPECTROMETERS	:	

This is in response to the "Petition to Treat Application as Filed Under 35 U.S.C. § 111(a) Pursuant to 37 C.F.R. § 1.182" filed 07 February 2005.

BACKGROUND

On 30 May 2003, applicant filed international application PCT/US03/16892, which claimed priority of an earlier United States application filed 31 May 2002. The thirty-month period for paying the basic national fee in the United States expired on 30 November 2004.

On 10 November 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 was assigned U.S. Application Number 10/514,098.

On 11 November 2004, applicant filed two additional sets of purported national stage papers (attorney docket numbers WCZ-029DV and WCZ-029DV2) based on international application number PCT/US03/16892.

On 28 January 2005, this Office mailed a communication which advised applicant that the submission of three sets of U.S. national stage papers for a single international application was improper.

On 07 February 2005, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

The papers associated with attorney docket number WCZ-029DV were received on 11 November 2004 and have been placed in the present application file.

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 11 November 2004 contained a specification and drawings.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is GRANTED.

This application is being forwarded to the Office of Initial Patent Examination for processing as a continuation application under 35 U.S.C. 111(a) with a filing date of 11 November 2004.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
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FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Eric C. Wong	: DECISION ON REQUEST FOR
Patent Number	: 7587233	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/514,084	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1058** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 05/17/2010

Applicant : Eric C. Wong
Patent Number : 7587233
Issue Date : 09/08/2009
Application No : 10/514,084
Filed : 06/16/2005

: 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 **1097** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, Virginia 22313-1450
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SNELL & WILMER LLP (OC)
600 ANTON BOULEVARD
SUITE 1400
COSTA MESA, CA 92626

Mail Date: 04/21/2010

Applicant	: Teruto Tanaka	: DECISION ON REQUEST FOR
Patent Number	: 7589695	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/514,088	: 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 **286** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Basell USA Inc.
Delaware Corporate Center II
2 Righter Parkway, Suite #300
Wilmington DE 19803B

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MAY 2 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Ludwig Bohm, et al.	:	
Application No. 10/514,095	:	DECISION ON PETITION
Filed: November 10, 2004	:	
Attorney Docket No. 09086-00216-US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b) filed October 1, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before August 7, 2007, as required by the Notice of Allowance and Fee(s) Due mailed May 7, 2007. Accordingly, the date of abandonment of this application is August 8, 2007. The Notice of Abandonment was mailed August 30, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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.

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 Terri Williams at (571) 272-2991.

This application is being referred to Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: **Basell USA Inc.**
912 Appleton Road
Elkton, MD 21921

10/514101

COR

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

OIPE IAP57 JUN 15 2009 PATENT & TRADEMARK OFFICE

Applicant: Walker, Curtis G.

Title: SNOW SKATES

Patent No.: 7,510,206 B2

Issue Date: March 31, 2009

Examiner: Dickinson, Paul N.

U.S. CL.: 280/600

Certificate
JUN 17 2009
of Correction

REQUEST FOR CERTIFICATE OF CORRECTION FOR MISTAKES PURSUANT TO 37 C.F.R. § 1.323

ATTN.: CERTIFICATE OF CORRECTIONS BRANCH
Commissioner for Patents
Alexandria, VA 22313-1450

Sir:

Enclosed, in duplicate, is a Certificate of Correction, Form PTO/SB/44, for United States Patent Number 7,510,206 B2 issued on March 31, 2009.

The Patentee hereby requests correction of errors to the above patent for "SNOW SKATES" which were either minor oversights in the patent application or errors of a clerical or typographical nature that were the fault of, and went undetected by, the applicant and/or the applicant's agent(s) during the patent application process.

The Patentee submits that these oversight corrections are clarifications to indefiniteness or inaccuracy errors that are of minor character, and would not constitute new matter, and correction thereof would not require re-examination of the patent. These errors occurred in good faith and were made without deceptive intent.

The Patentee submits that corrections hereby requested for the Claims are readily and objectively evident in light of the patent Specification, Drawings, and the original patent application(s), and do not broaden the scope of the patent claims. Pursuant to 37 C.F.R § 1.323, the applicant requests that the enclosed Certificate of Correction be approved. A $100.00 fee is deemed necessary under § 1.20(a) in connection with the filing of this Request for Certificate of Correction. The Patentee further requests that, if approved, should any additional fees be required for this Request, the Commissioner please inform the applicant of the payment required for the approved corrections.

Respectfully submitted,

Date June 8, 2009

By Curtis Walker

06/16/2009 MGEBREM1 00000044 7510206
01 FC:1811 100.00 OP

Mr. Curtis Walker
5267 Mackay Crescent,
P.O. Box 10180,
108 Mile Ranch, B.C.,
Canada V0K 2Z0
E-mail: avatarsk8z@shaw.ca

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,510,206 B2

APPLICATION NO.: 10/514,101

ISSUE DATE : March 31, 2009

INVENTOR(S) : Curtis G. Walker

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Title Page,
Item [76], the applicant has since moved. Please replace "5505 Cliffridge Place, North Vancouver, B.C. (CA) V7R 4S2" with -- P.O. Box 10180, 108 Mile Ranch, B.C. (CA) V0K 2Z0 --.

Column 3,
Line 10, change "ski **10**" to -- ski **12** --;
Line 16, replace "25 inches. It" by -- 63cm (25 inches). Ski **12** --;
Line 17, after "that", insert -- when mounted, --;
Line 23, change "FIG. **4**." to -- FIG. **5**. --;
Line 29, change "ski **10**." to -- ski **12**. --;
Line 41, replace "convexity" by -- generally convex ridge --;
Line 47, change "FIG." to -- FIGS. --;
Lines 54-55, delete "or slide lip";
Line 57, after "over", insert -- the --;
Line 65, after "base", insert -- **24** and --;

Column 4,
Line 22, replace "overlaps the bite zone B" by -- verges on the bite zone B. --;
Line 23, delete "and";
Line 29, delete "25 or";
Line 36, insert a comma after "Similarly";

/JO/
Corrections to Title Page, Column 3 and Column 4 Approved.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Mr. Curtis Walker,
5267 Mackay Crescent,
P.O. Box 10180,
108 Mile Ranch, B.C.,
Canada V0K 2Z0

PTO/SB/44 (09-07)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,510,206 B2

APPLICATION NO.: 10/514,101

ISSUE DATE : March 31, 2009

INVENTOR(S) : Curtis G. Walker

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 5,
Line 3, change "FIGS. **12**B and **12**C" to -- FIGS. **12**C and **12**B --;
Line 5, replace "increasing angle of slope E and projection" by -- increasing concavity and angle of slope E and increasing projection --;
Line 11, after "concavity", insert -- and angle of slope E --;
Line 18, change "FIGS. **13**B-**13**E" to -- FIGS. **13**B-**13**D --;
Line 20, after "depth", insert -- Z --;
Line 36, after the word "in", insert -- base --;
Line 38, after "base", insert -- **24** of ski **12** --;
Line 47, before "slots", insert -- troughs or --;
Line 51, after "edges", insert -- **26** --;
Line 53, change "line" to -- lines --;
Line 55, after "convexity", insert -- **27** --;
Line 57, after "keel", insert -- **88** --;
Line 58, after "from", insert -- a --;
Line 64, after the period following "direction", insert the clarifying sentence:
-- FIG. **17**C also illustrates only edges **26** contact a hard icy surface (shown as the dashed line) in the flat zone of this embodiment. --;
Line 65, replace "included." by -- included for extra bite. --; /JO/

Corrections to Column 5 Approved.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Mr. Curtis Walker
5267 Mackay Crescent,
P.O. Box 10180,
108 Mile Ranch, B.C.,
Canada V0K 2Z0

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,510,206 B2

APPLICATION NO.: 10/514,101

ISSUE DATE : March 31, 2009

INVENTOR(S) : Curtis G. Walker

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 6,
Lines 2-3, replace "diminishes" by -- can diminish --, and delete "for tracking and extra bite";
Line 5, replace "edge" by -- steel edges --;
Lines 9-10, replace "diminishes in significance towards the front and rear, as a narrowing keel." by -- contracts as a narrowing keel towards the front and rear.--;
Line 20, change "I-I" to -- l-l -- (i.e. upper case I's should be lower case L's here);
Line 23, change "narrow" to -- narrower --;
Line 28, replace "slope E" by -- angle of slope E --;
Line 32, after "concavity", insert -- developed --;
Line 35, replace "concavity **52**" by -- transverse passage/concavity **52** --;
Line 37, replace "while riding along a rail or paired rail" by -- steadily while riding along a rail or pipe --;
Line 47, replace "snow skate" by --ski **12** --;
Line 51, replace "layer." by -- layer may be included in the lay-up. --;
Line 57, replace "construction; a" by -- construction (see FIG. **18**A); a --.

Column 7,
Line 56, before "increasingly", insert -- top surface and the --;
Line 62, replace "shape, and" by -- shape of ski **12** (see FIG. **14**B), and --.

/JO/
Corrections to Columns 6-8 are Approved.

Column 8,
Line 4, replace "skates." by -- skates (see FIG. **14**B). --;
Line 50, replace "backwards." by -- backwards at speed. --;
Line 52, after "stop", insert a comma.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Mr. Curtis Walker
5267 Mackay Crescent,
P.O. Box 10180,
108 Mile Ranch, B.C.,
Canada V0K 2Z0

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,510,206 B2

APPLICATION NO.: 10/514,101

ISSUE DATE : March 31, 2009

INVENTOR(S) : Curtis G. Walker

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 9,
Line 19, Claim 1, replace "towards said zone of" by -- towards said first zone of --;
Line 38, Claim 2, replace "towards said zone of" by -- towards said first zone of --;
Line 39, Claim 2, replace "projection wherein" by -- projection forward of said flat zone wherein --;
Line 55, Claim 6, after "central", insert -- generally --;
Line 57, Claim 7, replace "claim **1**" by -- claim **1** or **2** --;
Line 58, Claim 7, after "projection", insert -- forward of said flat zone --;
Line 60, Claim 8, replace "claim **1**" by -- claim **1** or **2** --;
Line 63, Claim 9, replace "claim **1**" by -- claim **1** or **2** --;
Line 65, Claim 10, replace "claim **1**" by -- claim **1** or **2** --;

Corrections to Column 9 are not approved, changing of claim language to alter scope of claims.

/JO/

MAILING ADDRESS OF SENDER (Please do not use customer number below):

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P.O. Box 10180,
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Column 10,
Line 1, Claim 11, replace "claim **1**" by -- claim **1** or **2** --;
Line 7, Claim 12, replace "projection." by -- projection forward of said flat zone. --;
Line 8, Claim 13, replace "claim **2**" by -- claim **1** or **2** --;
Line 9, Claim 13, after "projection", insert -- rearward of said flat zone --;
Line 14, Claim 14, replace "projection." by -- projection forward of said flat zone. --;

Corrections to Column 10 are not approved, changing of claim language to alter scope of claims.

/JO/

MAILING ADDRESS OF SENDER (Please do not use customer number below):
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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,510,206 B2
APPLICATION NO.: 10/514,101
ISSUE DATE : March 31, 2009
INVENTOR(S) : Curtis G. Walker

These 5 pages are a duplicate copy, comments made above apply in duplicate to this copy of the Certificate of Correction as well.

/JO/

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Title Page,
Item [76], the applicant has since moved. Please replace "5505 Cliffridge Place, North Vancouver, B.C. (CA) V7R 4S2" with -- P.O. Box 10180, 108 Mile Ranch, B.C. (CA) V0K 2Z0 --.

Column 3,
Line 10, change "ski **10**" to -- ski **12** --;
Line 16, replace "25 inches. It" by -- 63cm (25 inches). Ski **12** --;
Line 17, after "that", insert -- when mounted, --;
Line 23, change "FIG. **4**." to -- FIG. **5**. --;
Line 29, change "ski **10**." to -- ski **12**. --;
Line 41, replace "convexity" by -- generally convex ridge --;
Line 47, change "FIG." to -- FIGS. --;
Lines 54-55, delete "or slide lip";
Line 57, after "over", insert -- the --;
Line 65, after "base", insert -- **24** and --;

Column 4,
Line 22, replace "overlaps the bite zone B" by -- verges on the bite zone B. --;
Line 23, delete "and";
Line 29, delete "25 or";
Line 36, insert a comma after "Similarly";

MAILING ADDRESS OF SENDER (Please do not use customer number below):

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5267 Mackay Crescent,
P.O. Box 10180,
108 Mile Ranch, B.C.,
Canada V0K 2Z0

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UNITED STATES PATENT AND TRADEMARK OFFICE
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PATENT NO. : 7,510,206 B2

APPLICATION NO.: 10/514,101

ISSUE DATE : March 31, 2009

INVENTOR(S) : Curtis G. Walker

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 5,
Line 3, change "FIGS. **12**B and **12**C" to -- FIGS. **12**C and **12**B --;
Line 5, replace "increasing angle of slope E and projection" by -- increasing concavity and angle of slope E and increasing projection --;
Line 11, after "concavity", insert -- and angle of slope E --;
Line 18, change "FIGS. **13**B-**13**E" to -- FIGS. **13**B-**13**D --;
Line 20, after "depth", insert -- Z --;
Line 36, after the word "in", insert -- base --;
Line 38, after "base", insert -- **24** of ski **12** --;
Line 47, before "slots", insert -- troughs or --;
Line 51, after "edges", insert -- **26** --;
Line 53, change "line" to -- lines --;
Line 55, after "convexity", insert -- **27** --;
Line 57, after "keel", insert -- **88** --;
Line 58, after "from", insert -- a --;
Line 64, after the period following "direction", insert the clarifying sentence:
-- FIG. **17**C also illustrates only edges **26** contact a hard icy surface (shown as the dashed line) in the flat zone of this embodiment. --;
Line 65, replace "included." by -- included for extra bite. --;

MAILING ADDRESS OF SENDER (Please do not use customer number below):

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UNITED STATES PATENT AND TRADEMARK OFFICE
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APPLICATION NO.: 10/514,101

ISSUE DATE : March 31, 2009

INVENTOR(S) : Curtis G. Walker

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MAILING ADDRESS OF SENDER (Please do not use customer number below):
Mr. Curtis Walker
5267 Mackay Crescent,
P.O. Box 10180,
108 Mile Ranch, B.C.,
Canada V0K 2Z0

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/26/09

TO SPE OF : ART UNIT 3618

SUBJECT : Request for Certificate of Correction for Appl. No.: 10514101 Patent No.: 7510206 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 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.
- X **Approved in Part** — Specify below which changes **do not** apply.
- ❑ **Denied** — State the reasons for denial below.

Comments: Certificate of Correction has been approved in part, marked-up copy of the Certificate of Correction has been attached.

/Lesley D Morris/ SPE 3611 3618

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE _____Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Henning Hauenstein	: DECISION ON REQUEST FOR
Patent Number	: 7573727	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/514,104	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **480** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of
Raphaeli, et al.
Application No. 10/514,118
Filed: November 12, 2004
Attorney Docket No. 3415/8
For: METHOD AND SYSTEM FOR DISTANCE DETERMINATION OF RF TAGS

DECISION ON PETITION

This is a decision on the petition, filed September 23, 2007, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the nonfinal Office action mailed October 12, 2006, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on May 22, 2007.

Petitioner asserts that the Office action dated October 12, 2006 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received 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 fails to satisfy 2 and 3 of the above-stated requirements.

Accordingly, absent the required evidence to establish nonreceipt of the Office action of October 12, 2006, the petition requesting withdrawal of the holding of abandonment cannot be granted.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $770.00 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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FEB 29 2008

In re Application of Raphaeli, et al. Application No. 10/514,118 Filed: November 12, 2004 Attorney Docket No. 3415/8 For: METHOD AND SYSTEM FOR DISTANCE DETERMINATION OF RF TAGS	: : : : : :	DECISION ON PETITION

This is a decision on the petition, filed January 6, 2008, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

This application was held abandoned on January 13, 2007 for failure to reply to the non-final Office action mailed October 12, 2006, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on May 22, 2007.

Applicants have submitted an amendment in reply to the October 12, 2006 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the October 12, 2006 non-final Office action, and the $770.00 petition fee.

Regarding the statement of delay: 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 of this decision is being mailed to practitioner. However, any future correspondence regarding this application will be mailed to the address of record.

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 2612 for consideration of the amendment filed on September 23, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: DR. MARK FRIEDMAN LTD.
C/O BILL POLKINGHORN
9003 FLORIN WAY
UPPER MARLBORO MD 20772

0 8 JAN 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

In re Application of	:	
ISHIGURO et al	:	
Application No.: 10/514,119	:	
PCT No.: PCT/JP2003/006137	:	
Int. Filing Date: 16 May 2003	:	DECISION
Priority Date: 17 May 2002	:	
Attorney Docket No.: 00005.001248	:	
For: METHOD OF SEARCHING SUBSTRATE	:	
HAVING ANTIDIABETIC ACTIVITY	:	

The decision is in response to applicants' submission filed 14 August 2006, which has properly been treated as a petition under 37 CFR 1.182.

BACKGROUND

On 16 May 2003, applicants filed international application PCT/JP2003/006137 which designated the United States and claimed a priority date of 17 May 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 27 November 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 17 November 2004.

On 12 November 2004, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee.

On 01 February 2005, applicants filed an English translation of the international application, a declaration of inventors, sequence listing and drawings.

On 27 November 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. The Notification indicated that the declaration of inventors filed 01 February 2005 was not in compliance with 1.497(a)-(b) because the second inventor's name is different on the declaration than on the international publication.

On 14 August 2006, applicants filed the instant submission which contains an indication that the second inventor has changed her name due to marriage. This indication has properly been treated as a petition under 37 CFR 1.182.

DISCUSSION

In instances where an inventor has changed his or her name after the application has been filed, a petition under 37 CFR 1.182 must be submitted. 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.

Item (1) has not been met. The petition fee has not been paid.

Item (2) has not been met. No such affidavit has been provided.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.182 is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS form the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182." 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

1 9 MAR 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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NEW YORK NY 10112

In re Application of	:	
ISHIGURO et al	:	
Application No.: 10/514,119	:	
PCT No.: PCT/JP2003/006137	:	
Int. Filing Date: 16 May 2003	:	DECISION
Priority Date: 17 May 2002	:	
Attorney Docket No.: 00005.001248	:	
For: METHOD OF SEARCHING SUBSTRATE	:	
HAVING ANTIDIABETIC ACTIVITY	:	

The decision is in response to applicants' renewed petition under 37 CFR 1.182 filed 07 March 2007.

BACKGROUND

On 16 May 2003, applicants filed international application PCT/JP2003/006137 which designated the United States and claimed a priority date of 17 May 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 27 November 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 17 November 2004.

On 12 November 2004, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee.

On 01 February 2005, applicants filed an English translation of the international application, a declaration of inventors, sequence listing and drawings.

On 27 November 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. The Notification indicated that the declaration of inventors filed 01 February 2005 was not in compliance with 1.497(a)-(b) because the second inventor's name is different on the declaration than on the international publication.

On 14 August 2006, applicants filed a submission which contained an indication that the second inventor has changed her name due to marriage. This indication was properly treated as a petition under 37 CFR 1.182.

On 08 January 2007, a decision was mailed dismissing applicants' petition under 37 CFR 1.182 without prejudice. Specifically, it was noted that the petition fee had not been paid and that 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 had not been provided.

On 07 March 2007, applicants filed the instant renewed petition under 37 CFR 1.182.

DISCUSSION

In instances where an inventor has changed his or her name after the application has been filed, a petition under 37 CFR 1.182 must be submitted. 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.

Items (1) and (2) have now been met.

The declaration of inventors filed 01 February 2005 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.182 is **GRANTED**.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.

Daniel Stemmer
Legal Examiner
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10 JUN 2005

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In re Application of Bjerkestrand et al. PCT No.: PCT/NO03/00155 Application No.: 10/514,121 Int. Filing Date: 13 May 2003 Priority Date: 14 May 2002 Attorney's Docket No.: P16865USPC01 For: DEVICE AND METHODS FOR TRANSFERRING MOTION PICTURES TO A PHOTOSENSITIVE MATERIAL	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is in response to applicants' "PETITION AND SIGNATURE BY JOINT INVENTORS ON BEHALF OF NONSIGNING INVENTOR WHO CANNOT BE LOCATED" submitted on 16 February 2005 that seeks the acceptance of the application without the signature of the inventor Fabian Gandet. Petitioner has been charged the requisite $200 petition fee to Deposit Account No.: 501898.

BACKGROUND

On 13 May 2003, applicants filed international application PCT/NO03/00155, which claimed priority of an earlier application filed 14 May 2002. A copy of the international application was transmitted to the United States from the International Bureau on 20 November 2003.

On 12 November 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). However, no executed declaration or oath was submitted at such time.

On 15 April 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 indicating, *inter alia*, that "the oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date." The notification set two (2) months from the date of this notice or 32 months from the priority date for the application, whichever is later. Failure to properly respond will result in abandonment."

In an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4), petitioner, inter alia, filed on 16 February 2005, a petition under 37 CFR 1.47(a), an executed declaration by Rune Bjerkestrand and Bjorn Gardner their behalf and on behalf on the nonsigning inventor Fabian Gandet, and declarations by Bjerkestrand and Gardner .

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Furthermore, section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.) **Proof of Unavailability or Refusal**, the relevant sections states, in part:

INVENTOR CANNOT BE REACHED:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under **37 CFR 1.47**, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under **37 CFR 1.47**.
>
> Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under **37 CFR 1.47**. **37 CFR 1.43** may be available under these circumstances. See **MPEP § 409.02**. Such a petition under **37 CFR 1.47** will be dismissed as inappropriate.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

Petitioner has satisfied requirements (1), and (3) of 37 CFR 1.47(a). However, requirements (2) and (4) have not been satisfied.

The statements of Bjerkestrand and Gardner are insufficient to support a finding that the nonsigning inventor, Fabian Gandet could not be found after diligent effort. The statements state that "despite diligent efforts, the nonsigning inventor cannot be located" is vague as to what diligent efforts were made to locate Fabian Gandet since statements of the use of email and telephone does not imply a search to locate the nonsigning inventor without providing them.

Consequently, their declarations fail to show diligent effort to locate inventor Gandet because no proof to corroborate their actions that Gandet could not be reached after diligent effort has been provided. For example, they have not shown that they searched for the above non-signing inventor's new address by using a broad search in the internet or by using a phone director to try to locate Mr. Gandet's new address and providing that evidence to the USPTO. In addition, the actions to locate Mr. Gandet has to be submitted by persons that have firsthand knowledge of those actions as required by 37 CFR 1.47(a).

Regarding requirement (4), petitioner has provided a defective executed declaration since it only identifies Bjerkestrand, Gardner and not Fabian Gandet as required under 37 CFR 1.63(a) (each inventor must be identified).

Accordingly, at this time it can not be concluded that the nonsigning Fabian Gandet could not be reached after diligent effort as stipulated under 37 CFR 1.47(a).

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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23 DEC 2005

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In re Application of	DECISION ON RENEWED
Bjerkestrand et al.	
PCT No.: PCT/NO03/00155	
Application No.: 10/514,121	
Int. Filing Date: 13 May 2003	PETITION UNDER
Priority Date: 14 May 2002	
Attorney's Docket No.: P16865USPC01	
For: DEVICE AND METHODS FOR	
TRANSFERRING MOTION PICTURES TO A	
PHOTOSENSITIVE MATERIAL	37 CFR 1.47(a)

This decision is in response to applicants' "RENEWED PETITION UNDER 37 CFR 1.47(a)" submitted on 25 August 2005 that seeks the acceptance of the application without the signature of the inventor Fabian Gandet.

BACKGROUND

In a decision from this Office on 10 June 2005, the petition was dismissed. The decision stated that petitioner had not provided sufficient support that the nonsigning could not be found after diligent effort.

On 25 August 2005, petitioner filed the present renewed petition accompanied with a supplemental 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.

Furthermore, section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.) **Proof of Unavailability or Refusal**, the relevant sections states, in part:

INVENTOR CANNOT BE REACHED:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under **37 CFR 1.47**, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under **37 CFR 1.47**.
>
> Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under **37 CFR 1.47**. **37 CFR 1.43** may be available under these circumstances. See **MPEP § 409.02**. Such a petition under **37 CFR 1.47** will be dismissed as inappropriate.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

Petitioner has now satisfied item (4) of 37 CFR 1.47(a), but item (2) has not been satisfied.

Although the statements of Ida Sofie Bjaarstad are sufficient to support a finding that the nonsigning inventor, Fabian Gandet could not be found after diligent effort, Ida has failed to provide proof to corroborate these actions. Ida has not submitted copies of documentary evidence such as the search conducted by the internet and the search done using the French and Norwegian telephone directory that would show diligent effort in the search for the nonsigning inventor.

Regarding requirement (4), petitioner has provided a proper executed Declaration.

Accordingly, at this time it can not be concluded that the nonsigning Fabian Gandet could not be reached after diligent effort as stipulated under 37 CFR 1.47(a).

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Second Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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15 MAY 2006

#12

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In re Application of	:	DECISION ON SECOND
Bjerkestrand et al.	:	
PCT No.: PCT/NO03/00155	:	
Application No.: 10/514,121	:	
Int. Filing Date: 13 May 2003	:	RENEWED PETITION UNDER
Priority Date: 14 May 2002	:	
Attorney's Docket No.: P16865USPC01	:	
For: DEVICE AND METHODS FOR	:	
TRANSFERRING MOTION PICTURES TO A	:	
PHOTOSENSITIVE MATERIAL	:	37 CFR 1.47(a)

This is in response to the "SECOND RENEWED PETITION UNDER 37 CFR 1.47(a)" filed on 13 March 2006.

BACKGROUND

In a decision from this Office on 23 December 2005, the petition was dismissed. The decision stated that petitioners had not provided corroborating evidence for the inability to locate the nonsigning inventor, Fabien Gandet.

On 13 March 2006, petitioner filed the present renewed petition accompanied with corroborating evidence.

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 requirements (1) - (4) of 37 CFR 1.47(a).

The statements of Ida Sofie Bjaarstad are sufficient to show diligent effort to locate non-signing inventor Fabien Grandet because an internet search was conducted but was unsuccessful in terms of discovering any new relevant address information about the non-signing inventor.

Accordingly, the actions enumerated by submitted statements are sufficient to establish that the non-signing inventor Fabien Grandet could not be found or reached after diligent effort.

Petitioner has satisfied items (1), (2), (3), and (4) under 37 CFR 1.47(a), thus completing the requirements under 37 CFR 1.47(a).

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 **25 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 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.

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15 MAY 2006

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Fabien Gandet
57 Rue de Saint Robert
F-38129, Saint Egreve, France

In re Application of
Bjerkestrand et al.
PCT No.: PCT/NO03/00155
Application No.: 10/514,121
Int. Filing Date: 13 May 2003
Priority Date: 14 May 2002
Attorney's Docket No.: P16865USPC01
For: DEVICE AND METHODS FOR TRANSFERRING MOTION PICTURES TO A PHOTOSENSITIVE MATERIAL

Dear Mr. Gandet:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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30 DEC 2005

RABIN & BERDO, PC
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WASHINGTON, DC 20005

In re Application of
WANG
Application No.: 10/514,123
PCT No.: PCT/JP03/05739
Int. Filing Date: 108 May 2003
Priority Date: 13 May 2002
Attorney Docket No.: AI 365NP
For: INDOOR POWER DISTRIBUTION SYSTEM

DECISION ON REQUEST

This application is before the Office of PCT Legal Administration for issues arising under 35 U.S.C. 371. Applicant filed a petition requesting correction of the international application number in the United States Patent and Trademark Office (USPTO) records due to USPTO error.

On 12 November 2004, applicant filed a Transmittal Letter (Form PTO-1390) for entry into the national stage in the United States which identified the international application as **PCT/JP03/05739**.

On 12 April 2005, the USPTO mailed a Notification of Missing Requirements (FORM PCT/DO/EO 905) misidentifying the international application number as PCT/JP03/07539. On 21 June 2005, a Notification of Acceptance (FORM PCT/DO/EO 903) was mailed to applicant also misidentifying the international application number as PCT/JP03/07539.

On 10 August 2005, in response to the USPTO communications, applicants filed the instant petition requesting rectification of incorrect international application number, identifying the correct international application number as PCT/JP03/05739. Applicant's request to correct the international application number in the USPTO records is **GRANTED**. The Notification of Acceptance (FORM PCT/DO/EO 903) mailed on 21 June 2005 is hereby **VACATED**.

The application is being forwarded to the US Designated/Elected Office for further processing as the national stage of **PCT/JP03/05739**, assigned U.S. serial number **10/514,123**.

The DO/EO/US will issue a new Notification of Acceptance (FORM PCT/DO/EO 903) and a corrected Filing Receipt identifying the international application number as **PCT/JP03/05739**.

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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

Mail Date: 04/21/2010

Applicant	: Mark B. Pepys	: DECISION ON REQUEST FOR
Patent Number	: 7615543	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/514,127	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/06/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **666** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

17 FEB 20

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James P. Zeller
Marshall, Gerstein & Borun, LLP
233 South Wacker Drive, Suite 6300
Sears Tower
Chicago, Illinois 60606-6357

In re Application of	:	
O'DELL, et al.	:	
U.S. Application No.: 10/514,137	:	DECISION ON PETITION
Filing Date: 10 November 2004	:	
Attorney Docket No.: 29610/CDT389	:	UNDER 37 CFR 1.10
For: POLYMERS, THEIR PREPARATION AND USES:		

This decision is in response to applicant's "Petition to Correct Filing Date Under 37 C.F.R. § 1.10(c)" filed 10 January 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 09 May 2003, applicant filed international application PCT/GB03/01991. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 20 November 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 10 November 2004.

On 10 November 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a preliminary amendment.

On 10 January 2005, applicant filed the present petition under 37 CFR 1.10 (c) indicating that applicant's return receipt postcard showed a filing date of 11 November 2005.

DISCUSSION

A review of the application file finds applicant's original Express Mail envelope contained therein. The envelope is stamped with a USPTO Mail Center "Express Mail Label Date" of "NOV 10 2004." As such, it is proper to grant applicant's petition at this time. Payment of the full, U.S. Basic National fee was received prior to the expiration of thirty months from the priority date.

CONCLUSION

Applicant's petition under 37 CFR 1.10(c) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision: 1) The assigning of a receipt date of the National stage papers of 10 November 2004 and 2) The preparation and mailing of a "Notification of Missing Requirements" (Form PCT/DO/EO/905) indicating that an executed oath or declaration of the inventors and payment of the appropriate surcharge is required.

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DEC 14 2009

OFFICE OF PETITIONS

In re Patent No. 7,550,854	:	DECISION ON REQUEST FOR
Rudolf Strasser	:	RECONSIDERATION OF
Issue Date: June 23, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/514,145	:	AND NOTICE OF INTENT TO ISSUE
Filed: February 13, 2006	:	CERTIFICATE OF CORRECTION
Docket No.10808/173	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d), filed August 21, 2009. Patentee requests that the determination of patent term adjustment for the above-identified patent be corrected from two hundred fourteen (214) days to seven hundred eleven (711) 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 **502 days**.

On June 23, 2009, the above-identified application matured into U.S. Patent No. 7,550,854. The patent issued with a revised patent term adjustment of 214 days. The present request for reconsideration of patent term adjustment was timely filed on August 21, 2009, within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentee avers that the correct number of days of patent term adjustment is 711 days. Patentees maintain that the total period of Office delay is the sum of the period of Three Year Delay[1] (593 days) and the period of examination delay[2] (305 days)[3] to the extent that these periods of delay are not overlapping. Patentees contend that there are only 209 days of the 305 days of examination delay under 37 CFR 1.703(a) that overlap do not overlap with the 593 days of delay under 37 CFR 1.703(b). Therefore, patentees assert that they are entitled to the sum of 209 days of examination delay + 593 days of over three delay - 91

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[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 February 12, 2008, 14 months and 305 days after the date on which the requirements under 35 U.S.C. 371 were fulfilled on February 13, 2006.

days of applicant delay for a total patent term adjustment of 711 days.

At the outset, a review of the record indicates that the Office did not use the correct 35 U.S.C. 371(b) national stage commencement date of November 8, 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) 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, February 13, 2006, 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), November 8, 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 593 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, November 9, 2007, and ending on the date the patent issued, June 23, 2009.

As to patentee's 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

---

[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.

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 entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C.

154(b)(1) and in corresponding 37 CFR 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office, beginning November 8, 2004, the date the national stage commenced under 35 USC 371(b), until the date the patent issued June 23, 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), 305 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), 593 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 593 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 305 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 593 days and the 305 days is neither permitted nor warranted. 593 days is the actual number of days issuance of the patent was delayed. Accordingly, an additional period of adjustment of 288 days is being entered for the Office failing to issue the patent within three years after the date the national stage commenced under 35 U.S.C. 371(b).

In view thereof, the patent term adjustment indicated on the patent should be 502 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 502 days.

Telephone inquiries regarding this matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

C. T. 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 : 7,550,854 B2

DATED : Jun. 23, 2009

INVENTOR(S) : Strasser

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 (214) days

Delete the phrase "by 214 days" and insert – by 502 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 4, 2009

TO SPE OF : ART UNIT 3748

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/514147

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 120

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

/Thomas Denion/
SPE

3748
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THE LAW OFFICE OF JANE K. BABIN
PROFESSIONAL CORPORATION
16779 FALCON BLUFF CT.
SAN DIEGO, CA 92127

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JUN 22 2009

OFFICE OF PETITIONS

In re Application of
LIU, Jin et al.
Application No. 10/574,163
Filed: March 29, 2006
Attorney Docket No. **8028-005-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 May 23, 2009.

The request is not approved because it is **moot**.

A review of the file record indicates that the power of attorney to THE LAW OFFICE OF JANE K. BABIN has been revoked by the assignee of the patent application on May 21, 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 address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **MULTICELL TECHNOLOGIES, INC.**
C/O DAVID LEWIS
1250 AVIATION AVENUE, SUITE 200B
SAN JOSE CA 95110

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Date: 02/23/10

Patent No. : 7648674 B2
Ser. No. : 10/514,165
Inventor(s) : CHARPENTIER, JACQUES
Issued : 01/19/10
Title : **DEVICE FOR THE IN-LINE TREATMENT OF LIQUID METAL BY MEANS OF GAS AND FILTRATION**
Docket No. : **22324-00001-US1**

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 1.17(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: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 756-1574 or (703) 305-8309

CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON DC 20006

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

Paper No.

STANFORD UNIVERSITY OFFICE OF TECHNOLOGY LICENSING
BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO CA 94303

COPY MAILED
MAR 15 2010

In re Patent No. 7,605,150	: DECISION ON REQUEST
Khosla et al.	: FOR
Issue Date: October 20, 2009	: RECONSIDERATION OF
Application No. 10/514,177	: PATENT TERM ADJUSTMENT
Filed: June 28, 2005	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
STAN-258US2 (S03-143)	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 4, 2009, which is being treated as a request for reconsideration 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 six (1106) 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 five (1105) days is **GRANTED to the extent indicated herein**.

The "B" delay period is 705 days, not 706 days. Patentee calculated this period based on a commencement date under 35 U.S.C. 371(b) of Sunday, November 14, 2004. However, the application commenced the national stage under 35 U.S.C. 371(b) on Monday, November 15, 2004. Thus, "B" delay is 705 days, counting the number of days beginning on November 16, 2007, the day after the date three years after the national stage commenced, and ending on October 20, 2009, the date of issuance. See 1.703(b).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The 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 five (1105)** 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 : 7,605,150 B2

DATED : **October 20, 2009** **DRAFT**

INVENTOR(S) : Khosla 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 573 days.

Delete the phrase "by 573 days" and insert – by 1105 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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PERKINS COIE LLP
POST OFFICE BOX 1208
SEATTLE WA 98111-1208

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FEB 16 2010

In re Application of	:	
Yunqing Liu et al.	:	
Application No. 10/514,184	:	DECISION ON PETITION
Filed: June 4, 2005	:	TO WITHDRAW
Attorney Docket No. **61478.8001.US00**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed December 4, 2009.

The request is **NOT APPROVED**.

The request cannot be approved because the requested change in the correspondence address is improper.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the 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).

Therefore, as there is currently no Statement under 37 CFR 3.73(b) with the current assignee information of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw at this present time.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to JoAnne Burke at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

28 JUN 2005

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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William C. Gehris
Davidson, Davidson & Kappel, LLC
485 Seventh Avenue, 14th Floor
New York, NY 10018

In re Application of	:	
REINHARDT, et al.	:	
U.S. Application No.: 10/514,187	:	DECISION ON PETITION
PCT No.: PCT/EP03/02272	:	
Int. Filing Date: 06 March 2003	:	UNDER 37 CFR 1.137(b)
Priority Date: 03 May 2002	:	
Attorney Docket No.: 331.1076	:	
For: OZONE FILTER MATERIAL	:	

The petition to revive under 37 CFR 1.137(b) filed 11 November 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed oath or declaration of the inventors is required.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

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20 NORTH WACKER DRIVE
36TH FLOOR
CHICAGO IL 60606

MAILED

MAR 27 2009

OFFICE OF PETITIONS

In re Patent No. 7,462,362	:	
Kepka et al.	:	DECISION ON
Issue Date: December 9, 2008	:	REQUEST FOR RECONSIDERATION
Application No. 10/514,190	:	OF
Filed: November 10, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. NMD-130	:	

This is in response to the "PETITION UNDER 37 CFR 1.705(d)," filed January 08, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from seven hundred fifty-six (756) days to one thousand sixty-four (1064) days. The instant patent issued in the name of NexMed Holdings, Inc. and the instant request for reconsideration is filed by an attorney of record on their behalf.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On December 9, 2008, the above-identified application matured into US Patent No. 7,462,362 with a patent term adjustment of 756 days. This request for reconsideration of patent term adjustment (including the required fee) was timely filed within two months of the issue date of the patent. See 1.705(d).

Patentee maintains that the patent term methodology identified and explained in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008) governs the USPTO calculation of the patent term adjustment for this patent. Therefore, patentee maintains that the patent term adjustment should have been 1064 days.

Patentee argues that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), is 395 days. This 395 day period is calculated based on the application having been filed under 35 U.S.C. §371 on November 10, 2004, and the patent having not issued until December 9, 2008, three years and 395 days later. Patentee asserts that in addition to this 395 day period, they are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), totalling 756 days. This 756 day period is the sum of:

- a period of delay of 716 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to § 1.702(a)(1);
- a period of delay of 40 days for the failure by the Office to respond to a reply under 35 U.S.C. 132 not later than four months after the date on which the reply was filed, pursuant to § 1.702(a)(2);

Under 37 CFR § 1.703(f), applicants are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR §1.702 reduced by the period of time equal to the period of time during which applicants failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704. In other words, the period of Office delay reduced by the period of applicant delay. The period of reduction of 0 days for applicant delay is not in dispute. Patentee asserts that the total period of Office delay is the sum of the period of Three Years Delay (395 days) and the period of Examination Delay (756 days) to the extent that these periods of delay are not overlapping.

Further, patentee articulates the periods of overlap as follows:

> Patentee contends that 47 days of the period of delay of 716 days for the Office's failure to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed (November 11, 2005 to December 27, 2007) overlaps with the Three Year Delay period (November 11, 2007 to December 9, 2008). Patentee asserts that this overlapping period is

the 47 days running from November 11, 2007 to December 27, 2007.

In addition, patentee contends that the full 40 days for the failure by the Office to respond to a reply under 35 U.S.C. 132 not later than four months after the date on which the reply was filed, pursuant to § 1.702(a)(2) (September 8, 2008 to October 17, 2008) overlaps with a portion of the Three Year delay period (November 11, 2007 to December 9, 2008). Patentee asserts that this overlapping period is the entire 40 days from Septmber 8, 2008 to October 17, 2008.

Thus, according to patentee the total period of overlap is 87 days.

Accordingly, patentee submits that the total period of Office Delay is 1064 days, which is the sum of the period of Three Year Delay (395 days) and the period of Examination Delay (756 days), reduced by the period of overlap (87 days).

As such, patentee asserts entitlement to a patent term adjustment of 1064 days (395 +756 reduced by 87 overlap -0 for applicant delay).

The Office agrees that the patent issued 3 years and 395 days after its filing date. The Office agrees that the actions detailed above were not taken within the specified time frames, and thus, the entry of period of adjustment of 756 days is correct. At issue is whether patentee should accrue 308 (adjusted for overlap, per applicants' calculations) days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as, 756 days for Office failure to take certain actions within a specified time frames (or examination delay).

The Office contends that all 395 days overlap. Patentee's interpretation of the period of overlap has been considered and found to be incorrect. Patentee's calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark*

Office Interpretation of 35 U.S.C. 154(b)(2)(A), 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of applicants. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the

> term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application. Treating the relevant period as starting on November 11, 2007, the date that is 3 years after the actual filing date of the application is incorrect.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, November 10, 2004 to December 9, 2008. (There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). 756 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within specified time frames during the pendency of the application. All of these 756 days overlap with the 395 days for Office delay in issuing the patent. During that time, the issuance of the patent was delayed by 756 days, not 756 + 395 days. The Office took 14 months and 716 days to issue a first Office action, and four months and 40 days to mail a notice of allowance in response to response filed May 7, 2008. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 756 days of Office delay and the time allowed within the timeframes for processing and examination, the patent issued, three years and 395 days after its filing date. The Office did not delay 716 days and then 40 days and then an additional 395 days. Accordingly, 756 days of patent term adjustment (not 756 and 395 days) was properly entered since the period of delay of 395 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 756 days attributable to grounds

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

specified in § 1.702(a)(1) and (2). Entry of all three periods is not warranted. Not only did the 87 days overlap, but rather the entire 395 days overlapped. 756 days was properly determined to be the actual number of days that the issuance of the patent was delayed, considering the 395 days over three years.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent.

In view thereof, the Office affirms that the correct revised determination of patent term adjustment at the time of the issuance of the patent is 756 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Olson & Cepuritis, LTD.
20 NORTH WACKER DRIVE
36TH FLOOR
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Stanley W. Kepka	: DECISION ON REQUEST FOR
Patent Number	: 7462362	: RECALCULATION of PATENT
Issue Date	: 12/09/2008	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/514,190	: OF WYETH
Filed	: 11/10/2004	:
		:

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.

12 AUG 2005

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Benoit Castel
Young & Thompson
745 South 23rd Street
Arlington, VA 22202

In re Application of	:	
KIKUYAMA, et al.	:	
Application No.: 10/514,192	:	
PCT No.: PCT/JP03/04911	:	DECISION ON REQUEST
Int. Filing Date: 17 April 2003	:	
Priority Date: 14 May 2002	:	
Attorney Docket No.: 8075-1004	:	

For: METHOD OF PURIFYING QUARTERNARY ALKLAMMONIUM SALT AND QUATERNARY ALKYLAMMONIUM SALT

This decision is in response to applicants' "Petition under 37 CFR 1.182" regarding the correction of the fourth and fifth inventor's name filed 04 August 2005 notifying the Office that the correct spelling of the fourth and fifth inventor's name is Tetsuo Nishida and Yasutaka Tashiro as indicated on the declaration rather than Tetsuro Nishida and Yasuki Tashiro as indicated on the published international application. Applicants' request has been treated under 37 CFR 1.181. No petition fee is due.

The declaration of Robert P. Lewis avers that "the fourth and fifth inventors given names that appear on the cover page of the International Publication could also have been correctly translated as Tetsuo, rather than Tetsuro, and Yasutaka rather than Yasuki." As indicated in Section 201.03 of the Manual of Patent Examining Procedure, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition under 37 CFR 1.48(a) is not required. Accordingly, applicants' explanation of the difference in the spelling of the fourth and fifth inventor's name is accepted and noted for the record.

For the reasons above, the request is **GRANTED**.

This application is being forwarded to United States Designated/Elected Office for further processing and for review of the national stage papers submitted 13 June 2005.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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Steven J Grossman
Grossman Tucker Perreault & Pfleger
55 South commercial Street
Manchester NH 03101

COPY MAILED
OCT 18 2006
OFFICE OF PETITIONS

Applicant: Koch
Appl. No.: 10/514,213
International Filing Date: May 9, 2003
Title: PIECE OF FURNITURE COMPRISING A MASSAGE UNIT
Attorney Docket No.: LIP050
Pub. No.: US 2006/0155223 A1
Pub. Date: July 13, 2006

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on August 21, 2006, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark O. Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

10 MAY 2005

#4

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Peter J. Butch III
SYNNESTVEDT, LECHNER & WOODBRIDGE
112 Nassau Street
P.O. Box 592
Princeton, NJ 08542-0592

In re Application of :
KOHN, Joachim *et al* :
Application No.: 10/514,215 :
PCT No.: PCT/US03/01500 :
Int. Filing Date: 15 May 2003 : **DECISION**
Priority Date: 15 May 2002 :
Attorney Docket No.: P25938 A USA :
For: TRI-BLOCK POLYMERS FOR :
NANOSPHERE-BASED DRUG OR :
GENE DELIVERY :

Applicants' "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed on 29 April 2005 is hereby **GRANTED** as follows:

The basic national fee deficiency of $10.00 and petition fee of $750.00 for a small entity have been paid. Applicants state that "[t]he entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration has not yet been provided.

This application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a $65.00 surcharge fee pursuant to 37 CFR 1.492(h) are required.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

09 MAY 2006

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Peter J. Butch III
SYNNESTVEDT, LECHNER & WOODBRIDGE
112 Nassau Street
P.O. Box 592
Princeton, NJ 08542-0592

In re Application of	:	
KOHN, Joachim *et al*	:	
Application No.: 10/514,215	:	
PCT No.: PCT/US2003/015600	:	
Int. Filing Date: 15 May 2003	:	**DECISION**
Priority Date: 15 May 2002	:	
Attorney Docket No.: P25938 A USA	:	
For: TRI-BLOCK POLYMERS FOR	:	
NANOSPHERE-BASED DRUG OR	:	
GENE DELIVERY	:	

The papers filed via facsimile on 25 April 2006 are treated as a petition under 37 CFR 1.181 and hereby **GRANTED** as follows:

The Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) and filing receipt mailed 23 January 2006 noted that the subject application is the national stage of PCT/US03/01500. This is incorrect.

The correct PCT number is PCT/US2003/015600.

Accordingly, the Form PCT/DO/EO/903 and filing receipt mailed 23 January 2006 are both **VACATED**.

This application is being forwarded to the DO/EO/US to mail a corrected Form PCT/DO/EO/903 and filing receipt indicating the correct PCT number.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

16 MAR 2006

#7

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Christopher J. McDonald
Hoffman, Wasson & Gitler, P.C.
2641 South Clark Street
Suite 522 · Crystal Center 2
Arlington, VA 22202

In re Application of DAY, Terrence U.S. Application No.: 10/514,231 PCT No.: PCT/AU03/00635 Int. Filing Date: 23 May 2003 Priority Date: 23 May 2002 Attorney Docket No.: A-9340.SI/cat For: TWIN PISTON FLUID COMPRESSOR OR PUMP APPARATUS WITH AN ANNULAR BORE HOUSING	DECISION ON PETITION UNDER 37 CFR 1.137(a)

This decision is issued in response to applicant's "Petition for Revive Application as Unavoidably Abandoned" filed 09 January 2006 which is being treated as a Petition under 37 CFR 1.137(a). The petition fees under 37 CFR 1.17(l) and (m) will be charged to Deposit Account no. 08-2455.

BACKGROUND

On 23 May 2003, applicant filed international application PCT/AU03/00635 which claimed a priority date of 23 May 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 23 November 2004.

On 18 November 2004, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia: the basic national fee, a copy of the international application; and unexecuted declaration.

On 18 April 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 26 October 2005, applicant filed "Status Inquiry."

On 09 January 2006, applicant filed the present petition under 37 CFR 1.137(a) and an executed declaration.

DISCUSSION

A. Petition Under 37 CFR 1.137(a)

A grantable petition pursuant to 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the requisite petition fee; (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 1.20(d)) required pursuant to 37 CFR 1.137(c). Applicant has satisfied Item (1), (2) and (4).

As to item (1), a petition fee ($250) will be charged to counsel's deposit account no. 08-2455.

With regards to item (3), applicant has not provided an acceptable showing that the delay was unavoidable. Applicant argues in their petition that the failure to timely submit the oath/declaration was unavoidable. As stated in the petition, "[t]his application was unavoidably abandoned as applicant never received the notification. The reason for not receiving the Notification is the address on the Notification . . . " Additionally, applicant contends that the correct correspondence address is listed on the unsigned declaration filed 18 November 2004. However, a review of the application papers reveals that the correspondence address listed on the Notification of Missing Requirements mailed 18 April 2005 is consistent with the address on the Transmittal Letter to the United States Designated Office Concerning a Submission under 35 U.S.C. 371 (Form PTO-1390) provided by applicant's counsel. In situation where more than one correspondence address is specified, priority will be accorded to the correspondence address specified in the following order: (A) Application data sheet (ADS); (B) application transmittal; (C) oath or declaration; and (D) power of attorney. (See CFR 1.33(a) and Manual of Patent Examining Procedure, ¶601.03) In this case, the Office determined that the correspondence address listed on the Transmittal Letter was the correspondence address, since an Application Data Sheet was not provided. It is noted that the transmittal letter was executed by Christopher J. McDonald. Therefore, the showing of the record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a).

In summary, the actions taken in the prosecution of this case do not reflect unavoidable delay. Specifically, unavoidable delay is present only where petitioner and those acting for petitioner take all actions necessary to continue the prosecution of an application, but through the intervention of unforeseen circumstances, a required action is not timely taken. The actions and circumstances described in this petition do not reflect the "care or diligence that is generally used and observed by prudent and careful men in relation to their most important business." Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

Therefore, applicant has not satisfied item (3) above.

Since applicant has not met the requirements for revival of an application under 37 CFR 1.137(a), revival under this section would not be proper.

B. Petition under 37 CFR 1.137(b)

As an alternative, applicant requests revival of the application via a petition under 37 CFR 1.137(b).

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

Applicant has satisfied item (1) - (4).

CONCLUSION

The petition under 37 CFR 1.137(a) is **DISMISSED** without prejudice.

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 returned to the United States/Elected Office for processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6-17-09

TO SPE OF : ART UNIT 2822

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/514237 Patent No.: 7446413

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

Need Response A/S/A/P
PCT

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.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

/Zandra V. Smith/ Art Unit 2822
SPE **Art Unit**

20 SEP 2005
United States Patent and Trademark Office

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Dr. O.M. (Sam) Zaghmout
Bio Intellectual Property Services LLC
8509 Kernon Court
Lorton, VA 22070

In re Application of	:	
McLiskey	:	
Application No. 10/514,246	:	
PCT No.: PCT/NZ03/00103	:	
Int. Filing Date: 23 May 2003	:	DECISION
Priority Date: 24 May 2002	:	
Atty. Docket No.: P1376 USA	:	
For: A Dispenser	:	

This is in response to the "Response To Notice to file missing parts..." filed on 17 June 2005, the "Request For Correction - Inventor Last Name" filed on 17 June 2005 and the declaration of the inventor filed on 24 November 2004.

BACKGROUND

This international application was filed on 23 May 2003, designated the United States, and claimed an earliest priority date of 24 May 2002. The International Bureau transmitted a copy of the published international application to the USPTO on 04 December 2003. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 24 November 2004. Applicants filed *inter alia* the basic national fee on 23 November 2004.

On 18 April 2005, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration of the inventors and a surcharge under 37 CFR 1.492(e).

DISCUSSION

Counsel indicates that a declaration of the inventor was filed on 24 November 2004, and Inspection of the application file reveals that said declaration is present. Counsel further states that "the last name of the inventor is 'McLisky' not 'McLiskey." The published international application states that the surname of the inventor is "McLiskey," whereas the executed declaration has been modified to list the surname as "McLisky." Review of the application file reveals no explanation of this discrepancy. Counsel is required to explain this discrepancy or provide a new, executed oath or declaration naming the same inventive entity as named in the published international application. In the event that this discrepancy represents more than a mere typographic error or phonetic misspelling of applicant's name, a proper petition and fee under 37 CFR 1.182 would be required. *See* MPEP § 605.04(b) and MPEP § 201.03(b). Since the official Filing Receipt is not issued in a national stage application until after completion of all the 35 U.S.C. 371 requirements and after a Notice of Acceptance Under 35 U.S.C. 371 (Form PCT/DO/EO/903) has been mailed, applicant's request for a corrected filing receipt is premature.

CONCLUSION

The declaration filed on 24 November 2004 is **NOT ACCEPTED**, without prejudice.

The request for a corrected filing receipt 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 are available under 37 CFR 1.136(a). Failure to timely reply will result in **ABANDONMENT** of this application.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

17 MAR 2006

United States Patent and Trademark Office

#9

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Dr. O.M. (Sam) Zaghmout
Bio Intellectual Property Services LLC
8509 Kernon Court
Lorton, VA 22070

In re Application of	:	
McLiskey	:	
Application No. 10/514,246	:	
PCT No.: PCT/NZ03/00103	:	
Int. Filing Date: 23 May 2003	:	DECISION
Priority Date: 24 May 2002	:	
Atty. Docket No.: P1376 USA	:	
For: A Dispenser	:	

This is in response to the "Request For Correction - Inventor last name" filed on 17 November 2005.

DISCUSSION

In a decision mailed on 20 September 2005, the declaration of the inventor filed on 24 November 2004 was not accepted because

> The published international application states that the surname of the inventor is "McLiskey," whereas the executed declaration has been modified to list the surname as "McLisky." Review of the application file reveals no explanation of this discrepancy. Counsel is required to explain this discrepancy or provide a new, executed oath or declaration naming the same inventive entity as named in the published international application. In the event that this discrepancy represents more than a mere typographic error or phonetic misspelling of applicant's name, a proper petition and fee under 37 CFR 1.182 would be required. *See* MPEP § 605.04(b) and MPEP § 201.03(b).

The instant "Request For Correction..." characterizes the discrepancy as a "typographical error," and "Applicant states that the error in spelling of his last name was inadvertent and without deceptive intent." The "Request For Correction..." is accompanied by a letter from Mr. McLisky confirming the spelling of his name, and by a newly executed declaration showing his name as "McLisky." Based on the totality of the circumstances now presented, it would be appropriate to accept the declaration filed on 17 November 2005.[1]

CONCLUSION

The declaration filed on 17 November 2005 is **ACCEPTED**.

This application is being forwarded to the United States Designated/Elected Office for further processing. The date of this application under 35 U.S.C. 371(c)(1), (2) and (4) is **17 November 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

---

[1] It is noted that the 24 November 2004 declaration contained uninitialed alterations and therefore is not acceptable. See 37 CFR 1.52(c)(1).

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Dr. O. M. Sam Zaghmout
Bio Intellectual Property Services
8509 Kernon Court
Lorton VA 22079

In re Application of	:	
Karl Jacob Peterson	:	
Application No. 10/514,247	:	DECISION ON PETITION
Filed: November 23, 2004	:	
Attorney Docket No. P1383 USA	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 17, 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 8, 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 9, 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) 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 3724 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

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MERCHANT AND GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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OFFICE OF PETITIONS

In re Application of	:	
Stephane AUGUSTE, et al	:	
Application No. 10/514,259	:	DECISION ON PETITION
Filed: October 15, 2004	:	TO WITHDRAW
Attorney Docket No. 11123.90USWO	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 22, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

Sarah M. Monfeldt has been withdrawn as attorney of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

28 JUN 2005

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Stephen J. Driscoll
The Whitaker Corporation
4550 New Linden Hill Road
Suite 140
Wilmington, DE 19808

In re Application of MANNING et al	:	
U.S. Application No.: 10/514,268	:	
PCT Application No.: PCT/US03/13682	:	DECISION
Int. Filing Date: 02 May 2003	:	
Priority Date Claimed: 02 May 2002	:	
Attorney Docket No.: 17761	:	
For: FERRULE ASSEMBLY	:	

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 12 November 2004.

BACKGROUND

On 02 May 2003, applicant filed international application PCT/US03/13682, which claimed priority of an earlier United States application filed 02 May 2002. The thirty-month period for paying the basic national fee in the United States expired on 02 November 2004.

International application PCT/US03/13682 became abandoned as to the United States for failure to timely pay the basic national fee.

On 12 November 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.

Applicant is advised that a declaration under PCT Rule 4.17(iv) has been received from the International Bureau. This declaration is insufficient because it does not properly identify the application to which it is directed. Specifically, the declaration states, "This declaration is directed to the international application of which it forms a part (if filing declaration with application)." A review of USPTO records indicates that an executed declaration was submitted on 04 September 2003 and thus was not filed with the international application on 02 May 2003.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which should indicate 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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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SNELL & WILMER LLP (OC)
600 ANTON BOULEVARD
SUITE 1400
COSTA MESA, CA 92626

Mail Date: 04/21/2010

Applicant	: Kazuhiro Kawana	: DECISION ON REQUEST FOR
Patent Number	: 7650000	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/514,277	: 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 **1136** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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AUG 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Marco Berkhout	:	
Application No. 10/514,284	:	ON PETITION
Filed: November 12, 2004	:	
Attorney Docket No. NL 020401	:	

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on March 13, 2007, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed September 28, 2006. A Notice of Abandonment was mailed on January 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 $1,400 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Publications to be processed into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

United States Patent and Trademark Office

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07 AUG 2007

NEEDLE & ROSENBERG, P.C.
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ATLANTA GA 30309-3915

In re Application of	:	
Alderson et al.	:	
Application No. 10/514,296	:	
PCT No.: PCT/GB03/02080	:	
Int. Filing Date: 14 May 2003	:	COMMUNICATION
Priority Date: 15 May 2002	:	
Att. Docket No.: 02157.0019U1	:	
For: A Stirling Engine Assembly	:	

This is in response to the correspondence filed on 21 September 2006.

BACKGROUND

This international application was filed on 14 May 2003, claimed an earliest priority date of 15 May 2002, and designated the U.S. The International Bureau communicated a copy of the published international application to the USPTO on 27 November 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 15 November 2004. Applicants filed, *inter alia*, the basic national fee on 12 November 2004.

On 17 March 2005, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(e) then in effect.

On 11 June 2007, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this application had become abandoned for failure to timely reply to the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed on 17 March 2005.

DISCUSSION

Petitioner requests withdrawal of the holding of abandonment on the basis that a reply was timely filed on 06 May 2005; said reply is said to have included a copy of thr declaration filed pursuant to PCT Rule 4.17(iv) during the international phase. Review of the application file reveals that a copy of the 4.17(iv) declaration is present, and was associated with the application on 12 November 2004.

Further inspection of the 4.17(iv) declaration reveals that it is defective in that it appears to have been compiled using sheets from more than one declaration document. In this regard, counsel's attention is drawn to MPEP 201.03, which states in part 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. For example, where the inventive entity is A and B, a declaration may not be executed only by A naming only A as the inventor and a different declaration may not be executed only by B naming only B as the inventor, which two declarations are then combined into one declaration with a first page of boiler plate, a second page with A's signature, and a second page with B's signature (so that it appears that the declaration was executed with the entire inventive entity appearing in the declaration when it did not).

The instant declaration lists inventor Hyde on page 3 (along with Clark) and on page 4 (along with Lamb). This differing content suggests assembly after signature. Similarly, Lamb is listed on page 4 (with Hyde) and on page 5 (with Allderidge). These multiple nominations of Lamb and Hyde suggest that each inventor may not have signed a document nominating the complete inventive entity. Moreover, Lamb did not execute either occurrence of her name. As such, the declaration is clearly defective under the policy enunciated at MPEP 201.03. Since petitioner did not timely respond to the Notification of Missing Requirements with an acceptable declaration, the holding of abandonment is proper. Since the declaration under Rule 4.17(iv) is defective, it is not necessary to reach the issue of whether a second copy of it was in fact filed on 06 May 2005.

CONCLUSION

The declaration is **NOT ACCEPTED** under 37 CFR 1.497(a) and (b), without prejudice.

This international application stands **ABANDONED** with respect to the national stage in the United States.

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 may be obtained under 37 CFR 1.136(a).

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

0 7 JAN 2008

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ATLANTA GA 30309-3915

In re Application of	:	
Alderson et al.	:	
Application No. 10/514,296	:	
PCT No.: PCT/GB03/02080	:	
Int. Filing Date: 14 May 2003	:	COMMUNICATION
Priority Date: 15 May 2002	:	
Att. Docket No.: 02157.0019U1	:	
For: A Stirling Engine Assembly	:	

This is in response to the petition under 37 CFR 1.47(a) filed on 07 November 2007.

DISCUSSION

In a Communication mailed on 07 November 2007, the declaration of record was not accepted because

> The instant declaration lists inventor Hyde on page 3 (along with Clark) and on page 4 (along with Lamb). This differing content suggests assembly after signature. Similarly, Lamb is listed on page 4 (with Hyde) and on page 5 (with Allderidge). These multiple nominations of Lamb and Hyde suggest that each inventor may not have signed a document nominating the complete inventive entity. Moreover, Lamb did not execute either occurrence of her name. As such, the declaration is clearly defective under the policy enunciated at MPEP 201.03. Since petitioner did not timely respond to the Notification of Missing Requirements with an acceptable declaration, the holding of abandonment is proper. Since the declaration under Rule 4.17(iv) is defective, it is not necessary to reach the issue of whether a second copy of it was in fact filed on 06 May 2005.

It was further indicated that

> This international application stands ABANDONED with respect to the national stage in the United States.

Applicants urge reconsideration of the holding of abandonment, based on a response allegedly filed via facsimile transmission on 06 May 2005. Petitioner's attention is called to 37 CFR 1.8(b), which provides that

> 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.

Petitioner has satisfied requirements (1) and (2). Regarding requirement (3), the petition filed on 21 September 2006 indicates that the facsimile transmission in question occurred on 06 May 2005, and is signed by the same practitioner who signed the certificate of facsimile transmission. Accordingly, the copy of the transmission, as filed on 21 September 2006, is regarded as a timely response to the Form PCT/DO/EO/905 mailed on 17 March 2005. The response in question is considered to have been a *bona fide* response, even though the declaration provided had already been considered, because the Form PCT/DO/EO/905 did not specifically *notify* applicants that the declaration under Rule 4.17(iv) had already been considered in issuing the Form PCT/DO/EO/905. A *bona fide* response having been filed, the holding of abandonment is **WITHDRAWN**, and the Form PCT/DO/EO/909 mailed on 11 June 2007 is **VACATED**.

Inspection of said response reveals that the declaration under PCT Rule 4.17(iv) remains defective for the reasons previously cited. Therefore, consideration of the petition under 37 CFR 1.47(a) filed on 07 November 2007 is proper.

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Regarding **requirement (1)**, the $200.00 petition fee was paid on 07 November 2007.

Regarding **requirement (2)**, petitioner refers to the "Declaration of Nigel G. Moore" to establish the unavailability of Jennifer Lamb to execute the application. Mr. Moore explains the manner in which he obtained a last known address for Ms. Lamb, and indicates that a Declaration and Power of Attorney was sent to said address. He indicates that the letter was returned as "not called for." However, Mr. Moore does not indicate that a copy of the application papers was sent to Ms. Lamb for her consideration. *See* MPEP 409.03(d). Therefore, it would not be appropriate to conclude on the basis of the evidence of record that requirement (2) has been satisfied.

Regarding **requirement (3)**, the "Declaration of Nigel G. Moore" states the last-known address of the non-signing inventor. Accordingly, requirement (3) has been satisfied.

Regarding **requirement (4)**, the declaration of inventorship filed on 07 November 2007 is acceptable.

DECISION

The petition under 37 CFR 1.47(a) is **DISMISSED** as untimely.

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 may be obtained under 37 CFR 1.136(a).

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
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0 5 JUN 2008

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ATLANTA GA 30309-3915

In re Application of	:	
Alderson et al.	:	
Application No. 10/514,296	:	
PCT No.: PCT/GB03/02080	:	
Int. Filing Date: 14 May 2003	:	DECISION
Priority Date: 15 May 2002	:	
Att. Docket No.: 02157.0019U1	:	
For: A Stirling Engine Assembly	:	

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 01 April 2008.

DISCUSSION

In a Decision ("Communication") mailed on 07 January 2008, the petition under 37 CFR 1.47(a) filed on 07 November 2007 was dismissed, without prejudice, because

> Regarding **requirement (2)**, petitioner refers to the "Declaration of Nigel G. Moore" to establish the unavailability of Jennifer Lamb to execute the application. Mr. Moore explains the manner in which he obtained a last known address for Ms. Lamb, and indicates that a Declaration and Power of Attorney was sent to said address. He indicates that the letter was returned as "not called for." However, Mr. Moore does not indicate that a copy of the application papers was sent to Ms. Lamb for her consideration. *See* MPEP 409.03(d). Therefore, it would not be appropriate to conclude on the basis of the evidence of record that requirement (2) has been satisfied.

In response, petitioner has provided a "Declaration of Martyn J. Draper" in which Atty. Draper indicates that "On 4 February 2008, I sent the Declaration and a copy of the International patent application WO 03/098025 to the inventor, Jennifer Lamb, at her last known address. A copy of the letter and enclosures is attached to this Declaration. This letter was returned by the Postal Services as 'not called for' and was received back at my office on 3 March 2008. A copy of the envelope in which this was returned bearing the stamp of the Royal Mail is attached." Inspection of the envelope referenced by Atty. Draper reveals that it is marked as "not called for," but that it is also marked as "Ms. J. Lamb not on our system." This raises the issue of whether Ms. Lamb may not have been resident at the address to which the letter was sent, at the time the letter reached that address. If Ms. Lamb was in fact not resident at said address, it would not be appropriate to construe her failure to return an executed declaration as a constructive refusal within the meaning of 37 CFR 1.47(a). The evidence of record does not adequately demonstrate that sufficient diligent efforts were undertaken to ascertain Ms. Lamb's whereabouts (again, to the extent that petitioner is seeking to assert inability to find or reach her, as opposed to refusal to sign). Specifically, the record shows that Nigel Moore asked Heather Allderidge for Ms. Lamb's address, but does not show whether additional efforts were

undertaken (e.g., telephone directory searches, internet searches or the like), particularly subsequent to the time the Royal Mail appears to have indicated that her address may not have been valid. Thus, on the basis of the present record, it would not be appropriate to conclude either that Ms. Lamb has refused to execute the application, or that she could not be found or reached after diligent effort.

DECISION

The petition under 37 CFR 1.47(a) 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 may be obtained under 37 CFR 1.136(a).

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

/George Dombroske/
George Dombroske
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14 MAY 2009

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ATLANTA GA 30309-3915

In re Application of	:	
Alderson et al.	:	
Application No. 10/514,296	:	
PCT No.: PCT/GB03/02080	:	
Int. Filing Date: 14 May 2003	:	DECISION
Priority Date: 15 May 2002	:	
Att. Docket No.: 02157.0019U1	:	
For: A Stirling Engine Assembly	:	

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 27 October 2008.

DISCUSSION

In a Decision mailed on 05 June 2008, the renewed petition under 37 CFR 1.47(a) filed on 01 April 2008 was dismissed, without prejudice, because

> In response, petitioner has provided a "Declaration of Martyn J. Draper" in which Atty. Draper indicates that "On 4 February 2008, I sent the Declaration and a copy of the International patent application WO 03/098025 to the inventor, Jennifer Lamb, at her last known address. A copy of the letter and enclosures is attached to this Declaration. This letter was returned by the Postal Services as 'not called for' and was received back at my office on 3 March 2008. A copy of the envelope in which this was returned bearing the stamp of the Royal Mail is attached." Inspection of the envelope referenced by Atty. Draper reveals that it is marked as "not called for," but that it is also marked as "Ms. J. Lamb not on our system." This raises the issue of whether Ms. Lamb may not have been resident at the address to which the letter was sent, at the time the letter reached that address. If Ms. Lamb was in fact not resident at said address, it would not be appropriate to construe her failure to return an executed declaration as a constructive refusal within the meaning of 37 CFR 1.47(a). The evidence of record does not adequately demonstrate that sufficient diligent efforts were undertaken to ascertain Ms. Lamb's whereabouts (again, to the extent that petitioner is seeking to assert inability to find or reach her, as opposed to refusal to sign). Specifically, the record shows that Nigel Moore asked Heather Allderidge for Ms. Lamb's address, but does not show whether additional efforts were undertaken (e.g., telephone directory searches, internet searches or the like), particularly subsequent to the time the Royal Mail appears to have indicated that her address may not have been valid. Thus, on the basis of the present record, it would not be appropriate to conclude either that Ms. Lamb has refused to execute the application, or that she could not be found or reached after diligent effort.

The instant renewed petition is accompanied by a "Supplemental Declaration of Nigel B. Moore," who explains that, in the context of the British postal system, the "not called for" notation does not call into question the validity of the address; instead, it merely indicates that the addressee "did not call pick up the package." Based on the totality of circumstances presently of record in this application, it would be appropriate to conclude that Ms. Lamb has constructively refused to execute the application within the meaning of 37 CFR 1.47(a).

DECISION

The petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

The application is being returned to the National Stage Processing Branch for processing as the U.S. National Stage of the above-identified international application. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **07 November 2007** (the date the declaration was filed).

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
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14 MAY 2009

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Jennifer LAMB
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UNITED KINGDOM

In re Application of
Alderson et al.
Application No. 10/514,296
PCT No.: PCT/GB03/02080
Int. Filing Date: 14 May 2003
Priority Date: 15 May 2002
Att. Docket No.: 02157.0019U1
For: A Stirling Engine Assembly

Dear Ms. Lamb:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3283. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Requests for information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/George Dombroske/
George Dombroske
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Ballard Spahr Andrews & Ingersoll, LLP
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OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of an application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of a joint inventor. The petition has been granted. A notice has been sent to the last known address of the non-signing inventor. The inventor whose signature is missing (Jennifer LAMB) may join in the application by promptly filing an appropriate oath or declaration complying with 37 CFR 1.63. The international application number is PCT/GB03/02080 and was filed on May 14, 2003 in the names of John Howard ALDERSON, David Anthony CLARK, Julie Patricia HYDE, Jennifer Jane LAMB and Heather ALLDERIDGE for the invention entitled A STIRLING ENGINE ASSEMBLY. The national stage application number is 10/514,296 and has a 35 U.S.C. 371(c)(1), (2) and (4) date of November 7, 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

17 JAN 2008

Renner, Otto, Boisselle & Sklar, LLP
1621 Euclid Avenue, 19th Floor
Cleveland, OH 44115

In re Application of	:	
FLASK, et al.	:	DECISION ON PETITION
Application No.: 10/514,307	:	
PCT No.: PCT/US03/15240	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 15 May 2003	:	
Priority Date: 17 May 2002	:	
Atty. Docket No.: CASEP0691WOUS	:	
For: CHEMICAL SHIFT MARKER FOR IMPROVED	:	
WIRELESS FIDUCIAL MARKER TRACKING	:	

The renewed petition to revive under 37 CFR 1.137(b) filed 04 January 2008 in the above-captioned application is hereby **DISMISSED** as follows:

The proper reply was a compliant declaration under 37 CFR 1.497, in response to the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 23 March 2005. However, the filed declaration lists and has been executed by an additional inventor, Mr. Jeffrey L. Duerk, who is not listed on the published international application. It appears that this inventor was not added during the international phase of the application pursuant to PCT Rule 92bis. A declaration must list and be executed by all of the inventors. Since this additional individual is an actual inventor and was not added pursuant to PCT Rule 92bis; applicant's course of action is to add the inventor in the U.S. National stage pursuant to 37 CFR 1.497(d):

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92*bis* subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:

(1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;

(2) The processing fee set forth in § 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); and

(4) Any new oath or declaration required by paragraph (f) of this section.

Therefore, a proper reply would consist of a grantable petition pursuant to 37 CFR 1.497(d) as detailed above.

Applicant has provided a proper statement as to the unintentional nature of the abandonment and provided the appropriate petition fee, as well as, the surcharge for providing an executed oath or declaration of the inventors later than 30 months from the priority date. A terminal disclaimer does not apply to the above-captioned application.

This application remains abandoned as to the National stage in the United States.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." 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 the Office of PCT Legal Administration.

Derek A. Putonen
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2 9 FEB 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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NINETEENTH FLOOR
CLEVELAND OH 44115

In re Application of	:	
FLASK, et al.	:	DECISION ON PETITIONS
U.S. Application No.: 10/514,307	:	
PCT No.: PCT/US03/15240	:	UNDER 37 CFR 1.497(d)
Int. Filing Date: 15 May 2003	:	
Priority Date: 17 May 2002	:	AND 37 CFR 1.137(b)
Atty Docket No.: CASEP0691WOUS	:	
For: CHEMICAL SHIFT MARKER FOR	:	
IMPROVED WIRELESS FIDUCIAL	:	
MARKER TRACKING	:	

This decision is in response to applicant's petitions filed 26 February 2008 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 17 January 2008, applicant was mailed a decision dismissing applicant's petition to revive. Applicant was afforded two months to file any request for reconsideration.

On 26 February 2008, applicant responded with the present renewed petition to revive under 37 CFR 1.137(b), which included as part of the proper reply a petition under 37 CFR 1.497(d) to add Jeffrey L. Duerk as an inventor.

DISCUSSION

I. Petition Under 37 CFR 1.497(d)

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 Jeffrey L. Duerk declaring that the error in inventorship occurred without deceptive intent.

Regarding Item (2), on 04 January 2008, applicant filed a combined declaration and power of attorney executed by the inventors listed on the published international application, as well as, Jeffrey L. Duerk.

As Item (3), applicant has provided payment of the $130.00 petition fee.

Regarding Item (4), applicant has provided a statement from the assignee consenting to the addition of Jeffrey L. Duerk as an inventor in the present application.

As such, applicant has satisfied all four items detailed above and it is proper to grant applicant's petition at this time.

II. Renewed Petition Under 37 CFR 1.137(b)

As detailed in the decision mailed 17 January 2008, 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 2 and 3, while item 4 did not apply.

As to item 1, applicant has now provided a grantable petition under 37 CFR 1.497(d) to add Mr. Jeffrey L. Duerk as an inventor, thus perfecting the declaration filed 04 January 2008. With the filing of the grantable petition, the proper reply to the Form PCT/DO/EO/905 mailed 23 March 2005 has been provided and it is proper to grant applicant's renewed petition at this time.

CONCLUSION

For the reasons discussed above, the request under 37 CFR 1.497(d) and renewed petition under 37 CFR 1.137(b) are **GRANTED**.

This application has an international application filing date of 15 May 2003 and will be given a date of **04 January 2008** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BOSTON, MA 02210-2206

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SEP 28 2007

OFFICE OF PETITIONS

In re Application of

Kaletta, et al. :

Application No. 10/514,316

ON PETITION

Filed: November 15, 2004

:

Attorney Docket No. D0590.70023US01

This is a decision on the petition under 37 CFR 1.137(b), filed February 6, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply in a timely manner to the final Office action mailed June 1, 2006, which set a shortened statutory period for reply of three (3) months from its mailing date. A response was filed on December 4, 2006, with a request for an extension of time within the third month. An Advisory Action mailed January 3, 2007, advised petitioner that the response of December 4, 2006, failed to place the application in condition for allowance. No further responses were filed within the allowable period. The application became abandoned on December 2, 2006. A Notice of Abandonment was mailed on January 29, 2007.

The Request for Continued Examination filed February 6, 2007, is noted and made of record

The application is being forwarded to Technology Center 1600, GAU 1632 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

19 OCT 2007

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of	:	
TANIMOTO, et al.	:	DECISION ON REQUEST
U.S. Application No.: 10/514,317	:	FOR WITHDRAWAL AS
PCT No.: PCT/JP03/06076	:	ATTORNEY OF RECORD
Int. Filing Date: 15 May 2003	:	
Priority Date: 16 May 2002	:	
Attorney Docket No.: 067242-0176	:	
For: COMPOUND EXHIBITING PGD2	:	
RECEPTOR AGONIST	:	

This decision is in response to the "Withdrawal Of Attorney Of Record And Change Of Correspondence Address" filed 05 September 2007.

The criteria for effecting a proper withdrawal of attorney are set forth 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, the file will be forwarded to the appropriate official for decision on the request. 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 himself or herself and another. ...
>
> The Director of the United States Patent and Trademark Office usually requires that there be at least 30 days between *approval* of the withdrawal and the latter of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a). This is so that the applicant will have sufficient time to obtain other representation or take other action.

Attorney Stephen B. Maebius has provided a clear indication that the request for withdrawal is being made on behalf of himself and all other attorneys/agents associated with Customer Number 22428.

There is no pending Office communication in this application for which the time period for response will expire in the next 30 days.

Because all of the criteria delineated in Section 402.06 of the M.P.E.P. have been

complied with, the request for withdrawal as attorney of record is appropriately **GRANTED**.

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.

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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 05/07/2010

Applicant	: Tommaso Candelieri	: DECISION ON REQUEST FOR
Patent Number	: 7614133	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/514,319	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1023** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

0 6 APR 2007

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Cleveland, OH 44114

In re Application of	:	
GERSEMSKY et al.	:	
Application No.: 10/514,332	:	DECISION ON PETITION
PCT No.: PCT/DE03/01427	:	UNDER 37 CFR 1.182
Int. Filing Date: 05 May 2003	:	
Priority Date: 14 May 2002	:	
Attorney Docket No.: LLP151WOUS	:	
For: TRANSMITTING AND RECEIVING ARRANGEMENT WITH A CHANNEL ORIENTED LINK		

This decision is issued in response to applicants' facsimile communication dated 28 September 2005 and 18 July 2006 which are being treated as a petition to change an inventor's name under 37 CFR 1.182. Applicants are requesting to change the name of the third inventor from Rüdiger Pott to Rüdiger Lorenz due to marriage. The $400 petition fee will be charged to counsel's Deposit Account No. 50-1733.

BACKGROUND

On 12 November 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 26 May 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 25 July 2005, applicants filed an executed declaration of inventors.

On 01 September 2005, the United Stated Designated/Elected Office mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration was defective because the third inventor (Rüdiger Lorenz) was not identified by the name listed on the international application..

On 28 September 2005 (and 18 July 2006), applicants filed the present petition under 37 CFR 1.182.

DISCUSSION

Section 605.04(b) of the Manual of Patent Examining Procedure states that:

> Except for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 35 U.S.C. 1.182 together with an appropriate petition fee.

Applicants are requesting to change the name of the third inventor from Rüdiger Pott to Rüdiger Lorenz. Accordingly, the present submission has been treated as a petition under 37 CFR 1.182 to correct the name of the third inventor. For such a petition to be grantable, MPEP § 605.04(c) states that "the petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a copy of the court order."

Here, applicants' submission included the authorization to charge Deposit Account No. 50-1733 for required fees. Based on this authorization, Deposit Account No. 50-1733 will be charged the requisite petition fee of $400, satisfying the petition fee requirement. As for the affidavit requirement or copy of the court order, applicants have submitted a "Bescheinigung Ober Namensanderung" (court order) regarding the name change. However, the "Bescheinigung Ober Namensanderung" has not been translated into English. Hence, the court order supplied does not satisfy the requirements for a grantable petition.

Therefore, item (2) has not been satisfied, and thus the petition may not be granted at this time.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box

1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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10 MAY 2007

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In re Application of
GERSEMSKY et al.
Application No.: 10/514,332
PCT No.: PCT/DE03/01427
Int. Filing Date: 05 May 2003
Priority Date: 14 May 2002
Attorney Docket No.: LLP151WOUS
For: TRANSMITTING AND RECEIVING ARRANGEMENT WITH A CHANNEL ORIENTED LINK

DECISION ON PETITION UNDER 37 CFR 1.182

This decision is issued in response to applicants' "Renewed Petition under 37 CFR 1.182" dated 23 April 2007 which is being treated as a petition to change an inventor's name under 37 CFR 1.182. Applicants are requesting to change the name of the third inventor from Rüdiger Pott to Rüdiger Lorenz due to marriage. The $400 petition fee has been submitted.

BACKGROUND

On 12 November 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 26 May 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 25 July 2005, applicants filed an executed declaration of inventors.

On 01 September 2005, the United Stated Designated/Elected Office mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration was defective because the third inventor (Rüdiger Lorenz) was not identified by the name listed on the international application.

On 28 September 2005 (and 18 July 2006), applicants filed a petition under 37 CFR 1.182. In a decision dated 06 April 2007, applicants petition under 37 CFR 1.182 was

dismissed without prejudice.

On 23 April 2007, applicants filed the present petition under 37 CFR 1.182.

DISCUSSION

Section 605.04(b) of the Manual of Patent Examining Procedure states that:

> Except for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 35 U.S.C. 1.182 together with an appropriate petition fee.

Applicants are requesting to change the name of the third inventor from Rüdiger Pott to Rüdiger Lorenz. Accordingly, the present submission has been treated as a petition under 37 CFR 1.182 to correct the name of the third inventor. For such a petition to be grantable, MPEP § 605.04(c) states that "the petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a copy of the court order."

Here, applicants' submission included the authorization to charge Deposit Account No. 50-1733 for required fees. Based on this authorization, Deposit Account No. 50-1733 will be charged the requisite petition fee of $400, satisfying the petition fee requirement. As for the affidavit requirement or copy of the court order, applicants have submitted a "Bescheinigung Ober Namensanderung" (court order) regarding the name change and a translation thereof. Hence, the court order supplied satisfies the requirements for a grantable petition. Therefore, item (2) has been satisfied.

CONCLUSION

Applicants' petition under 37 CFR 1.182 to change the name of record for inventor Rüdiger Pott to Rüdiger Lorenz is **GRANTED**.

Based on the above, the declaration filed 25 July 2005 is in compliance with 37 CFR 1.497.

This application is being referred to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision.

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In re Application of	:	
Vermeersch, et al.	:	
Application No. 10/514,352	:	ON APPLICATION FOR
Filed: November 12, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. TIP-0033 US	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705" filed August 6, 2009, which properly treated under 37 CFR 1.705(b). Applicants request that the determination of patent term adjustment be corrected from four hundred thirty four (434) days to one thousand, one hundred seventy (1,170) days. Applicants request this correction, in part, on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 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].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

To the extent that applicants otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **dismissed**.

Applicants assert that the adjustment to the patent term for Office delay pursuant to 37 CFR 1.702(a)(1) and 37 CFR

---

[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.

1.703(a)(1) should be 594 days, not 590 days. Specifically, applicants state that:

> The present application is a national stage filing under 35 U.S.C. 371 of International Application No. PCT/EP03/50176, filed May 16, 2003, which application claims priority from European Patent Application No. 02076929.5, filed May 16, 2002. The national stage for the present application "commenced" under the provisions of 35 U.S.C. § 371(b), i.e., upon expiration of 30 months from the priority date of the international application, November 16, 2004. The requirements of 35 U.S.C. 371 were fulfilled on November 12, 2004 as seen in the "*Notice of Acceptance of Application Under 35 USC 371 and 37 CFR 1.495*" mailed on July 19, 2005.
>
> …
>
> The above-captioned application fulfilled the requirements of 35 U.S.C. 371 on November 12, 2004. A first notification under 35 U.S.C. 132 was mailed on August 29, 2007.
>
> Thus, the PTO delay under 37 CFR § 1.702(a)(1) is 594 days, which is the number of days between January 12, 2006 (14 months after the above-cited application fulfilled the requirements of 35 U.S.C. 371 and August 29, 2007, the mailing of the first official action by the Patent Office.

Excerpt taken from "Application for Patent Term Adjustment Under 37 C.F.R. § 1.705" filed August 6, 2009, pgs. 2-3.

The application history has been reviewed and it has been determined that the period of adjustment to the patent term pursuant to 37 CFR 1.702(a)(1) and 37 CFR 1.703(a)(1) is 590 days, not 594 as applicants assert.

As stated in 37 CFR 1.703(a)(1), the period of adjustment under § 1.702(a) is the number of days in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements under 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first.

It is noted that the requirements of 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) were received on November 12, 2004, however the application could not have been said to have fulfilled, or completed, all of the 35 U.S.C. 371 requirements until November 16, 2004. More specifically, where request for early processing is not made pursuant to 35 U.S.C. 371(f), the date of completion of all 35 U.S.C. 371 requirements cannot be before the expiration of thirty months from the earliest priority date. See 37 U.S.C. 371(f). It is noted that applicants did not request early processing for this application pursuant to 35 U.S.C. 371(f). The earliest priority date for this application is May 16, 2002, and the date that is thirty months therefrom is November 16, 2004. Accordingly, November 16, 2004, is the date the application fulfilled all of the requirements under 35 U.S.C. 371 and is the date that should be used to calculate the examination delay under 37 CFR 1.703(a).

Pursuant to 37 CFR 1.703(a)(1), the period of adjustment under 37 CFR 1.702(a) is 590 days, counting the number of days beginning on the day after the date that is fourteen months after the date on which the application fulfilled the requirements under 35 U.S.C. 371, January 17, 2006, and ending on the date of mailing of the restriction/election requirement, August 29, 2007. Accordingly, the period of adjustment of 590 days will not be changed.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

26 JUL 2005

#7

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Richard E.L. Henderson
BAYER CROPSCIENCE LP
100 Bayer Road
Pittsburgh, PA 15205-9741

In re Application of
HENSE, Achim *et al*
U.S. Application No.: 10/514,365
PCT No.: PCT/EP03/04808
Int. Filing Date: 08 May 2003
Priority Date: 13 May 2002
Attorney Docket No.: CS8389/LeA 36,042
For: N'-CYANO-N-METHYL-IMADAMIDE DERIVATIVES

DECISION ON PAPERS FILED UNDER 37 CFR 1.42

This is a decision on the declaration filed on 02 May 2005 which has been treated as a petition under 37 CFR 1.42. No fee is required.

BACKGROUND

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 an oath/declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee must be provided. Applicants were given two months to respond.

On 02 May 2005, applicants submitted a response which included the required surcharge fee and a declaration signed by seven of the eight listed joint inventors and the sole heir of a deceased joint inventor.

On 25 May 2005, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration does not comply with 37 CFR 1.497(a) and (b) as it is not executed in accordance with 37 CFR 1.66 or 37 CFR 1.68. The Notification also requested documentation establishing that Angelika Bubos-Erdelen is the heiress of the deceased joint inventor, Dr. Christoph Erdelen. Applicants were given two months to respond.

On 06 June 2005, applicants filed a response which included a "Certificate of Inheritance" for Dr. Christoph Erdelen and his wife with an English translation.

DISCUSSION

It is first noted that the declaration filed 02 May 2005 should have been treated as a petition under 37 CFR 1.42. Moreover, section 409.01(b) of the MPEP states that:

The Office no longer requires proof of authority of the legal representative of a deceased or incapacitated inventor. Although the Office does not require proof of authority to be filed, any person acting as a legal representative of a deceased or incapacitated inventor should ensure that he or she is properly acting in such a capacity.

Hence, the Form PCT/DO/EO/916 was mailed in error and is hereby **VACATED**.

Petition Under 37 CFR 1.42

The declaration filed 02 May 2005 was signed by seven of the eight joint inventors and Angelika Bubos-Erdelen as heir for Christoph Erdelen.

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).

The deed of inheritance filed 06 June 2005 verifies that Angelika Bubos-Erdelen is the sole heir of the deceased joint inventor. It is noted that the submission of the declaration executed by the sole heir of the deceased inventor is hereby construed as an indication that no legal representative of the deceased's estate has been appointed and that no legal representative is required by the applicable law to be appointed and the sole heir is acting in the capacity of a legal representative of the deceased inventor.

Accordingly, the declaration submitted complies with 37 CFR 1.497(a) and (b).

CONCLUSION

The papers filed under 37 CFR 1.42 are **ACCEPTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 08 May 2003, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 02 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

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DEC 3 1 2007

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Howrey LLP
c/o IP Docketing Department
2941 Fairview Park Drive, Suite 200
Falls Church, VA 22041-7195

Paper No. 12042007

In re application of
Frank Curtolo et al.
Application No. 10/514,372
Filed: January 28, 2005
For: METHOD AND APPARATUS FOR MANUFACTURING MICROFIBRILLATED CELLULOSE FIBER

: **DECISION ON PETITION REGARDING REQUEST TO WITHDRAW FINALITY UNDER 37 CFR 1.181**

This is in response to applicant's petition filed under 37 CFR 1.181 filed September 13, 2007 requesting withdrawal of finality of the Office action mailed July 13, 2007 as being premature.

The Petition is **DENIED**.

Applicant alleges that the final rejection mailed July 13, 2007 is premature and should be withdrawn because the final rejection included a 35 USC 112, second paragraph rejection that rejected claims that had been previously canceled and the final office action failed to address Applicant's amended claims.

MPEP 706.07(a) sets forth that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of rejection that is neither necessitated by applicants' amendment nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

A summary of the examiner's Office actions and of applicant's responses is as follows:

1. A first office action was mailed January 17, 2007 rejecting claims 7-12 under 35 USC 112 second paragraph for containing the indefinite recitations to an apparatus depending from claim 1 reciting a method making it unclear as to whether applicant was reciting a method or an apparatus, in addition the examiner noting it was unclear as to what claim, claim 5 depended from; claims 1-12 were rejected under 35 USC 102(b) over Handeland; and claims 13-17 under 35 USC 103 over Handeland in view of Yuyama.

2. Applicant's response filed April 17, 2007, amended claims 1 and 4 and argued the propriety of the prior art rejections, amended claim 5 to clarify the dependency that examiner pointed out as indefinite, and canceled claims 3 and 7-11.

3. A second, final office action was mailed July 13, 2007, rejecting claims 7-12 under 35 USC 112 second paragraph for containing the indefinite recitations to an apparatus depending from claim 1 reciting a method making it unclear as to whether applicant was reciting a method or an apparatus, in addition the examiner noting it was unclear as to what claim, claim 5 depended from, claims 1, 2, 4-6 and 12 were rejected under 35 USC 102(b) over Handeland, in the body of the rejection the examiner repeated the rejections of canceled claims 3 and 7-11; and claims 13-17 under 35 USC 103 over Handeland in view of Yuyama.

4. On September 13, 2007 applicant filed a petition requesting withdrawal of the finality of the final rejection mailed February 06, 2007 and included an amendment in response to the final office action mailed July 13, 2007.

After careful review of the above facts, the 112 second paragraph rejections in the final rejection mailed July 13, 2007 and the inclusion of the 35 USC 102(b) rejections of canceled claims 3 and 7-11 are carbon copies of the rejections from the non-final rejection. The inclusion of these rejections appear to be mere oversights on the examiner's part and just a failure to delete these rejections from the template of the non-final rejection mailed January 17, 2007 that was used to draft the final rejection. Applicant contends that this oversight makes it unclear as to what claims were under consideration by the examiner and that the final rejection fails to fully address Applicant's amended claims. However, the examiner in the prior art rejections in the final office action of July 13, 2007, addressed all the limitations of the amended claims in applicant's response filed April 17, 2007. The examiner stated on page 7 of the final office action that the applicant's arguments filed April 17, 2007 were fully considered and addressed by the modified rejections in the final office action mailed July 13, 2007. Therefore it is determined that Applicant has received a full and fair hearing and a clear issue between applicant and examiner has been developed since all the limitations of the amended claims were addressed by the final rejection. Any future Office action will make clear that the above rejections, included in error in the Final rejection of July 13, 2007, have been withdrawn.

Hence applicant's petition to withdraw the finality of the Office action mailed July 13, 2007 is **DENIED**.

Accordingly, the amendment filed September 13, 2007 with the petition has been placed in the record as an amendment after final and forwarded to the examiner for appropriate disposition therewith.

Inquiries related to this decision may be directed to Supervisory Patent Examiner Gene O. Crawford at (571) 272-6911.

Katherine Matecki

Katherine Matecki
Director, Technology Center 3600
(571) 272-5250

SNM/GC: 12/04/07

SM

20 APR 2006

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William T. Christiansen, Ph.D.
SEED INTELLECTUAL PROPERTY LAW GROUP
701 5th Avenue, Suite 6300
Seattle, WA 98104-7092

In re Application of:	:	
BARTLETT, Perry, Francis, et al.	:	DECISION ON PETITION UNDER
U.S. Application No.: 10/514,374	:	37 CFR 1.47(a)
PCT No.: PCT/AU03/00580	:	
International Filing Date: 14 May 2003	:	
Priority Date: 14 May 2002	:	
Attorney's Docket No.: 940120.401USPC	:	
For: A METHOD OF TREATMENT	:	

This decision is issued in response to applicants' "Petition Under 37 CFR 1.47(a) To Accept Application When Joint Inventor Refuses To Join Or Cannot Be Reached" filed 03 February 2006. Applicant has submitted the required petition fee.

BACKGROUND

On 14 May 2003, applicants filed international application PCT/AU03/00580. The application claimed a priority date of 14 May 2002 and designated the United States. On 20 November 2003, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 14 November 2004.

On 12 November 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 05 July 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirement (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 was required.

On 03 February 2006, applicants filed a response to the Notification Of Missing Requirements (with required five-month extension fee) which included a declaration executed by three of the four inventors and the petition under 37 CFR 1.47(a) considered herein. The petition seeks acceptance of the application without the signature of nonsigning Sarah HULETT, 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.

Here, applicants have filed 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.

Applicants have filed a declaration executed by three of the four inventors and containing an unsigned signature block for the nonsigning inventor, Sarah HULETT. This declaration satisfies item (3).

Regarding item (4), the petition states that the nonsigning inventor has refused to execute the application. Pursuant to MPEP section 409.03(d), before it can be concluded that an inventor has refused to join in the application, "[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 MPEP also states the following:

> 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.

Here, applicant has provided a statement from William T. Christiansen setting forth the efforts made to obtain the signature of the nonsigning inventor. However, Dr. Christiansen's statement and the exhibits thereto make clear that Dr. Christiansen was not the person who forwarded the application materials to the nonsigning inventor and to whom the refusal was made. Accordingly, the present submission does not meet the requirements set forth in the MPEP.

Before item (4) can be considered satisfied, applicants must provide statements from "the person[s] who presented the inventor with the application papers and/or to whom the refusal was

made" (i.e., Annita Nugent, Dr. Helen Mutimer, and Bradley Thomas) providing the required firsthand confirmation that the nonsigning inventor (and/or her attorney) has been provided with a copy of the complete application papers and has refused to execute the oath or declaration.

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 item (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
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Telephone: (571) 272-3296
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#7

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02 NOV 2006

William T. Christiansen, Ph.D.
SEED INTELLECTUAL PROPERTY LAW GROUP
701 5th Avenue, Suite 6300
Seattle, WA 98104-7092

In re Application of: BARTLETT, et al.	:	
U.S. Application No.: 10/514,374	:	DECISION ON RENEWED
PCT No.: PCT/AU03/00580	:	PETITION UNDER
International Filing Date: 14 May 2003	:	37 CFR 1.47(a)
Priority Date: 14 May 2002	:	
Attorney's Docket No.: 940120.401USPC	:	
For: A METHOD OF TREATMENT	:	

In a decision mailed by this Office on 20 April 2006, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice for failing to satisfy all the requirements of a grantable petition. Specifically, applicants had not provided an adequate showing that the non-signing inventor refuses to execute the application or cannot be reached after diligent effort.

On 21 August 2006, applicants filed the renewed petition considered herein (with required two-month extension fee). The renewed petition includes additional evidence, including firsthand statements and supporting documents, confirming that the non-signing inventor (and her attorney) were provided with a copy of the application documents and that the inventor has refused to execute the declaration. This submission satisfies the final requirement for a grantable petition under 37 CFR 1.47(a).

The renewed petition under 37 CFR 1.47(a) is **GRANTED**. The application is accepted without the signature of non-signing inventor Sarah Marie HULETT.

A notice of the acceptance of the application will be published in the Official Gazette, and a letter informing the non-signing inventor of the application will be forwarded to the inventor's last-known address, as set forth in the petition.

The application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 03 February 2006.

Richard M. Ross
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0 2 NOV 2006

Sarah Marie HULETT
53 Summer Hill Road
Footscray, Victoria 3011
AUSTRALIA

In re Application of: BARTLETT, Perry, Francis, et al.
U.S. Application No.: 10/514,374
PCT No.: PCT/AU03/00580
International Filing Date: 14 May 2003
Priority Date: 14 May 2002
Attorney's Docket No.: 940120.401USPC
For: A METHOD OF TREATMENT

Dear Ms. HULETT:

You are identified as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
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Counsel Of Record:
William T. Christiansen, Ph.D.
SEED INTELLECTUAL PROPERTY LAW GROUP
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07 JUN 2005

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John F. Klos
FULBRIGHT & JAWORSKI
2100 IDS Center, 80 South 8th Street
Minneapolis, MN 55402-2112

In re Application of:	:	
FISHER, Jeffrey, J., et al.	:	DECISION ON PETITION FOR
U.S. Application No.: 10/514,375	:	REVIVAL OF ABANDONED
PCT No.: PCT/US03/04694	:	APPLICATION UNDER
International Filing Date: 14 February 2003	:	37 CFR 1.137(b)
Priority Date: 15 February 2002	:	
Attorney's Docket No.: 25,961-17US	:	
For: THROAT SPRAY	:	

The petition for revival under 37 CFR 1.137(b) filed 12 November 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

Applicants have now submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the issuance of a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497.

Richard M. Ross
PCT Petitions Attorney
Office Of PCT Legal Administration
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Facsimile: (571) 273-0459

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HOFFMAN & BARON
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OFFICE OF PETITIONS

In re Application of	:	
Ronald BARON	:	
Application No. 10/514,376	:	DECISION ON PETITION
Filed: November 12, 2004	:	
Attorney Docket No. **512-44 PCT/US**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 30, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 7, 2007, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 8, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of 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 $1115.00 extension of time fee submitted with the petition on November 30, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account 08-2461.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-0602.

This application is being referred to Technology Center AU 1618 for appropriate action on the concurrently filed amendment.

Thurman K. Page
Petitions Examiner
Office of Petitions

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GLOBAL PATENT GROUP - APX
MS. LAVERN HALL
10411 CLAYTON ROAD, SUITE 304
ST. LOUIS MO 63131

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OFFICE OF PETITIONS

In re Application of	:	
Hong et al.	:	
Application No. 10/514,381	:	ON PETITION
Filed: December 14, 2005	:	
Attorney Docket No. APX0025-201-US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 9, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Issue Fee Transmittal with payment of the issue and publication fees, (2) the petition fee, and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $65.00 extension of time fee submitted with the petition on December 9, 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) 272-3206.

This matter is being referred to the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

14 JUN 2005

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GREENBERG TRAURIG, LLP
Met Life Building
200 Park Avenue
New York, NY 10166

In re Application of	:	
MILLER, Samuel *et al*	:	
Application No.: 10/514,395	:	
PCT No.: PCT/US03/15255	:	
Int. Filing Date: 15 May 2003	:	**DECISION**
Priority Date: 15 May 2002	:	
Attorney Docket No.: 56303-010706	:	
For: STIMULATION AND INJECTION	:	
SYSTEM	:	

This is a decision on the declaration filed with the United States Designated/Elected Office (DO/EO/US) on 19 May 2005 which has been treated as a petition under 37 CFR 1.42. No fee is required.

BACKGROUND

On 21 March 2005, the 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) indicating that a declaration in compliance with 37 CFR 1.497(a) and (b) and a $130.00 surcharge fee was required.

On 19 May 2005, applicants filed a response which included an executed declaration along with the required surcharge fee.

DISCUSSION

The declaration filed on 19 May 2005 is executed by joint inventor, Kenneth Cioletti and by Ron Wilen for joint inventor, Samuel Miller. Mr. Miller is listed as deceased on the declaration.

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.

A review of the declaration shows that it is not in compliance with 37 CFR 1.497(a) and (b). The declaration records the residence, citizenship and mailing address for Mr. Wilen. However, the declaration does not indicate as to what capacity

Mr. Wilen has executed the declaration for the deceased inventor. *See* 37 CFR 1.497(b)(2). Moreover, the declaration must also provide the citizenship information on all inventors including the deceased inventor. *See* 37 CFR 1.497(a)(3).

CONCLUSION

For the reasons listed above, applicants' petition under 37 CFR 1.42 is **DISMISSED** without prejudice.

Applicants are required to provide an oath or declaration in compliance with 37 CFR 1.497(a) and (b) within a time limit of **TWO (2) MONTHS** from the mail date of this decision. Extension of time may be granted under 37 CFR 1.136(a).

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson

James Thomson
Attorney Advisor
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In re Application of	:	
MILLER, Samuel *et al*	:	
Application No.: 10/514,395	:	
PCT No.: PCT/US03/15255	:	
Int. Filing Date: 15 May 2003	:	**DECISION**
Priority Date: 15 May 2002	:	
Attorney Docket No.: 56303-010706	:	
For: STIMULATION AND INJECTION	:	
SYSTEM	:	

This is a decision on the petition to withdraw the holding of abandonment filed via facsimile on 13 October 2006 and 16 October 2006. The papers are then treated as a renewed petition under 37 CFR 1.42.

BACKGROUND

On 21 March 2005, the 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) indicating that a declaration in compliance with 37 CFR 1.497(a) and (b) and a $130.00 surcharge fee was required.

On 19 May 2005, applicants filed a response which included an executed declaration along with the required surcharge fee.

On 14 June 2005, a decision dismissing applicants' petition under 37 CFR 1.42 was mailed. The declaration was regarded as not to contain all of the information required by 37 CFR 1.497(a) and (b). Applicants were given two months to respond.

On 04 August 2005, applicants purportedly filed a response which contained a new declaration. However, these papers were not located in the file.

On 28 June 2006, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) for failing to respond to the Form PCT/DO/EO/905 mailed 21 March 2005.

On 13 October 2006, applicant filed the subject petition to withdraw the holding of abandonment via facsimile. However, the copy of the date-stamped postcard receipt (pg. 3 of 11) for the documents purportedly filed 04 August 2005 was cut off by the

facsimile machine and unreadable.

On 16 October 2006, applicants submitted via facsimile another copy of the date-stamped postcard receipt for the documents purportedly filed 04 August 2005.

DISCUSSION

Petition to Withdraw Holding of Abandonment

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. Applicants must enclose a self-addressed postcard identifying all of the papers filed. The USPTO will stamp the receipt date on the card and place it on the outgoing mail. The identifying data on the card must clearly identify the paper for which receipt is requested. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

Here, applicants provided a copy of the date-stamped postcard receipt for documents submitted on 04 August 2005. The postcard receipt identified the application by the application number, inventors, docket number and title. The postcard receipt indicates that a "Response to Decision" and "Signed Declaration/Power of Attorney" was received in the USPTO. The postcard receipt is stamped "JC06 Rec'd PCT/PTO 04 AUG 2005" across its face. A copy of the response was also provided.

Accordingly, applicants have provided *prima facie* evidence that a response to the decision mailed 14 June 2005 was filed on 04 August 2005.

Renewed Petition Under 37 CFR 1.42

In response to the decision dated 14 June 2005, applicants have furnished a declaration executed by joint inventor, Kenneth Cioletti and by Ron Wilen as the legal representative for the deceased joint inventor, Samuel Miller.

The new declaration records the citizenship, residence, and mailing address of the legal representative as required by 37 CFR 1.497(b)(2) and the capacity that Mr. Wilson has executed the declaration. The declaration also lists the citizenship, former residence, and mailing address of both inventors (including the deceased inventor) and meets the requirements of 37 CFR 1.497(a) and (b).

CONCLUSION

In view of the above, the petition to withdraw the holding of abandonment is

10/514,395

hereby **GRANTED**.

The Form PCT/DO/EO/909 mailed 28 August 2006 is **VACATED**.

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 15 May 2003, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 04 August 2005.

This application is being forwarded to the United States Designated/Elected Office for further processing in accordance with this decision.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

29 SEP 2005

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Richard M. Goldberg
25 East Salem Street
Suite 419
Hackensack, NJ 07601

In re Application of:	:	
MOMPO ORTI, Luis, Blas	:	DECISION ON PETITION
Application No.: 10/514,396	:	
PCT No.: PCT/ES02/00225	:	
Int. Filing Date: 13 May 2002	:	
Priority Date: None	:	
Attorney Docket No.: 217/1/064	:	
For: HEMI-CANNULA FOR TRACHEOTOMY	:	
PATIENTS	:	

This decision is issued in response to applicant's "Request For Corrected Filing Receipt" filed 26 September 2005, treated herein as a petition under 37 CFR 1.10(c) to correct the date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4). No petition fee is required.

BACKGROUND

On 13 May 2002, applicant filed international application PCT/ES02/00225 which did not claim an earlier priority date and which designated the United States. On 20 November 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 submission of the basic national fee was thirty months from the priority date, i.e., 15 November 2004 (13 November 2004 was a Saturday).

In November 2004, applicant filed a transmittal letter for entry into the national stage accompanied by, among other materials, payment of the basic national fee, a translation into English of the international application, and an executed declaration.

On 06 May 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) identifying 15 November 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." Also on 06 May 2005, a filing receipt was issued which identified 15 November 2005 as the 35 U.S.C. 371(c) date.

On 26 September 2005, applicant filed by facsimile the petition considered herein.[1] In the petition, applicant asserts that the materials initiating this national stage application were

[1] The petition states that it is a copy of materials originally filed on 19 May 2005, but the application file contains no record of such 19 May 2005 submission.

deposited with the USPS as "Express Mail" on 12 November 2004. Applicant therefore argues that 12 November 2004 is the proper 35 U.S.C. 371(c) date for the present application.

DISCUSSION

The national stage materials filed by applicant herein included a cover letter that itemized the enclosed materials and included a "Certificate Of Mailing By Express Mail Under 37 CFR 1.10." The Certificate Of Mailing identified the "Express Mail" label number as ED338105613US and identified 12 November 2004 as the deposit date. Applicant has included with the present petition a copy of the customer copy of the "Express Mail" label for this label number; the "date in" on the "Express Mail" label is 12 November 2004. USPS records confirm that this envelope was deposited with the USPS on 12 November 2004.

Based on applicant's statements, the Certificate Of Mailing placed on the filed correspondence, the 12 November 2004 "date in" on the "Express Mail" label, and the USPS tracking records, it is concluded that the "Express Mail" envelope containing the national stage materials here was deposited with the USPS on 12 November 2004. Pursuant to 37 CFR 1.10(c), the proper date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) for this application is therefore 12 November 2004.

CONCLUSION

Applicant's petition under 37 CFR 1.10(c) is **GRANTED**.

The Notification Of Acceptance and filing receipt mailed 06 May 2005 are hereby **VACATED**.

This application is being referred to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision, including the issuance of a corrected Notification Of Acceptance and filing receipt that properly identify the date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) as 12 November 2004.

Richard M. Ross
PCT Petitions Attorney
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

29 SEP 2005

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Richard M. Goldberg
25 East Salem Street
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In re Application of	:	
Mompo Orti	:	
Application No. 10/514,396	:	DECISION ON
PCT No.: PCT/ES02/00225	:	
Int. Filing Date: 13 May 2002	:	PETITION UNDER
Priority Date: None claimed	:	
Atty. Docket No.: 217/1/064	:	37 CFR 1.10(c)
For: Hemi-Cannula For	:	
Tracheotomy Patients	:	

This is in response to the "Request For Corrected Filing Receipt" filed on 19 May 2005, which is being treated under 37 CFR 1.10(c).

BACKGROUND

This international application was filed on 13 May 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 20 November 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 13 November 2004.

On 06 May 2005, a Notice of Acceptance (Form PCT/DO/EO/903) was mailed to applicants, indicating the date of this application under 35 U.S.C. 371(c)(1), (2) and (4) to be "11/15/2004." This same date is shown as the "Filing or 371(c) Date" on the filing receipt.

DISCUSSION

Counsel requests "that a corrected filing receipt be sent to the undersigned," showing a "Filing Date" of 12 November 2004, on the basis of "Express Mail" evidence. Under 37 CFR 1.10(c), where a discrepancy can be shown between the filing date accorded to correspondence by the USPTO and the date of deposit as shown as the "date-in" on the "Express Mail" mailing label or other USPS notation, the Commissioner may be petitioned to accord the correspondence a filing date as of the "date-in" or other official USPS notation. The instant petition complies with 37 CFR 1.10(c)(1).

The petition complies with 37 CFR 1.10(c)(2) because an Express Mail mailing label number, ED338105613US, was recorded on a letter accompanying and itemizing the components of the correspondence in question.

The petition also complies with 37 CFR 1.10(c)(3). Counsel has provided a copy of "Express Mail" mailing label ED338105613US which bears a "Date-In" of "11 12 04." In view of the totality of the evidence now of record, it would be appropriate to conclude that the correspondence in question was in fact deposited with the USPS as "Express Mail" on 12 November 2004, and therefore to regard the Form PTO-1390, the Form PCT/IB/308, the Spanish

language copy of the international application, the two front pages of the published international application, the English translation of the international application, the declaration and power of attorney, the Application Data Sheet, the Form PCT/ISA/210, the Form PCT/IPEA/409, the Form PCT/ISA/220, the preliminary amendment and the Information Disclosure Statement and two references as having been filed on 12 November 2004 rather than 15 November 2004. Consequently, the Notice of Acceptance mailed on 06 May 2005, as well as the filing receipt, were in error, and they are hereby **VACATED**.

CONCLUSION

The petition is **GRANTED** to the extent described above.

This application is being returned to the National Stage Processing Branch for further processing, including the preparation and mailing of a new Notice of Acceptance (Form PCT/DO/EO/903) and a new Filing Receipt. The date of this application under 35 U.S.C. 371(c)(1), (2) and (4) is **12 November 2004**.

Richard Cole
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
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ALEXANDRIA, VA 22313-1404

MAILED

MAY 20 2009

OFFICE OF PETITIONS

In re Application of
Koichi Araki, et al.
Application No. 10/514,430
Filed: June 10, 2005
Attorney Docket No.: 033495-017

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed March 24, 2009.

The petition is GRANTED.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 23, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed September 23, 2008. A Notice of Abandonment was mailed on January 21, 2009. In response, on March 24, 2009, the present petition was filed.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. However, in accordance with 37 CFR 1.34(a), the signature of Deborah L. Lu appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party on whose behalf she acts. If Ms. Lu 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 Ms. Lu, 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 satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay[1].

The application is being referred to the Office of Data Management to be processed into a patent.

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: FROMMER LAWRENCE & HAUG LLP
745 FIFTH AVENUE, 10TH FLOOR
NEW YORK, NY 10151

26 MAY 2005

#3

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James A. Oliff
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P.O. Box 19928
Alexandria, VA 22320

In re Application of	:	
WASAKI, et al.	:	
U.S. Application No.: 10/514,432	:	DECISION ON PAPERS
PCT No.: PCT/JP03/06193	:	
Int. Filing Date: 19 May 2003	:	UNDER 37 CFR 1.42
Priority Date: 20 May 2002	:	
Attorney's Docket No.: 120005	:	
For: NOISE SUPPRESSING CIRCUIT	:	

This decision is in response to applicant's combined declaration and power of attorney filed 16 November 2004. The response is being treated as a request for status pursuant to 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 19 May 2003, applicants filed the international application, which claimed a priority date of 20 May 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 27 November 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 November 2004.

On 16 November 2004, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee; an English translation of the international application and the executed declaration discussed herein.

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 Masaru WASAKI and the legal representative to his estate, Hitomi WASAKI. In addition, this information has been provided for the joint inventor, Yoshihiro SAITOH. The declaration has been executed by the

legal representative and the joint inventor. As such, the declaration is in compliance with 37 CFR 1.497(a)-(b).

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 19 May 2003 and a date of **16 November 2004** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the DO/EO/US for processing in accordance with this decision.

Derek A. Putonen
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Tel: 571-272-3294
Fax: 571-273-0459

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OFFICE OF PETITIONS

In re Application of	:	
Wasaki, et al.	:	
Application No. 10/514,432	:	ON PETITION
Filed: November 16, 2004	:	
Attorney Docket No. 120005	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed December 12, 2006.

The petition under 37 CFR 1.181 is **GRANTED**.

The holding of abandonment is **WITHDRAWN**.

The above-identified application was held abandoned for failure to timely file a response to the non-final Office action mailed March 20, 2005. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on June 21, 2006. A Notice of Abandonment was mailed on December 5, 2006..

A review of the file reveals that the Office action, for reasons not apparent, was returned to the Office as undeliverable on March 29, 2006. The action was addressed to the proper address of record.

The matter is being forwarded to Group Art Unit 2612 for re-mailing of the March 20, 2006 Office action, setting a new period for reply.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

14 JAN 2005

#3.

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Michael A. Kaufman
Dorsey & Whitney LLP
Four Embarcadero Center - Suite 3400
San Francisco, CA 94111-4187

In re Application of	:	
RASKUTTI, Bhavani et al.	:	
Application No.: 10/514,470	:	DECISION ON
PCT No.: PCT/AU01/00198	:	
Int. Filing Date: 25 September 2001	:	PETITION
Priority Date: 25 September 2000	:	
Attorney Docket No.: A-72198/DJB/MAK	:	UNDER 37 CFR 1.181
For: A DOCUMENT CATEGORIZATION	:	
SYSTEM	:	

This decision is in response to applicant's "Communication to the PCT/DO/EO/US RE Petition Under 37 C.F.R. §1.10(e)," filed on 08 November 2004. It has been treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 25 September 2001, applicant filed international application PCT/AU01/00198. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 28 March 2002. The deadline for entry into the national stage in the United States was thirty months from the priority date, 25 March 2003.

On 08 November 2004, applicant submitted the instant petition, accompanied by a petition under 37 CFR 1.10(e) claimed to have been submitted on 29 March 2004, a cancelled check and a transmittal letter.

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 provided copies of the check, preliminary amendment and the transmittal that applicant claims to have submitted on 25 March 2003. The response indicates that no reply was received from the Office in response to the original submission. In the absence of the return postcard, applicant must still prove the contents of the package. Applicant has supplied a cancelled check. The processing of the check with a mailroom date of 25 March 2003 is an indication of receipt of the transmittal letter and the check, as the fees could not have been

properly processed in the absence of a transmittal letter. Applicant has provided convincing evidence that the transmittal letter and accompanying paperwork were received on 25 March 2003.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification of Missing Requirements indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (571) 272-3292
Facsimile: (571) 273-0459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/22-09 **Paper No.:** _____

TO SPE OF : ART UNIT 3738

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/514493 Patent No.: 7470289

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Should Drawings be approved

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**~~ 2800 S Randolph St
Palm Location 7580

E Young
Certificates of Correction Branch
~~**703-308-9390 ext.**~~
703 756 1542

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: yes, the Applicant is correct: both drawings (Figures 2 and 4) should be approved

David H. Willse
~~Primary Examiner~~

SPE

3738
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

20 JUN 2005

#5

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Stephen J. Gaudet
Perkins Smith & Cohen, LLP
One Beacon Street, 30th Floor
Boston, MA 02108

In re Application of	:	
ZEILER et al	:	
Application No.: 10/514,509	:	
PCT No.: PCT/US2003/011715	:	
Int. Filing Date: 15 April 2003	:	DECISION
Priority Date: 15 April 2002	:	
Atty. Docket No.: 30318-115US	:	
For: A DEVICE AND METHODS FOR	:	
CONCENTRATING PRION...	:	

This is a decision on applicants' "PETITION FOR REVIVAL...UNDER 37 CFR 1.137(b)" filed in the U.S. Patent and Trademark Office (USPTO) on 12 November 2004. The petition was accompanied by, *inter alia,* the requisite petition fee, the basic national fee, a declaration of the inventors, and the surcharge for late submission of the declaration. The petition is **GRANTED** as discussed below.

The present application became abandoned as to the U.S. National Stage on 15 October 2004 for failure to pay the basic national filing fee prior to the expiration of 30 months from the priority date.

A review of the application file reveals that applicant has satisfied the requirements of 37 CFR 1.137(b), and that the application satisfies the requirements under 35 U.S.C. 371 for entry into the national stage in the United States.

The application has an international filing date of 15 April 2003, under 35 U.S.C. 363, and a 35 U.S.C. 371(c)(1), (2), and (4) date of **12 November 2004**.

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing in accordance with this decision.

Richard R. Cole
PCT Legal Examiner
Office of PCT Legal Administration

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John E. Vandigriff
Hammerle Finley Law Firm
1660 S. Stemmons Frwy.
Ste. 300
Lewisville TX 75067

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JUL 17 2006
OFFICE OF PETITIONS

In re Application of
Keightly
Application No. 10/514,518
Filed: November 15, 2004
For: KEI101

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed June 26, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned April 25, 2006 for failure to timely submit a proper response to the Notice of Allowance and Issue Fee Due (Notice) mailed January 24, 2006. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed June 15, 2006.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(a). (See, MPEP 711.03(c) as relates to abandonment attributed to change of correspondence address.) Accordingly, the failure to timely submit a proper reply to the Office communication is accepted as having been unavoidably delayed.

This application is being forwarded to the Publications Division for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

Ballard Spahr, LLP
Suite 1000
999 Peachtree Street
Atlanta, GA 30309-3915

In re Patent No. 7,504,507	:	
Issue Date: March 17, 2009	:	
Application No. 10/514,523	:	ON PETITION
Filed: May 5, 2005	:	
Attorney Docket No. 07082.0014U1	:	

This is a decision on the petition filed July 16, 2009, which is being treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The request is **GRANTED**.

Petitioner states that the correct assignees' name are "Auckland Uniservices Limited and LaTrobe University" and that the assignees' name was inadvertently omitted 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 omitted assignees on the front page of the Letters Patent in the patent issued from the application.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that "Auckland Uniservices Limited and LaTrobe University" are the assignees 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 be processed in a patented application.

A request for a certificate of correction is not showing in our records as being processed. As authorized the request for a certificate of correction fee of $100.00 will be charged to petitioner's deposit account as authorized.

Inquiries concerning this decision should be directed to the Kimberly Inabinet at (571) 272-4618. 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 a patented application.

Carl Friedman
Petitions Examiner
Office of Petitions

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

R. Burns Israelson
Workman Nydegger
(F/K/A Workman Nydegger & Seeley)
60 East South Temple
Salt Lake City, UT 84111

In re Application of	:	
Kim	:	
Application No.: 10/514,526	:	
PCT No.: PCT/KR02/00949	:	
Int. Filing Date: 20 May 2002	:	DECISION
Priority Date: none claimed	:	
Attorney Docket No.:16143.6	:	
For: Scene Change Detector Algorithm In Image Sequence	:	

This is in response to the "Response To Noticification Of Missing Requirements..." filed on 30 June 2005.

BACKGROUND

This international application was filed on 20 May 2002 and claimed no earlier priority date. The United States was designated. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 20 November 2004. On 15 November 2004, applicants filed *inter alia* the basic national fee.

On 13 May 2005, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an oath or declaration of the inventors in compliance with 37 CFR 1.497(a) and (b).

DISCUSSION

Counsel states that "all missing requirements were filed with the United States Patent and Trademark Office in a submission on May 6, 2005," and presents a copy of a return postcard receipt itemizing certain correspondence and stamped as "Rec'd PCT/PTO 06 MAY 2005." 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." However, the instant "Response..." did not include copies of the correspondence allegedly filed on 06 May 2005, nor are original copies of any correspondence filed on 06 May 2005 present in the application file. Accordingly, it would not be appropriate to consider the requirements of the 13 May 2005 Notification of Missing Requirements to have been satisfied.

CONCLUSION

The petition is **DISMISSED**, without prejudice.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely reply will result in **ABANDONMENT** of this application.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

27 SEP 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

R. Burns Israelson
Workman Nydegger
(F/K/A Workman Nydegger & Seeley)
60 East South Temple
Salt Lake City, UT 84111

In re Application of	:	
Kim	:	
Application No.: 10/514,526	:	
PCT No.: PCT/KR02/00949	:	
Int. Filing Date: 20 May 2002	:	DECISION
Priority Date: none claimed	:	
Attorney Docket No.:16143.6	:	
For: Scene Change Detector Algorithm In Image Sequence	:	

This is in response to the papers filed on 06 May 2005.

DISCUSSION

In a Decision mailed on 31 August 2005, counsel's petition to grant correspondence a receipt date on the basis of postcard evidence was dismissed without prejudice because

> Counsel states that "all missing requirements were filed with the United States Patent and Trademark Office in a submission on May 6, 2005," and presents a copy of a return postcard receipt itemizing certain correspondence and stamped as "Rec'd PCT/PTO 06 MAY 2005." 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." However, the instant "Response..." did not include copies of the correspondence allegedly filed on 06 May 2005, nor are original copies of any correspondence filed on 06 May 2005 present in the application file. Accordingly, it would not be appropriate to consider the requirements of the 13 May 2005 Notification of Missing Requirements to have been satisfied.

The original correspondence filed on 06 May 2005 has now been matched with the application file. Therefore, the requirements of the Notification of Missing Requirements mailed on 13 May 2005 have now been satisfied.

CONCLUSION

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **06 May 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

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

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OCT 02 2007

OFFICE OF PETITIONS

In re Application of
Hans Loibner, et al.
Application No. 10/514,529
Filed: November 15, 2004
Attorney Docket No. 4518-0106PUS1

ON PETITION

This is a decision in response to the petition, filed May 29, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Leonard R. Svensson appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Svensson desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 18, 2005, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extension of time under the provisions of 37 CFR 1.136(a) was obtained. This decision precedes the mailing of a Notice of Abandonment. On May 29, 2007 the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the response in the form of an election of the invention to be examined; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 1643 for consideration of the response filed May 29, 2007.

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: LEONARD R. SVENSSON
12770 HIG BLUFF DR., SUITE 260
SAN DIEGO, CA 92130

24 MAR 2005

#4

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

DeAnn F. Smith
LaHive & Cockfield, LLP
28 State Street
Boston, MA 02109

In re Application of SPIEGELMAN et al. Application No.: 10/514,531 PCT No.: PCT/US03/04792 Int. Filing Date: 13 February 2003 Priority Date: 13 February 2002 Attorney Docket No.: DFN-041US For: METHODS AND COMPOSITION FOR MODULATING TYPE I MUSCLE FORMATION USING PGC-1x	: : : : : : : :	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 12 November 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicants have submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration along with the $130 surcharge for filing the oath or declaration after the thirty-month period is required.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

09 MAY 2005

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David Gaskey
Carlson, Gaskey, Olds, P.C.
400 W. Maple Road, Suite 350
Birmingham, MI 48009

In re Application of
FARGO et al.
Application No.: 10/514,532
PCT No.: PCT/US02/16172
Int. Filing Date: 20 May 2002
Priority Date: None
Attorney Docket No.: 60469-188;OT-4876
For: ESCALATOR DRIVE MECHANISM WITH FAILURE DETECTION AND BACKUP

DECISION ON PAPERS UNDER 37 CFR 1.42

This decision is in response to the declaration filed 12 November 2004 which is being treated as a request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 20 May 2002, applicants filed the above-identified international application which claimed no priority date. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 04 December 2003. The international application named Richard Fargo; Charles Darling; Bernward Engelke; Ernst Fuhring; and John Michael Milton-Benoit as applicants/inventors and Helene Ostermeier and Hieke Helene Engel Rojahn as legal representative of the deceased inventor, Jorg Ostermeier. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the international filing date, 20 November 2004 .

On 12 November 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 12 November 2004 is executed by: Richard Fargo; Charles Darling; Bernward Engelke; Ernst Fuhring; and John Michael Milton-Benoit as inventors

and an individual on behalf of the deceased inventor, Jorg Ostermeier. However, the declaration fails to identify the person signing the declaration for Jorg Ostermeier. In this case, the declaration should be executed by Helene Ostermeier and Hieke Helene Engel Rojahn as legal representative of the deceased inventor. 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 representatives. The declaration filed on 12 November 2004 does not include the name, residence, citizenship, and post office address for the legal representatives. Accordingly, the declaration is not in compliance with 37 CFR 1.497(b)(2).

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

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

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

15 JUL 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

David Gaskey
Carlson, Gaskey, Olds, P.C.
400 W. Maple Road, Suite 350
Birmingham, MI 48009

In re Application of
FARGO et al.
Application No.: 10/514,532
PCT No.: PCT/US02/16172
Int. Filing Date: 20 May 2002
Priority Date: None
Attorney Docket No.: 60469-188;OT-4876
For: ESCALATOR DRIVE MECHANISM WITH FAILURE DETECTION AND BACKUP

DECISION ON PAPERS UNDER 37 CFR 1.42

This decision is in reply to "Response to Decision on Papers under 37 CFR 1.42" filed 31 May 2005. No petition fee is required.

BACKGROUND

On 20 May 2002, applicants filed the above-identified international application which claimed no priority date. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 04 December 2003. The international application named Richard Fargo; Charles Darling; Bernward Engelke; Ernst Fuhring; and John Michael Milton-Benoit as applicants/inventors and Helene Ostermeier and Hieke Helene Engel Rojahn as legal representative of the deceased inventor, Jorg Ostermeier. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the international filing date, 20 November 2004.

On 12 November 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 09 May 2005, applicants' declaration executed by Jorg Ostermeier was refused under 37 CFR 1.42 and 37 CFR 1.497(a)-(b).

On 31 May 2005, applicants filed "Response to Decision on Papers under 37 CFR 1.42."

DISCUSSION

In a decision dated 09 May 2005, the Office of PCT Legal Administration held that the declaration filed on 12 November 2004 did not include the name, residence, citizenship, and post office address of the person executing the declaration on behalf of the deceased

BEST AVAILABLE COPY

inventor, Jorg Ostermeier. However, counsel states that "[t]he declaration and assignment filed on November 12, 2004 were both signed by Jorg Ostermeier on April 26, 2002, before he died." Accordingly, the declaration filed 12 November 2004 is acceptable under 37 CFR 1.497(a)-(b).

CONCLUSION

The papers filed under 37 CFR 1.42 are **DISMISSED AS MOOT**.

The application has an international filing date of 20 May 2002, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **12 November 2004**.

This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

Rec'd PCT/PTO 10 JUN 2005 #4

Express Mail mailing label number EV 653879565US
Date of Deposit: June 10, 2005

Case No. 10808/175
Client Reference No. 12101US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

RALF ARNOLD ET AL

Serial No: 10/514,537

Filed: May 14, 2003

For: SYSTEM FOR TESTING DIGITAL MODULES

Examiner: UNASSIGNED

Group Art Unit: UNASSIGNED

PETITION AND FEE FOR EXTENSION OF TIME (37 CFR § 1.136(a))

Mail Stop PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is a petition for an extension of the time to respond to Notification of Missing Requirements Under 35 U.S.C. 371 dated March 24, 2005 for a period of one month(s).

☒ Applicant:

☐ claims small entity status. See 37 C.F.R. §1.27.

☒ is other than small entity

	Extension Months	Other Than Small Entity	Small Entity
☒	One Month	$120.00	$60.00
☐	Two Months	$450.00	$225.00
☐	Three Months	$1,020.00	$510.00
☐	Four Months	$1,590.00	$795.00
☐	Five Months	$2,160.00	$1,080.00

Rec'd PCT/PTO 10 JUN 2005

Case No. 10808/175

Client Ref. No. 12[illegible]US 10808/175

Client Reference No. 12101US

Fee Payment

☒ Attached is a check for $120 for the Petition fee.

☐ Attached is a credit card authorization form for $_____ for the Petition fee.

☐ Charge Petition fee to Deposit Account No. 23-1925. A duplicate copy of this Petition is attached.

☒ Charge any additional fee required or credit for any excess fee paid to Deposit Account No. 23-1925. A duplicate copy of this Petition is attached.

Respectfully submitted,

Dated: June 10, 2005

Stephen Charles Smith
Registration No. 53,617
Attorney for Applicant

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610
(312)321-4200

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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OCT 2 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Surleraux et al	:	
Application No.10/514,539	:	DECISION ON PETITION
Filed: November 12, 2004	:	
Attorney Docket No. TIP0034USNP	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 15, 2008, 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 and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed April 15, 2008, 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 the Office of Data Management to be processed into a patent.

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
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8000 TOWERS CRESCENT
TYSONS CORNER, VA 22182

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FEB 08 2007

OFFICE OF PETITIONS

In re Application of	:	
Hector Montes Linares et al	:	
Application No. 10/514,550	:	DECISION ON PETITION
Filed: January 19, 2005	:	
Attorney Docket No. 59643.00547	:	

This is a decision on the petition under 37 CFR 1.182, filed, September 8, 2006, to correct the spelling of the second name of inventor "Daniel Fernandes Maestra" to – Daniel Fernandez Maestra --.

The petition is **GRANTED**.

Office records have been corrected to reflect the correct spelling of the above-named inventor. A corrected Filing Receipt, which sets forth the correct spelling of the above-named inventor, accompanies this decision on petition.

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210.

The matter is being referred to Technology Center AU 2142 for further processing.

Irvin Dingle
Petition 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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/514,550	01/19/2005	2142	1080	59643.00547	2	16	2

CONFIRMATION NO. 6126
CORRECTED FILING RECEIPT
OC000000022392842
OC000000022392842

32294
SQUIRE, SANDERS & DEMPSEY L.L.P.
14TH FLOOR
8000 TOWERS CRESCENT
TYSONS CORNER, VA 22182

Date Mailed: 02/08/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Hector Montes Linares, Granada, SPAIN;
Daniel Fernandez Maestra, Malaga, SPAIN;

Power of Attorney: The patent practitioners associated with Customer Number **32294**.

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/IB02/02586 05/21/2002

Foreign Applications

If Required, Foreign Filing License Granted: 09/06/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/514,550

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Repacking procedure for streaming packet switched services

Preliminary Class

709

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).

27 FEB 2006

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

27 FEB 2006

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Arent Fox PLLC
1050 Connecticut Ave, N.W.
Suite 400
Washington, DC 20036

In re Application of	:	
ASLAN, Tuncer et al.	:	
Application No.: 10/514,570	:	DECISION ON
PCT No.: PCT/TR02/00023	:	
Int. Filing Date: 19 June 2002	:	PETITION UNDER
Priority Date: None	:	
Attorney Docket No.: 108396-00017	:	37 CFR 1.47(a)
For: PROCESS FOR THE PRODUCTION OF	:	
LISINOPRIL	:	

This is a decision on applicants' "Petition Under 37 CFR 1.47(a)," filed in the United States Patent and Trademark Office (USPTO) on 23 September 2005.

BACKGROUND

On 19 June 2002, applicants filed international application PCT/TR02/00023. A copy of the international application was transmitted to the Office by the International Bureau on 31 December 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 19 December 2004.

On 01 December 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 31 May 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 September 2005, applicants submitted a petition under 37 CFR 1.47(a), which was accompanied by, *inter alia*, a declaration.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant

Items (1), (3) and (4) have been satisfied. (1) The petition fee of $200 has been paid. (3) Applicants state the inventor Aslan's last known address as OSM Emlak Konutlari; IsmetPasa Mah. Levent Cad. Kizilcam Blok No : 5; Cerkezkoy, Tekirdaq - Turkey. The last known address of inventor Yurakul is listed as Rauf Pasa Jani Sok. No : 26D: 1; Gundogdu B-Blok; Avcilar, Istanbul - Turkey. (4) The declaration complies with 37 CFR 1.497(a)-(b) and 37 CFR 1.47.

Item (2) is satisfied as to inventor Aslan, but not as to inventor Yurdakul. Applicants indicate that the inventor Aslan has refused to sign and indicates that he will not sign any paperwork for his former employer. However, applicants have not provided the necessary supporting documentation of their submission of the application documents to inventor Yurdakul and her subsequent refusal to sign. Applicants have not furnished a copy of the email sent to inventor Yurdakul. The translation of the declaration in support of the petition indicates that it is included, but a review of the file did not locate it.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

18 SEP 2006

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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Arent Fox PLLC
1050 Connecticut Ave, N.W.
Suite 400
Washington, DC 20036

In re Application of	:	
ASLAN, Tuncer et al.	:	
Application No.: 10/514,570	:	DECISION ON
PCT No.: PCT/TR02/00023	:	
Int. Filing Date: 19 June 2002	:	PETITION UNDER
Priority Date: None	:	
Attorney Docket No.: 108396-00017	:	37 CFR 1.47(a)
For: PROCESS FOR THE PRODUCTION OF	:	
LISINOPRIL	:	

This is a decision on applicants' "Renewed Petition Under 37 CFR 1.47(a)," filed in the United States Patent and Trademark Office (USPTO) on 21 April 2006.

BACKGROUND

On 19 June 2002, applicants filed international application PCT/TR02/00023. A copy of the international application was transmitted to the Office by the International Bureau on 31 December 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 19 December 2004.

On 01 December 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 31 May 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 September 2005, applicants submitted a petition under 37 CFR 1.47(a), which was accompanied by, *inter alia*, a declaration.

On 27 February 2006, the Office mailed Decision On Petition Under 37 CFR 1.47(a), dismissing applicants' petition without prejudice.

On 21 April 2006, applicants filed a renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant

Items (1), (3) and (4) were previously satisfied.

Item (2) was previously satisfied as to inventor Aslan, but remains unsatisfield as to inventor Yurdakul. The prior decision indicated that applicants had not provided the necessary supporting documentation of their submission of the application documents to inventor Yurdakul and her subsequent refusal to sign. Applicants have now furnished a copy of the email sent to inventor Yurdakul, but it indicates that only the declaration and assignment, not a complete copy of the application papers were forwarded. A refusal to sign the declaration in the absence of presentation with a complete copy of the application papers is not normally sufficient. Applicants must provide documentation of presentation to Ms. Yurdakul of a complete copy of the application papers and her subsequent refusal to sign. MPEP 409.03(d).

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Erin P. Thomson

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Attorney Advisor
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#10

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Commissioner for Patents
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Arent Fox PLLC
1050 Connecticut Ave, N.W.
Suite 400
Washington, DC 20036

19 DEC 2006

In re Application of	:	
ASLAN, Tuncer et al.	:	
Application No.: 10/514,570	:	DECISION ON
PCT No.: PCT/TR02/00023	:	
Int. Filing Date: 19 June 2002	:	PETITION UNDER
Priority Date: None	:	
Attorney Docket No.: 108396-00017	:	37 CFR 1.47(a)
For: PROCESS FOR THE PRODUCTION	:	
OF LISINOPRIL	:	

This is a decision on applicants' "Second Renewed Petition Under 37 CFR 1.47(a)," filed in the United States Patent and Trademark Office (USPTO) on 17 November 2006.

BACKGROUND

On 18 September 2006, the Office mailed Decision On Petition Under 37 CFR 1.47(a), dismissing applicants' petition without prejudice and setting a two month period for reply.

On 17 November 2006, applicants filed this renewed petition.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant

Items (1), (3) and (4) were previously satisfied.

Item (2) has now been satisfied as to inventor Yurdakul.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventors at their last known addresses.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including accordation of a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of **23 September 2005**.

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

19 DEC 2006

Aycil Yurdakul
Rauf Pasa Jani Sok. No : 26D: 1
Gundogdu B-Blok
Avcilar, Istanbul
Turkey

In re Application of
ASLAN, Tuncer et al.
Application No.: 10/514,570
PCT No.: PCT/TR02/00023
Int. Filing Date: 19 June 2002
Priority Date: None
Attorney Docket No.: 108396-00017
For: PROCESS FOR THE PRODUCTION OF LISINOPRIL

Dear Ms. Yurdakul:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. The counsel for the applicant is listed below. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: (571) 272-3292
Facsimile: (571) 273-0459

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1050 Connecticut Ave, N.W.
Suite 400
Washington, DC 20036

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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19 DEC 2006

Tuncer Aslan
OSM Emlak Konutlari
IsmetPasa Mah. Levent Cad. Kizilcam Blok No : 5;
Cerkezkoy, Tekirdaq
Turkey

In re Application of
ASLAN, Tuncer et al.
Application No.: 10/514,570
PCT No.: PCT/TR02/00023
Int. Filing Date: 19 June 2002
Priority Date: None
Attorney Docket No.: 108396-00017
For: PROCESS FOR THE PRODUCTION OF LISINOPRIL

Dear Mr. Aslan:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. The counsel for the applicant is listed below. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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NOV 17 2006

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

In re Application of	:
Campbell et al.	:
Serial No.: 10/514,575	: PETITION DECISION
Filed: November 12, 2004	:
Attorney Docket No.: 2124.007US1	:

This is a response to the petition under 37 CFR 1.59(b), filed October 13, 2006, to expunge information from the above identified application.

Petitioner requests that the supplemental IDS cited October 4, 2005 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The $200.00 petition fee set forth in 37 CFR 1.17(h) has been paid.

The proprietary material submitted is an unpublished and undated slide, which is listed on Form PTO 1449. Applicants state that this information is confidential and should be expunged. Applicants' submission received on October 7, 2005 was not in accordance with the M.P.E.P 724.02, which states that proprietary information must be submitted as a separate submission and be properly labeled. Applicants' second submission received on November 28, 2005 was submitted in accordance with M.P.E.P 724.02. Because the material is undated and cannot be used by the examiner, the file entries for both documents have been closed and they are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper. As such, the documents are considered expunged from the record. Originals will not be returned to applicants. Please note that the document will remain as an entry on Form PTO 1449. The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate.

The petition is **GRANTED.**

Should there be any questions with respect to this decision, please contact Marianne C. Seidel, by mail addressed to: Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at general Office facsimile number, 703-872-9306.

Bruce Kisliuk
Director, 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

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: David Alan Campbell	: DECISION ON REQUEST FOR
Patent Number	: 7674913	: RECALCULATION of PATENT
Issue Date	: 03/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/514,575	: OF WYETH
Filed	: 10/27/2005	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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NXP, B.V.
NXP INTELLECTUAL PROPERTY DEPARTMENT
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE, CA 95131

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OCT 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Hans Peter Lobl, et. al.	:	
Application No. 10/514,588	:	ON PETITION
Filed: November 16, 2004	:	
Attorney Docket No. DE 020126	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on April 16, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely reply to the Notice of Allowability mailed August 24, 2007. A Notice of Abandonment December 20, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks items (2).

A petition under 37 CFR 1.137(b) requires a petition fee of $1,620. As the petition filed on April 16, 2008, failed to contain the required petition fee or a deposit account to charge the fee, the petition cannot be granted at this time. Therefore, the petition fee of $1,620 must be submitted.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 35 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

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NOV 2 6 2008

OFFICE OF PETITIONS

In re Application of :
Herman Jorda, et al. :
Application No.10/514,595 : ON PETITION
Filed: November 16, 2004 :
Attorney Docket No. AT 020027 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 29, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure.to timely reply within the meaning of 37 CFR 1.113 to the final Office action mailed June 1, 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 September 2, 2007. The Notice of Abandonment was mailed December 28, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

The proposed reply filed herewith does not place the application in condition for allowance. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal

(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 1114), or the filing of a continuing application under 37 CFR 1.53(b). The amendment filed with petition does not *prima facie* place the application in condition for allowance.

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.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

Chris Bottorff
Petitions Examiner
Office of Petitions

cc: **Paul Im**
Phillips Electronics North America Corp.
Intellectual Property & Standards
370 W. Trimble Road, MS 91-MG
San Jose, CA 95131

Enclosed: Copy of the Examiner's Advisory Action (PTOL-303)

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/514,595	JORDAN ET AL.	
	Examiner	Art Unit	
	QUANG D. THANH	4118	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED er 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 _____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: The amendment has changed the scope of the claims requiring further consideration and/or search, for example in claim 1 adding "greater than 100 Hz " is a further limitation never before considered.
   . (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

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APR 02 2009

OFFICE OF PETITIONS

In re Application of	:	
Hermann Jordan, et al.	:	
Application No. 10/514,595	:	ON PETITION
Filed: November 16, 2004	:	
Attorney Docket No. AT 020027	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed January 26, 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 June 1, 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 September 2, 2007. The Notice of Abandonment was mailed 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 $1,540; 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. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Terri Williams d at (571) 272-2991.

This application is being referred to Technology Center AU 3771 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.

Chris Bottorff
Petitions Examiner
Office of Petitions

cc: **THORNE & HALAJIAN, LLP**
Applied Technology Center
111 West Main Street
Bay Shore, NY 11706