YOUNG & THOMPSON
209 Madison Street
Suite 500
ALEXANDRIA VA 22314

In re Application of	:	
JEAN RANTRUA	:	
Application No. 10/522,160	:	**DECISION ON PETITION**
Filed: January 24, 2005	:	
Attorney Docket No. 0521-1025	:	

This is a decision on the Petition To Withdraw Holding Of Abandonment, received in the United States Patent & Trademark (USPTO) on June 22, 2007.

The petition is **DISMISSED**.

Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO (2) MONTHS from the mail date of this decision.

The above-identified application was held abandoned for applicant's failure to timely submit corrected drawings, as required in the Notice of Allowance and Fee(s) Due mailed January 19, 2007. The Notice of Abandonment, mailed on June 13, 2007 indicates, "No corrected drawings have been received."

The Office acknowledges receipt of applicant's letter dated April 3, 2007 in which the applicant requests withdrawal of the drawing objection and does not submit corrected drawings. Technology Center Supervisory Patent Examiner Daniel Stodola has reviewed the April 3, 2007 letter and the instant petition and concluded the following:

First, the record shows that the attorney was contacted at time of allowance by the Examiner and informed about the alleged defect in the drawing submission of August 2006 and how it was to be corrected. The record also shows that the attorney agreed to make this change with full knowledge that failure to do so would result in abandonment of the application.

Second, as clearly illustrated in Fig. 1, the posterior half rings 9 have two upper connecting lugs 10 and two lower connecting lugs 11 extending therefrom and connecting to the anterior half rings 8. Fig. 2 does not illustrate the lower connecting lugs 11 and thus, clearly, these lugs must have been sectioned off of the anterior half rings 8 irrespective of the wording on page 3 of the specification, line 3, that Fig. 2 is a "partial view". In fact, it would appear that a "partial" view is also inclusive of views wherein elements have been sectioned off.

Nevertheless, Fig. 2 clearly does not show the second posterior half ring 9 nor does it show the two lower connecting lugs 11, which lugs clearly are unitarily connected to the anterior half rings 8. In view of the fact that connecting lugs 11 clearly unitarily connect with the anterior half rings 8 and are not separate elements from the half rings 8 (note Fig. 1), their absence in Fig. 2 would necessitate some kind of sectioning from the half rings 8 be illustrated.

In addition, if applicant did not want to show cross-hatching because no particular material was disclosed and applicant did not want to be prejudiced on the type of material or did not want to

introduce new matter, then applicant should have presented a corrected Fig. 2 showing the stubs of connecting lugs 11 protruding from the half rings 8 with the squiggly line representation of a break in continuity for the broken off/omitted parts not being shown in the "partial view" of Fig. 2 instead of seeking to continue to rely on a drawing that simply ignores that the connecting lugs 11 and a half ring 9 were even present that the Examiner had already indicated was unacceptable. In other words, even a "partial view" must be properly illustrative and representative of the device.

In light of the non-compliance with 37 CFR 1.85, 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

/Deborah Stephens/
Office of Data Management
703-308-9250

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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209 MADISON STREET
SUITE 500
ALEXANDRIA, VA 22314

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JUL 25 2008

In re Application of	:	
Jean Rantrua	:	
Application No. 10/522,160	:	ON PETITION
Filed: January 24, 2005	:	
Attorney Docket No. 0521-1025	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 18, 2008, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to submit corrected formal drawings in a timely manner in reply to the Notice of Allowability, mailed January 19, 2007, which set a period for reply of three (3) months. Accordingly, this application became abandoned on April 20, 2007. A Notice of Abandonment was mailed June 13, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of Corrected Drawings; (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOV 1 8 2009

Robert A. Madsen
YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria VA 22314

In re Application of :	:
Tellier et al.	:
Serial No.: 10/522,161	:DECISION ON PETITION
Filed: September 30, 2005	:
Attorney Docket No.: 0512-1258	:

This letter is in response to the Petition under 37 C.F.R. 1.1.181 filed on September 24, 2009 requesting withdrawal of the Finality of the Office Action of June 24, 2009.

BACKGROUND

Applicant filed a Request for Continued Examination accompanied by a declaration under 37 CFR §1.132 on March 31, 2009. In response to this request the Examiner mailed out a first action Final rejection on June 24, 2009. It was the Examiner's position that:

> All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application.

Applicant sets forth a summary of a telephone interview which took place on January 29, 2009 in which the filing of a declaration under 37 CFR §1.132 was discussed. Applicant states that the examiner indicated that such a declaration would not be considered without the filing of a Request for Continued Examination. In the response of March 31, 2009 applicant further notes that the Examiner indicated that the declaration would require further consideration and/or search.

There is no Interview Summary in the case setting forth the discussion of January 29, 2009.

DISCUSSION

Had applicant filed the declaration under 37 CFR §1.132 as part of a request for reconsideration of the Final rejection of December 31, 2008 it appears that it would not have been entered. Thus, to hasten prosecution applicant elected to proceed to file a Request for Continued Examination.

It is clearly set forth in MPEP §707.07(b) that

> However, it would not be proper to make final a first Office action in a continuing or substitute application >or an RCE< where that application contains material which was presented in the earlier application after final rejection or closing of prosecution but was denied entry because (A) new issues were raised that required further consideration and/or search, or (B) the issue of new matter was raised.

However, the reasons for denying entry of a declaration are set forth in 37 CFR §1.116 (e). It is noted that the reasons set forth for denying entry of such a declaration do not included that it requires further consideration and/or search. It is required that the declaration be filed with good and sufficient reasons as to why it is necessary and was not earlier presented.

The record in this application regarding the "proposed declaration" discussed in the Interview of January 29, 2009 is equivocal.

DECISION

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

Should there be any questions about this decision, please contact Quality Assurance Specialist Michael P. Woodward, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-8373 or by facsimile sent to the general Office facsimile number, 571-273-8300.

John L LeGuyader
Director, Technology Center 1600

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OFFICE OF PETITIONS

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

In re Patent of Koyakumaru et al.	:	DECISION ON REQUEST
Patent No. 7,560,563	:	FOR RECONSIDERATION OF
Issue Date: July 14, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/522,195	:	AND NOTICE OF INTENT TO
Filing Date: June 27, 2005	:	ISSUE CERTIFICATE OF
Attorney Docket No. 264982US0PCT	:	CORRECTION

This is a decision on the petition filed on September 9, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting that the patent term adjustment indicated on the patent be corrected to indicate the term of the above-identified patent is extended or adjusted by nine hundred ninety (990) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate the term of the above-identified patent is extended or adjusted by nine hundred ninety (990) days is **GRANTED**.

Patentees assert the date of commencement of the National Stage under 35 U.S.C. §371 is January 23, 2005, which is the date 30 months after the priority date of the international application. However, the date of January 23, 2005, was a Sunday. Therefore, the date of commencement is January 24, 2005.

Although using a commencement date of January 24, 2005, instead of January 23, 2005, reduces the number of days of delay under 35 U.S.C. § 154(b)(1)(B) by one day, the use of the date also reduces the number of days of overlap between delay under 35 U.S.C. § 154(b)(1)(A) and 35 U.S.C. § 154(b)(1)(B) by one day. In other words, the patent term adjustment is 990 days when January 24, 2005, is used as the date of commencement.

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 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 patent is extended or adjusted by **nine hundred ninety (990)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,560,563 B2
ISSUE DATE	:	July 14, 2009
INVENTOR(S)	:	Koyakumaru et al.

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 517 days.

Delete the phrase "by 517 days" and insert - by 990 days--

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DAVID KLEIN
DEKEL PATENT
BEIT HAROF'IM
18 MENUHA VENAHALA STREET
ROOM 27
REHOVOT, IL ISRAEL

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JUL 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Yosef Gross	:	
Application No. 10/522,199	:	DECISION ON PETITION
Filed: January 24, 2005	:	
Attorney Docket No. 1075GRO-US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 11, 2008 represented January 13, 2008 and supplemented on January 14, 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 December 14, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed September 14, 2007. Accordingly, the date of abandonment of this application is December 15, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720 and the publication fee of $300, (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

12 MAY 2006

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P.O BOX 1450
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Laubscher Severson
1160 Spa Road, Suite 2B
Annapolis, MD 21403

In re Application of	:	DECISION ON
DOLBEC et al	:	
Application No.: 10/522,201	:	
PCT No.: PCT/CA2003/00111	:	
Int. Filing Date: 23 July 2003	:	PETITION UNDER
Priority Date: 24 July 2002	:	
Attorney's Docket No.: 23710	:	
For: AUTOMATIC DETECTION AND RESOLUTION	:	
OF FIBER CABLING ERRORS IN OPTICAL	:	
NETWORKS	:	37 CFR 1.10(c)

This decision is in response to applicants' "REQUEST FOR CORRECTION," which is being treated as a petition under 37 CFR 1.10(c) filed on 10 April 2006, requesting that the receipt date of 21 January 2005 be changed to 24 January 2005 for the national stage submission for the above identified application. No fee is required for this petition.

BACKGROUND

On 24 January 2005, petitioner purportedly filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). However, no executed oath or declaration was filed at such time. The USPTO, however, accorded a receipt date of 21 January 2005 for those papers.

On 06 April 2005, applicants filed the present petition stating that the application was in fact deposited with the USPS on 24 January 2005 as evidenced by the Express Mail Delivery Confirmation and Proof of Mailing filed with the petition. The Track & Confirm documentation for "Express Mail" Label no. EV325935271US indicates that a package was delivered to the USPTO on January 25, 2005.

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.

Applicant has satisfied item (1) under 37 CFR 1.10(c) but not items (2)-(3).

With respect to item (2), a review of the application papers appear to reveal that the "Express Mail" Label No. EV 325935271US was not placed on the "Transmittal Letter" or any other paper prior to the original mailing by "Express Mail."

With respect to item (3), no copy of the customer receipt of "Express Mail" Label No. EV 325935271US has been filed with the present petition.

Accordingly, the requirements under 37 CFR 1.10(c) have not been satisfied. Therefore, it would not be appropriate to grant the petition under 37 CFR 1.10(c) at this time indicating that the National Stage papers were received on 24 January 2005.

CONCLUSION

For reasons above, the petition under 37 CFR 1.10(c) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(c)." No additional petition fee is required.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

27 JUN 2006

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Laubscher Severson
1160 Spa Road, Suite 2B
Annapolis, MD 21403

In re Application of	DECISION ON
DOLBEC et al	
Application No.: 10/522,201	
PCT No.: PCT/CA2003/00111	
Int. Filing Date: 23 July 2003	PETITION UNDER
Priority Date: 24 July 2002	
Attorney's Docket No.: 23710	
For: AUTOMATIC DETECTION AND RESOLUTION OF FIBER CABLING ERRORS IN OPTICAL NETWORKS	37 CFR 1.10(c)

This decision is in response to applicants' "RENEWED PETITION UNDER 37 C.F.R. 1.10(c)" filed on 13 June 2006, requesting that the receipt date for the national stage papers be changed to 24 January 2005 for the national stage submission for the above identified application.

BACKGROUND

In a decision from this Office on 12 May 2006, the petition filed on 10 April 2006 was dismissed. The decision indicated that items (2) and (3) of 37 CFR 1.10(c) were not met.

On 13 June 2006, the present petition was faxed to this Office which includes, *inter alia*, a copy of the "Express Mail" label and the return stamped postcard showing the "Express Mail" label number was placed before the application was mailed.

DISCUSSION

Applicants have satisfied items (2) and (3) of 37 CFR 1.10(c), thus satisfying the requirements under 37 CFR 1.10(c).

A review of the current petition papers reveals that "Express Mail" Label No. EV325935271US was placed on the "postcard" prior to the original mailing by "Express Mail." CFR 1.10(c)(2). Finally, the copy of the customer receipt of "Express Mail" Label No. EV 325935271US filed with the present petition identifies the day of deposit as "24 January 2005." 37 CFR 1.10(c)(3).

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

CONCLUSION

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

The National Stage papers were received by the USPTO on 24 January 2005.

The filing receipt will be corrected to reflect that the National Stage papers were filed on **24 January 2005**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (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

ALI, MEZHER HUSSEIN et al.
Application No. 10/522,207
Filed: October 27, 2005
Attorney Docket No. **02754/0202264-US0**

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 November 01, 2007.

The request is **NOT APPROVED**.

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

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

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **THOMAS HOXIE, ESQ.**
HOXIE & ASSOCIATES LLC
75 MAIN STREET
SUITE 301
MILLBURN, NJ 07041

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46TH FLOOR
PHILADELPHIA PA 19103

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OFFICE OF PETITIONS

In re Application of	:	
ALI, Mezher Hussein et al.	:	
Application No. 10/522,208	:	DECISION ON PETITION
Filed: October 27, 2005	:	TO WITHDRAW
Attorney Docket No. **02754/0202263-US0**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 01, 2007.

The request is **NOT APPROVED**.

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

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

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **THOMAS HOXIE, ESQ.**
HOXIE & ASSOCIATES LLC
75 MAIN STREET
SUITE 301
MILLBURN, NJ 07041

#4

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02 FEB 2006

Frank J. Uxa
Stout, Uxa, Buyan & Mullins, LLP.
4 Venture, Suite 300
Irvine, CA 92618

In re Application of	:	DECISION ON
Zoltan A. KEMENY	:	
PCT No.: PCT/US2003/021930	:	
Application No: 10/522,211	:	
Int. Filing Date: 15 July 2003	:	PETITION UNDER
Priority Date: 15 July 2002	:	
Attorney's Docket No.: D-3184	:	
For: ISOLATION PLATFORM	:	37 CFR 1.47(b)

This is in response to the "PETITION UNDER RULE 1.47(b)" filed on 18 November 2005. The requisite $200 petition fee has been paid by check.

BACKGROUND

On 15 July 2003, applicant filed international application PCT/US2003/021930, which claimed an earliest priority date of 15 July 2002. The thirty-month (30) time period for paying the basic national fee in the United States of America expired at midnight on 15 January 2005.

On 14 January 2005, applicant filed for entry into the national stage in the United States of America. Filed with the application was, inter alia, the requisite basic national fee. However, no executed declaration or oath was submitted at such time.

On 17 August 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" must be submitted within two months from date of mailing or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

In an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4), applicant filed on 18 November 2005, *inter alia*, the following:

1) a petition under 37 CFR 1.47(b);
2) the required petition fee;
3) Unexecuted declaration.

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) and (3) but not items (2), and (4) - (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), 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 averments of Carlos A. Fisher are insufficient to support a finding that the nonsigning inventor, Mr. Zoltan A. Kemeny, could not be reach or locate after diligent effort because Mr. Fisher's declaration fails to show diligent effort to locate inventor Mr. Kemeny. Mr. Fisher has not shown that he has searched for the above non-signing inventor's new address by using a broad search in the internet and phone directory, which would show diligent effort by Mr. Fisher to try find Mr. Kemeny.

Regarding item (3), applicant has stated the last known address of the inventor:

Mr. Zoltan A. Kemeny
1809 E. La Vieve Lane
Tempe, AZ 85284

Regarding item (4) an unexecuted declaration has been provided. No one has signed on behalf for the non-signing sole inventor, Mr. Kemeny. Note MPEP 1820.

Regarding item (5) applicant has not submitted sufficient proof that applicant has sufficient proprietary interest in the application because there is no assignment from Mr. Kemeny to Vistek, Inc.

When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. If an agreement to assign is dependent on certain specified conditions being met, it must be established by affidavit or declaration that those conditions have been met. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by the affidavit or declaration of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.

If there is no record of an assignment from Mr. Kemeny (the inventor) to Vistek, Inc., then Mr. Fisher needs to do the following. If the invention has not been assigned, or if there is no written agreement to assign, the 37 CFR 1.47(b) applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter.

A proprietary interest obtained otherwise than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record. Note MPEP 409.03(f)

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.

Accordingly, it is not appropriate to accord the national stage application status under 37 CFR 1.47(b) at this time.

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." 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
Tel: (571) 272-3276
Fax: (571) 273-0459

29 JUN 2006

#6

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www.uspto.gov

Frank J. Uxa
Stout, Uxa, Buyan & Mullins, LLP.
4 Venture, Suite 300
Irvine, CA 92618

In re Application of	:	DECISION ON RENEWED
Zoltan A. KEMENY	:	
PCT No.: PCT/US2003/021930	:	
Application No: 10/522,211	:	
Int. Filing Date: 15 July 2003	:	PETITION UNDER
Priority Date: 15 July 2002	:	
Attorney's Docket No.: D-3184	:	
For: ISOLATION PLATFORM	:	37 CFR 1.47(b)

This decision is in response to applicant's "Reply To Decision on Petition Under 37 C.F.R.1.47(b)" submitted on 04 April 2006 that indicates that Mr. Zolton Kemeny has now executed the declaration.

BACKGROUND

In a decision by this Office dated 02 February 2006, the decision stated that applicant had not satisfied requirements (2) and (4)-(6) under 37 CFR 1.47(b). The decision concluded that it was not appropriate to accord national stage application status under 37 CFR 1.47(b) at that time.

On 04 April 2006, petitioner filed this instant renewed petition accompanied, inter alia, by an executed declaration by Mr. Zoltan Kemeny.

DISCUSSION

The petition states that the applicant finally succeeded in obtaining Mr. Kemeny's signature on a declaration. Thus, the declaration is now executed by the sole non-signing inventor.

Accordingly, the declaration submitted on 04 April 2006 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 date of this application is **04 April 2006**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 272-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

23 JUN 2006

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

In re Application of SCHWAB et al. Application No.: 10/522,213 PCT No.: PCT/FR03/02257 Int. Filing Date: 17 July 2003 Priority Date: 19 July 2002 Attorney Docket No.: 19978.0016 For: DEVICE AND METHOD FOR THERMOFORMING AN OBJECT HAVING A BACK DRAFT PORTION	DECISION ON PETITION UNDER 37 CFR 1.182

This is a decision on applicant's Request for Corrected Filing Receipt, filed in the United States Patent and Trademark Office (USPTO) on 27 March 2006. This is also in response to applicant's Petition to File Replacement Sheets, treated as a petition under 37 CFR 1.182, filed on 11 March 2005.

On 19 July 2003, applicants filed international application PCT/FR03/02257 which claimed a priority date of 19 July 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, 19 January 2005.

On 14 January 2005, 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/FR04/09333**.

On 11 March 2005, applicant submitted Petition to File Replacement Sheets along with a corrected Transmittal Letter, identifying **PCT/FR03/02257**.

On 22 February 2006, a Notification of Acceptance identifying international application **PCT/FR03/09333**, was mailed to applicants indicating that the 35 U.S.C. 371(c)(1)(c)(2) and (c)(4) date of 13 December 2005.

On 27 March 2006, applicants filed a Request for Corrected Filing Receipt, including a copy of the executed declaration, directed to PCT/FR03/02257.

DISCUSSION

A review of the application file reveals that Transmittal Letter submitted by applicants identified the international application number as **PCT/FR04/09333**. Based on applicant's error, a national stage application file was created for PCT/FR04/**09333**, rather than for PCT/FR03/02257.

The transmittal letter submitted on 14 January 2005 clearly identify the PCT international application to which it was directed. Consequently, the US/DO/EO assigned U.S. serial number

10/522,213 as the national stage of PCT/PCT/FR04/09333. In order to correct the identification of the 10/522,213 as the national stage of PCT/FR03/02257, the petition under 37 CFR 1.182 is required. Per applicants' authorization, the petition fee of $400 will be charged to his deposit account. The Notification of Acceptance identifying international application **PCT/FR03/09333** mailed on 22 February 2006 will be vacated.

Applicants' petition under 37 CFR 1.182 to correct the error in the Transmittal Letter (Form PTO-1390) submitted on 11 March 2005 and request for corrected filing receipt filed on 27 March 2006 is **GRANTED**. U.S. application no. 10/522,213 is the national stage of PCT/**FR03/02257**.

CONCLUSION

Applicants' Petition under 37 CFR 1.182 is **GRANTED**. Applicant's request for corrected filing receipt filed on 27 March 2006 is **GRANTED**. The application will be forwarded to the United States Designated/Elected Office for further processing in accord with this decision.

The Notification of Acceptance identifying international application **PCT/FR03/09333** mailed on 22 February 2006 is hereby **VACATED.** A new Notification of Acceptance will be issued.

U.S. application no. **10/522,213** is the national stage of **PCT/FR03/02257**.

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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P.O. Box 1450
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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

MAILED

NOV 02 2009

OFFICE OF PETITIONS

In re Application of	:	
Ferguson et al.	:	DECISION ON PETITION
Application No. 10/522,222	:	TO WITHDRAW
Filed: January 24, 2005	:	FROM RECORD
Attorney Docket No. 094712-0103	:	

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, 2009.

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

A review of the file record indicates that on June 4, 2009 the power of attorney was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Foley and Lardner LLP
Suite 500
3000 K Street NW
Washington DC 20007

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Alexandria, VA 22313-1450
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MAR 15 2010

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

In re Application of	:	
Ferguson et al.	:	ON APPLICATION FOR
Application No. 10/522,222	:	PATENT TERM ADJUSTMENT
Filed: January 24, 2005	:	
Attorney Docket No. 094712-0103	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705" filed November 5, 2009. This petition is properly treated under 37 CFR 1.705(b). Applicants request that the determination of patent term adjustment be corrected from zero (0) days to two hundred forty (240) days.

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

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

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the

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

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

To the extent that applicant otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **DISMISSED** to the extent indicated herein.

On August 6, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 0 days. The instant application for patent term adjustment was timely filed on November 5, 2009.

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

Applicants dispute the 91-day reduction for the submission of the response on to the final Office action of March 18, 2008. Applicants contend that a reply in the form of an amendment was submitted on August 5, 2008, thus the reduction should be 48 days, instead of a 91 days.

A review of the application history confirms that a period of reduction of 91 days should be entered. 37 CFR §1.704(b) provides:

> an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in §1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed.

As the amendment filed on August 5, 2008 was not compliant with § 1.113(c), the period for reply to the final rejection mailed March 18, 2008, continued to run. The proper reply, a request for continued examination (RCE) was not received in the Office until September 17, 2008.

In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is zero **(0)** days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b). The fee set forth in 37 CFR 1.18(e) is a requirement and will not be refunded.

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

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

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

/Kery A. Fries/

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

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Alexandria, VA 22313-1450
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25 SEP 2006

RANBAXY INC.
600 COLLEGE ROAD EAST
SUITE 2100
PRINCETON NJ 08540

In re Application of SINGH et al.	
Application No.: 10/522,223	DECISION ON
PCT No.: PCT/IB03/02962	
Int. Filing: 24 July 2003	PETITION
Priority Date: 25 July 2002	
Attorney Docket No.: RLL-255US	UNDER 37 CFR 1.47(a)
For: PROCESSES FOR THE PREPARATION OR ORAL DOSAGE FORMULATIONS OF MODAFINIL	

This is a decision on applicant's petition under 37 CFR 1.47(a) filed in the United States Patent and Trademark Office (USPTO) on 08 March 2006 and refiled along with a supplemental petition on 07 June 2006.

BACKGROUND

On 24 January 2005, 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 08 August 2005, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating that an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), and the surcharge for filing the oath or declaration after the thirty month period, was required.

On 08 March 2006, via facsimile, in response to the Notification of Missing Requirements, applicant apparently filed a petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4). The petition requested the acceptance of the application without the signature of inventors Romi Barat Singh, Pananchukunnath Manoj Kumar, and Vishnubhotla Nagaprasad. This petition is not found among the USPTO records.

On 07 June 2006, applicant filed a supplemental petition under 37 CFR 1.47(a) along with declarations signed by the inventors.

DISCUSSION

The Notification of Missing Requirements (FORM PCT/DO/EO/905) mailed on 08 August 2005 set a two month time period within which to respond or by 08 October 2005. Extensions of time under 37 CFR 1.136 were available.

The petition under 37 CFR 1.47(a) allegedly filed via facsimile on 08 March 2006 is not

found in the USPTO records. On 07 June 2006, applicant filed an incomplete copy of the 08 March 2006 petition along with a supplemental petition under 37 CFR 1.47(a). The petition is being considered under 37 CFR 1.8(b).

Acceptance of the Petition under 37 CFR 1.8(b)

37 CFR 1.8(b) states:

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

The evidence filed with the present petition does not satisfy the requirements of 37 CFR 1.8(b). The cover sheet for the 08 March 2006 petition indicates that the facsimile was comprised of 7 pages, including the cover page. The 07 June 2006 petition included a copy of the transmission report along with the facsimile cover sheet and a copy of only two (2) pages of the 08 March 2006 petition.

Applicant has not: (1) informed the Office of the previous mailing of the correspondence promptly after becoming aware that the Office did not receive the items by facsimile on 08 March 2006, (2) supplied complete copies of the previously faxed correspondence; and (3) provided a copy of the sending unit 's report confirming transmission on 08 March 2006 with a statement which attests on a personal knowledge basis to the previously timely transmission as required by 37 CFR 1.8(b). Applicants' petition under 37 CFR 1.8(b) is **DISMISSED WITHOUT PREJUDICE**.

Moreover, the petition submitted on 08 March 2006 will not be considered as timely response to the Notification of Missing Requirements mailed 08 August 2006. A five month extension of time is required. Thus, the application was abandoned on 08 March 2006 for failure to file a timely respond to the Notification of Missing Requirements.

CONCLUSION

The application is **ABANDONED**.

As set forth above, applicant may wish to file a petition under 37 CFR 1.8(b) along with a complete copy of the Response to the Notification of Missing Requirements, requesting withdrawal the holding of 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.

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

30 APR 2007

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600 COLLEGE ROAD EAST
SUITE 2100
PRINCETON NJ 08540

In re Application of SINGH et al.	
Application No.: 10/522,223	DECISION ON
PCT No.: PCT/IB03/02962	
Int. Filing: 24 July 2003	PETITION
Priority Date: 25 July 2002	
Attorney Docket No.: RLL-255US	UNDER 37 CFR 1.47(a)
For: PROCESSES FOR THE PREPARATION OR ORAL DOSAGE FORMULATIONS OF MODAFINIL	

This is a decision on applicant's "Petition Under 37 CFR 1.8(b) and Response to Decision on Petition Under 1.47(a)" filed in the United States Patent and Trademark Office (USPTO) on 26 October 2006.

BACKGROUND

On 24 January 2005, 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 08 August 2005, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating that an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), and the surcharge for filing the oath or declaration after the thirty month period, was required.

On 08 March 2006, via facsimile, in response to the Notification of Missing Requirements, applicant apparently filed a petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4). The petition requested the acceptance of the application without the signature of inventors Romi Barat Singh, Pananchukunnath Manoj Kumar, and Vishnubhotla Nagaprasad. This petition is not found among the USPTO records.

On 07 June 2006, applicant filed a supplemental petition under 37 CFR 1.47(a) along with declarations signed by the previously nonsigning inventors. However, applicant did not enclose a complete copy of the 08 March 2006 submission.

On 25 September 2006, a decision dismissing the petition was mailed to applicant indicating that the petition was being considered under 37 CFR 1.8(b). Applicant was advised that the evidence filed with the petition did not satisfy the requirements of 37 CFR 1.8(b) and that the application was abandoned.

On 28 September 2006, a Notification of Abandonment was mailed to applicant indicating that the application was abandoned for failure to respond to the 08 August 2005 Notification of Missing Requirements.

On 26 October 2006, applicant submitted the renewed petition.

DISCUSSION

The petition under 37 CFR 1.47(a) allegedly filed via facsimile on 08 March 2006 is not found in the USPTO records.

37 CFR 1.8(b) states:

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

Applicant has now: (1) informed the Office of the previous mailing of the correspondence promptly after becoming aware that the Office did not receive the items by facsimile on 08 March 2006, (2) supplied complete copies of the previously faxed correspondence; and (3) provided a copy of the sending unit 's report confirming transmission on 08 March 2006 with a statement which attests on a personal knowledge basis to the previously timely transmission as required by 37 CFR 1.8(b). Applicants' petition under 37 CFR 1.8(b) is **GRANTED**.

The petition submitted on 08 March 2006 authorized charging any fees associated herewith to applicant's Deposit Account. A five month extension of time is required and will be charged accordingly. The Notification of Abandonment is hereby **VACATED**.

Furthermore, applicant has now submitted the executed declarations of all inventors. A review of the declarations indicate that the requirements of 37 CFR 1.497(a) and (b) have been met. Applicant's petition under 37 CFR 1.47(a) is **DISMISSED as MOOT**.

CONCLUSION

Applicants' petition under 37 CFR 1.8(b) is **GRANTED**. The Notification of Abandonment mailed on 28 September 2006 is hereby **VACATED**. Applicant's petition under 37 CFR 1.47(a) is **DISMISSED as MOOT**.

The application will be forwarded to the United States Designated/Elected Office. The

35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 7 June 2006.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

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

04/30/2007 SBASHEIR 00000001 500912 10522223
01 FC:1255 2160.00 DA

28 SEP 2006

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
901 New York Avenue, NW
Washington, DC 20001-4413

In re Application of:	:	
GUIMBERTEAU, Florence, et al.	:	DECISION
U.S. Application No.: 10/522,234	:	
PCT No.: PCT/FR2003/002384	:	
International Filing Date: 28 July 2003	:	
Priority Date: 26 July 2002	:	
Attorney's Docket No.: 09471.0018	:	
For: MICROCAPSULES WITH MODIFIED RELEASE OF ACTIVE PRINCIPLES WITH LOW SOLUBILITY FOR ORAL DELIVERY	:	

This decision is issued in response to materials filed herein on 09 June 2006, including the petition under 37 CFR 1.47(a).

BACKGROUND

On 28 July 2003, applicants filed international application PCT/FR2003/002384. The application claimed a priority date of 26 July 2002, and it designated the United States. On 05 February 2004, 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., 26 January 2005.

On 25 January 2005, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and a translation of the international application into English.

On 22 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 and the surcharge for filing the oath or declaration later than thirty months after the priority date was required.

On 09 June 2006, petitioner filed a response to the Notification Of Missing Requirements, which included the required surcharge payment, a partially executed declaration, and a petition under 37 CFR 1.47(a) seeking acceptance of the declaration without the signature of co-inventor Gerard SOULA, whom petitioner asserts has refused to execute the application.

On 30 August 2006, the DO/EO/US mailed a Notification Of Acceptance (Form PCT/DO/EO/903) indicating that applicants had satisfied the requirements of 35 U.S.C. 371(c) on 09 June 2006. On the same date, a filing receipt was mailed herein, identifying the date under 35 U.S.C. 371(c) as 09 June 2006.

DISCUSSION

The Notification Of Missing Requirements mailed herein on 22 July 2005 stated that the failure to file a proper response within two months would result in abandonment of the application. Pursuant to 37 CFR 1.136(a), this deadline could be extended by a maximum of five months. Thus, the final date for applicants to file a timely response to the Notification Of Missing Requirements, with extension fees, was 22 February 2006.

The present submission was not filed until 09 June 2006, well after expiration of the extendable response period. The 09 June 2006 submission is therefore not a timely response to the Notification Of Missing Requirements mailed 22 July 2005. Accordingly, the present application became abandoned at midnight on 22 August 2005, the date on which a response to the Notification Of Missing Requirements was due.

The Notification Of Acceptance (Form PCT/DO/EO/903) mailed herein on 30 August 2006, based as it was on applicants' purported satisfaction of the requirements of 35 U.S.C. 371(c) in a timely manner, is appropriately vacated.

Because the present application is currently abandoned, the petition under 37 CFR 1.47(a) seeking acceptance of the declaration without the signature of all the inventors is premature and has not been considered on the merits. Such petition can only be considered herein as part of the "required reply" accompanying a petition for revival of the abandoned application, and applicants have not filed such a petition.

It is noted that counsel of record, identified above, did not file the 09 June 2006 submission. A "Statement Under 37 CFR 3.73(b)" and a Power Of Attorney were filed herein on 21 April 2006, attempting to appoint the attorneys who filed the present petition as counsel of record; however, the submission under 37 CFR 3.73(b) was ineffective because it was filed by a partial assignee (see 37 CFR 3.73(b), MPEP section 324(1)(A)).

A courtesy copy of the present decision will be mailed to counsel who filed the petition; however, all further correspondence herein will be addressed solely to the above-listed correspondence address of record.

CONCLUSION

The present application is **ABANDONED** for failure to file a timely response to the Notification Of Missing Requirements mailed 22 July 2005.

The Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt mailed on 30 August 2006 are hereby **VACATED**.

Because the application is abandoned, the petition under 37 CFR 1.47(a) is **DISMISSED** as moot and has not been considered on the merits.

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

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

cc: PATTON BOGGS LLP
8484 WESTPARK DRIVE
SUITE 900
MCLEAN, VA 22102

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

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

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In re Application of	:	
Michael Buck, et al.	:	
Application No. 10/522,244	:	DECISION GRANTING PETITION
Filed: September 13, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 095309.55832US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 24, 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 3, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams
Petitions Examiner
Office of Petitions

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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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW Aug-07

MANTAS DIMITRIOS
37 MIKRAS ASIAS STR, ARGIROUPOLI
PO BOX 164 52
ATHENS
GREECE

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AUG 03 2007
OFFICE OF PETITIONS

In re Application of	:	
Mantas Dimitrios	:	
Application Number: 10/522271	:	ON PETITION
Filing Date: 01/25/2005	:	
For: MAGNETOMECHANICAL SYSTEM	:	
FOR REDUCTION THE RECOIL OF A	:	
GUN	:	

This is a decision on the petition under 1.137(b),[1] filed on 1 March, 2007, to revive the above-identified application.

The petition is **GRANTED**.

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

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

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

This application became abandoned on 2 May, 2006, for failure to timely respond to the non-final Office action mailed on 1 February, 2006, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 2 March, 2007.

Petitioner has filed a substitute specification as the required reply.

The application is being referred to Technology Center Art Unit 3641 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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0 4 APR 2007

James P. Kastenmayer
Finnegan, Henderson, Farabow, Garrett & Dunner, LLP
901 New York Avenue, NW
Washington, DC 20001-4413

In re Application of:	:	
MIZUTANI, et al.	:	
Application No.: 10/522,277	:	
PCT No.: PCT/JP03/09443	:	DECISION ON PETITION
Int. Filing Date: 25 July 2003	:	
Priority Date: 25 July 2002	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: 09812.0743-00000	:	
For: FACTOR TAKING PART IN TRANSCRIPTION CONTROL	:	

The petition to revive under 37 CFR 1.137(b) filed 08 March 2007 in the above-captioned application is hereby **GRANTED** as follows:

A review of the application file reveals that applicant has now provided a compliant copy of the sequence listing in computer readable form. 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 has also included a statement from detailing the abandonment period. 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 entire 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.

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 $2160.00 extension of time payment submitted with the petition on 08 March 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application has an international filing date of 25 July 2003 under 35 U.S.C. 363 and will be given a date of **05 July 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

Repln. Ref: 04/04/2007 SBASHEIR 0000030100
DA#:060916 Name/Number:10522277
FC: 9204 $2160.00 CR

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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

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JUN 2 2 2007

OFFICE OF PETITIONS

In re Application of :
Takashi Hoshino et al :
Application No. 10/522,278 :
Filed: January 24, 2005 :
Attorney Docket No. 14925-011US1/FP03-0200-00

ON PETITION

This is a decision on the petition, filed June 21, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 15, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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 should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2814 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Scott C. Harris
Fish & Richardson P.C.
12390 El Camino Real
San Diego, CA 92130

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

26 JUL 2005

#3

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Eric D. Cohen
Welsh & Kratz, Ltd.
120 South Riverside Plaza, 23nd Floor
Chicago, Illinois 60606

In re Application of	:	DECISION ON
Prentice et al	:	
Application No.: 10/522,291	:	
PCT No.: PCT/NZ2003/000174	:	
Int. Filing Date: 07 August 2003	:	PETITION UNDER
Priority Date: 09 August 2002	:	
Attorney Docket No.: 93602	:	
For: Mobil Instrument, Viewing Device, And	:	
Methods of Processing And Storing Information	:	37 CFR 1.182

This decision is in response to applicants' "PETITION TO CHANGE ORDER OF NAMES IN PATENT APPLICATION PURSUANT TO M.P.E.P. §605.04(f) and 37 C.F.R. §1.182" filed on 05 July 2005. Applicants' Deposit Account No.: 23-0920 has been charged $270.00 so that the total fee for the petition under 37 C.F.R. §1.182 is $400 pursuant to 37 C.F.R. 1.17(f).

BACKGROUND

On 07 August 2003, applicants filed international application No. PCT/NZ2003/000174, which claims a priority date of 09 August 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 19 February 2004. The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 09 February 2005.

On 25 January 2005, 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, have not satisfied the requirement set forth by 35 U.S.C. 371(c)(4) because an unexecuted declaration has been provided.

On 05 July 2005, applicants filed the instant petition requesting to change the order of names in the patent application, and it was accompanied by a new application date sheet with the requested order for the names of the inventors in the patent application.

DISCUSSION

MPEP § 605.04(f) requires in instances where to change the order of names in the patent application when 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) should include an application data sheet showing the new order of inventor names to ensure appropriate printing of the inventor names in any patent to issue.

With respect to item (1), the petition fee has been charged to applicants' deposit account.

With respect to item (2), applicants have provided a new application data sheet with the correct order of inventor names.

It is suggested that the executed declaration or oath should be submitted with the correct order of the names of the inventors for the patent application.

CONCLUSION

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

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

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

7-11-07

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 7210907
Ser. No. : 10/522,302
Inventor(s) : Patti
Issued : May 1, 2007
Title : CENTRIFUGAL FAN IMPELLER WITH BLADES INCLINED RELATIVE TO THE AXIS OF ROTATION
Docket No. : 26570U

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 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 is hereby denied.

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

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

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

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

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

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

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

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

Eva James
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 105

Gary M. Nath
The Nath Law Group
112 S. West St.
Alexandria, VA 22314

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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THE NATH LAW GROUP
112 South West Street
Alexandria VA 22314

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OFFICE OF PETITIONS

In re Patent No. 7,210,907 :
Issue Date: May 1, 2007 :
Application No. 10/522,302 : ON PETITION
Filed: January 25, 2005 :
Attorney Docket No. 26570U :

This is a decision on the petition filed August 14, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to JoAnne Burke at (571) 272-4584. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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

21 JUN 2005

#3

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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YOUNG & THOMPSON
745 South 23rd Street
Arlington, VA 22202

In re Application of: FOCKTER, Vilmos U.S. Application No.: 10/522,304 PCT No.: PCT/HU02/00160 International Filing Date: 20 December 2002 Priority Date: 27 May 2002 Attorney's Docket No.: 9007-1009 For: CABINET FOR THE STORAGE OF GOODS REQUIRING REFRIGERATION	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 25 January 2005 in the above-captioned application is hereby **GRANTED** as follows:

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

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

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the issuance of a "Notification Of Missing Requirements" (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

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06 DEC 2005

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#4

SANTANGELO LAW OFFICES, P.C.
125 SOUTH HOWES, THIRD FLOOR
FORT COLLINS, CO 80521

In re Application of	:	
SCHENK, John L. et al.	:	
Application No.: 10/522,320	:	DECISION ON
PCT No.: PCT/US03/22906	:	
Int. Filing Date: 22 July 2003	:	PETITION UNDER
Priority Date: 22 July 2002	:	
Attorney Docket No.: XY-Optimum-USNP	:	37 CFR 1.47(a)
For: SPERM CELL PROCESS SYSTEM	:	

This is in response to applicants' "Petition to Accept Patent Application From Other Than All Inventors," filed in the United States Patent and Trademark Office (USPTO) on 17 October 2005.

BACKGROUND

On 22 July 2003, applicants filed international application PCT/US03/22906, claiming a priority date of 22 July 2002. The deadline for paying the basic national fee in the United States expired at midnight on 24 January 2005 (22 January 2005 was a Saturday).

On 24 January 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 17 August 2005, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors was required.

On 17 October 2005, applicants submitted the instant petition accompanied by the required fee, a declaration of an inventor and a firsthand statement of facts.

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 or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the non-signing applicant.

Items (1), (2), (3) and (4) have been satisfied. The fee under 37 CFR 1.17(h) has been paid. Applicants have supplied evidence that the non-signing inventor was presented with a

complete copy of the application papers and has not returned a signed declaration. Applicants state that the last known address of inventor Allison C. Lindsey is 236 North Overland Trail, Fort Collins, CO 80521. The declaration submitted complies with 37 CFR 1.47(a) and 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 **17 October 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

06 DEC 2005

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

Allison C. Lindsey
236 North Overland Trail
Fort Collins, CO 80521

In re Application of
SCHENK, John L. et al.
Application No.: 10/522,320
PCT No.: PCT/US03/22906
Int. Filing Date: 22 July 2003
Priority Date: 22 July 2002
Attorney Docket No.: XY-Optimum-USNP
For: SPERM CELL PROCESS SYSTEM

Dear Ms. Lindsey:

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

SANTANGELO LAW OFFICES, P.C.
125 SOUTH HOWES, THIRD FLOOR
FORT COLLINS, CO 80521

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29 APR 2009

COLLARD & ROE, P.C.
1077 Northern Boulevard
Roslyn, New York 11576-1696

In re Application of	:	DECISION ON
REUL et al	:	
Application No.: 10/522,331	:	
PCT No.: PCT/DE2003/002455	:	
Int. Filing Date: 22 JULY 2003	:	PETITION UNDER
Priority Date: 22 JULY 2002	:	
Attorney Docket No.: REUL et al 1 PCT	:	
For: INTRAVENOUS OXYGENATOR	:	37 CFR 1.182

This decision is in response to applicants' "PETITION TO CHANGE ORDER OF INVENTORS" filed on 14 November 2005. Applicants' Deposit Account No.: 03-2468 has been charged $400.00 petition fee under 37 C.F.R. §1.182 pursuant to 37 C.F.R. 1.17(f).

BACKGROUND

On 24 January 2005, 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, and an executed declaration.

On 14 November 2005, applicants filed the instant petition requesting to change the order of names in the patent application, and it was accompanied by a new executed declaration with the requested order for the names of the inventors in the patent application but no application date sheet was provided at this time showing the new order.

DISCUSSION

MPEP § 605.04(f) requires in instances where to change the order of names in the patent application when 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) should include an application data sheet showing the new order of inventor names to ensure appropriate printing of the inventor names in any patent to issue.

With respect to item (1), the petition fee has been charged to applicants' deposit account.

With respect to item (2), applicants have provided a new executed declaration with the correct order of inventor names for the patent application.

CONCLUSION

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

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

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

MAILED

MAY 18 2009

OFFICE OF PETITIONS

In re Application of
Gjorgio Cattaneo et al
Application No. 10/522,331
Filed: January 24, 2005
Attorney Docket No. CATTANEO ET AL-2PCT

ON PETITION

This is a decision on the petition, filed May 8, 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 April 27, 2009 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3767 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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

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

Mail Date: 04/21/2010

Applicant	: Gjorgio Cattaneo	: DECISION ON REQUEST FOR
Patent Number	: 7641853	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/522,331	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **17** 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

MAILED
JUL 06 2010
OFFICE OF PETITIONS

In re Application
Kock, et al.
Application No. 10/522,341
Filed: January 25, 2005
Dkt. No.: 12810-00057

: PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(B)," filed February 1, 2010.

Applicant submits that the patent term adjustment to be indicated on the patent should include adjustment pursuant to 35 USC 154(b)(1)(B) due to the failure of the Office to issue the patent within three years of the application's filing date.

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

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

Requesting reconsideration of the patent term adjustment to be indicated on the patent 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.

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 receipt is acknowledged of the required patent term adjustment application fee under 37 CFR 1.705(b) of $200.00. See, 37 CFR 1.18(e).

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

The application file 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 the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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

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WILMER CUTLER PICKERING HALE AND DORR LLP
60 STATE STREET
BOSTON, MA 02109

In re Application of	:	
WHITELAW et al	:	
Application No.: 10/522,356	:	
PCT No.: PCT/GB03/03192	:	DECISION
Int. Filing Date: 25 July 2003	:	
Priority Date: 26 July 2002	:	
Attorney's Docket No.: 102286.155US1	:	
For: MULTI-REPORTER GENE MODEL FOR	:	
TOXICOLOGICAL SCREENING	:	

This decision is in response to the applicant's response file 24 October 2005 in response to the Notification of Missing Requirements mailed on 23 August 2005.

BACKGROUND

On 25 July 2003, applicant filed international application PCT/GB03/03192, which claimed priority of an earlier British application filed 26 July 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 05 February 2004. A Demand for international preliminary examination, in which the United States was elected, was filed on 26 February 2004. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 26 January 2005.

On 26 January 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia,: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); and an application data sheet.

On 23 August 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905). The notification indicated that the legal documentation is needed for heir Helen Clark for the deceased inventor Anthony John Clark. The notification also indicated that there were problems with the submission of the sequence listing.

On 24 October 2005 applicant filed a copy of a declaration, a sequence listing, a diskette containing the sequence listing in computer readable form, a statement concerning the sequence listing and an amendment.

DISCUSSION

A review of the file reveals that applicants executed a declaration under PCT Rule 4.17(iv) in August 2003 and filed the declaration during the international phase of the application pursuant to 37 PCT Rule 26*ter*.1. Because the declaration under PCT Rule 4.17(iv) is in compliance with the US Rule 1.497(a)[1] the declaration is acceptable for entry into the national stage. When an inventor dies, it is not necessary for the legal representative to intervene in the prosecution of the application. See MPEP 409.01(e) and (f). Therefore, since Anthony Clark executed the declaration prior to his death, it is not necessary for Helen Clark to sign the declaration.

It is noted that the Application Data Sheet filed with on the 26 January 2005 does not list Anthony Clark and Helen Clark in the manner set out in the *Patent Application Data Sheet, Format Guide for Submitting Bibliographic Data for Patent Applications.* See Example 4 on pages 20 and 21 of the *Guide.* A copy may be found at the USPTO's web site. (http://www.uspto.gov/web/offices/pac/dapp/sir/doc/patappde.html) Applicant may wish to file a corrected Application Data Sheet.

CONCLUSION

The application papers are accorded a 35 U.S.C. 102(c)(1), (c)(2) and (c)(4) and 371 date of **26 January 2005.**

The application is being returned to the National Stage Processing Division for further processing.

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

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[1] (a) When an applicant of an international application desires to enter the national stage under 35 U.S.C. 371 pursuant to § 1.495, and a declaration in compliance with this section has not been previously submitted in the international application under PCT Rule 4.17(iv) within the time limits provided for in PCT Rule 26 ter.1, he or she must file an oath or declaration that:
(1) Is executed in accordance with either §§ 1.66 or 1.68;
(2) Identifies the specification to which it is directed;
(3) Identifies each inventor and the country of citizenship of each inventor; and
(4) States that the person making the oath or declaration believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought.

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1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

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JUN 0 9 2008

In re Application of	:	
William Richard CROSS, et al	:	
Application No. 10/522,371	:	ON PETITION
Filed: January 25, 2005	:	
Attorney Docket No. 15892.9	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 1, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 20, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A three (3) month extension of under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on March 21, 2008.

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

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

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

This application is being referred to Technology Center AU 1657 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

Thurman Page
Petitions Examiner
Office of Petitions

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Morrison & Foerster LLP
12531 High Bluff Drive
Suite 100
San Diego, CA 92130-2040

In re Application of	:	
Herman Jan Pel et al.	:	
Application No. 10/522,389	:	DECISION ON PETITION
Filed: January 25, 2005	:	TO WITHDRAW
Attorney Docket No. 246152024900	:	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 **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney given to the attorneys and/or agents associated with Customer Number 25225 has been revoked by the assignee of the patent application on September 20, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Nixon & Vanderhye, PC**
901 North Glebe Rd., 11th Floor
Arlington, VA 22203

04 APR 2006

#7

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Brinks, Hofer, Gilson & Lione
P.O. Box 10395
Chicago, Illinois 60610

In re Application of
MATSUOKA et al.
Application No.: 10/522,392
PCT No.: PCT/JP03/09487
Int. Filing Date: 25 July 2003
Priority Date: 25 July 2002
Attorney Docket No.: 12768/3
For: METHOD OF CUTTING MULTILAYER STRUCTURE AND METHOD OF FORMING MULTILAYER CONTAINER AND MULTILAYER PRODUCT

DECISION

This decision is in response to applicants' reply to Notification of Defective Response filed 13 February 2006 which is being treated as a petition under 37 CFR 1.182. Applicants are requesting to change the name of the third inventor from Yasuyo Matsumura to Yasuyo Sano due to marriage. The petition was accompanied by an affidavit signed by Yasuyo Sano using both her former name and present name. The petition fee under 37 CFR 1.17(f) will be charged to Deposit Account No. 50-1446, as authorized.

DISCUSSION

The Manual of Patent Examining Procedure at § 605.04(c) requires in cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. The petition must include (1) the appropriate petition fee and (2) an affidavit signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a certified copy of the court order. The petition has been reviewed and is approved. The declaration submitted on 31 October 2005 is accepted.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventor's name from Yasuyo Matsumura to Yasuyo Sano is **GRANTED**.

In regards to the "Change of Attorney's Address in Application" submitted on 13 February 2006, the assignee has not established its ownership to the application in accordance with 37 CFR 3.73. (See Manual of Patent Examining Procedure at § 324). Applicant 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).

While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

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

Anthony Smith

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

cc: Stephen P. Burr
Burr & Brown
P.O. Box 7068
Syracuse, New York 13261-7068

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

In re Patent No. 7,455,729 :
Issue Date: November 25, 2008 :
Application No. 10/522,397 : NOTICE
Filed: October 21, 2005 :
Attorney Docket No. 15675P568

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Brian R Morrill
Biomeasure Incorporated
27 Maple Street
Milford, MA 01757-3650

Mail Date: 04/21/2010

Applicant	: Zheng Xin Dong	: DECISION ON REQUEST FOR
Patent Number	: 7589058	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/522,398	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **965** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

28 APR 2005

#3

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Franz Bonsang
c/o Protections Equinox Int'l
224-4480 Cote-de-Liesse
Montreal, Quebec H4N 2R1
CANADA

In re Application of BAROCHE	:	
U.S. Application No.: 10/522,408	:	
PCT Application No.: PCT/FR03/01591	:	DECISION
Int. Filing Date: 26 May 2003	:	
Priority Date Claimed: 27 May 2002	:	
Attorney Docket No.: 859-B01.PCT.US	:	
For: WATCH WITH A CONTAINER	:	

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 January 2005.

BACKGROUND

On 26 May 2003, applicant filed international application PCT/FR03/01591, which claimed priority of an earlier France application filed 27 May 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 04 December 2003. The thirty-month period for paying the basic national fee in the United States expired on 27 November 2004.

International application PCT/FR03/01591 became abandoned as to the United States for failure to timely pay the basic national fee.

On 26 January 2005, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire

delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

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

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

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

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 26 May 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 26 January 2005.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

#5

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02 DEC 2005

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C. Andrew Im
Fulbright & Jaworski LLP
666 Fifth Avenue
New York, NY 10103

In re Application of	:	
Lefevre	:	
Serial No.: 10/522,429	:	DECISION ON
PCT No.: PCT/FR03/50019	:	PETITION
Int. Filing Date: 21 July 2003	:	UNDER 37 CFR 1.137(b)
Priority Date: 24 July 2002	:	
Attorney's Docket No.: NY-GRYN 213-US	:	
For: METHOD AND SYSTEM ENABLING	:	
REAL TIME MIXING OF SYNTHETIC IMAGES	:	
AND VIDEO IMAGES BY A USER	:	

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 25 JAN. 2005.

BACKGROUND

On 21 July 2003, applicants filed international application PCT/FR03/50019, which claimed priority of an earlier French application filed 24 July 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 05 February 2004. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 24 January 2005.

On 25 January 2005, 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 petition to revive, authorization to charge the deposit account for the fee for the petition to revive, the signed declaration and authorization to charge the deposit account for the basic national fee. These papers were assigned Application No. 10/522,429.

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) showing a 35 U.S.C. 371 date of **25 January 2005**.

Debra Brittingham
PCT Special Programs Examiner
Office of PCT Legal Administration

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

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

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#3

27 JUL 2006

JONES DAY
222 East 41st Street
New York, NY 10017

In re Application of MUELLER Application No.: 10/522,435 Filing Date: January 19, 2005 Attorney Docket No.: 007413-100 JWP/MP For: POSITION INDICATOR, MEASURING APPARATUS AND METHOD OF MANUFACTURING A POSITION INDICATOR	**DECISION**

This decision is in response to the papers filed on 11 May 2005 which are treated as a petition under 37 CFR 1.181. No fee is required.

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

The subject application was filed with a transmittal letter (Form PTO-1390) requesting processing under 35 U.S.C. 371 on 19 January 2005 and processed by the Office as such. In the petition filed 11 May 2005, applicant claims that the subject application contained conflicting information in the initial filing and requests that the subject application be treated as a bypass continuation.

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 19 January 2005, applicant submitted a preliminary amendment which states, in part:

> This application is a continuation of International Patent Application No. PCT/EP2003/007792, filed July 17, 2003 which claims priority to German Patent Application No. 102 32 895.1 filed July 19, 2002, the contents of which are incorporated by reference.

The official USPTO Notice published in the Official Gazette at 1077 OG 13 (April 14, 1987) entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371, (the National Stage of PCT)" states, in part, that: "[i]f there are any conflicting instructions as to which section of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111." Here, the preliminary amendment contains conflicting information which should have made this a filing under 35 U.S.C. 111(a).

This application is being forwarded to the National Stage Processing Branch for removal of the international papers communicated from the International Bureau.

Thereafter, the application will be forwarded to the Office of Initial Patent Examination for further processing under 35 U.S.C. 111(a) with a filing date of January 19, 2005.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

WOLF, BLOCK, SCHORR & SOLIS-COHEN LLP
250 PARK AVENUE
NEW YORK NY 10177

In re Application of
Eli David, et al
Application No. 10/522,439
Filed: July 17, 2003
For: **INTERACTIVE DVD APPLICATIONS**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. §1.102 to make special filed September 20, 2005 which is considered as pursuant to MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant.

The petition includes an affidavit by Mr. Uriel Ben-Efraim attesting that he is over 65 years of age.

Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Kenneth A. Wieder

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-7288

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05 JUN 2008

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Milbank, Tweed, Hadley & McCloy
1850 K. St., NW Site 1100
Washington, DC 20009

In re Application of	:	
Laiho et al	:	
Application No.: 10/522,451	:	
PCT No.: PCT/EP2005/000221	:	
Int. Filing Date: 12 January 2005	:	REVOCATION
Priority Date: NA	:	
Attorney Docket No.: 37488-01300	:	
For: Extrusion Coating Polyethylene		

This decision is in response to the "SUBMISSION OF REVOCATION OF POWER OF ATTORNEY AND CORRESPONDENCE ADDRESS AND STATEMENT OF ASSIGNEE" file on 24 April 2008 requesting that the current attorneys of record be revoked and the appointment under a Power of Attorney for Milbank, Tweed, Hadley & McCloy LLP.

On 24 April 2008, applicants filed a Revocation and Power of Attorney, indicating to send all correspondence to Milbank, Tweed, Hadley & McCloy LLP.

A review of application 10/522,451 shows that a proper revocation of Power of Attorney and appointment of new attorneys has been submitted by the assignee, Borealis Technology, OY, under MPEP 402.07. The assignee has provided a proper 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 revocation is **GRANTED** and is effective as of the mail date of this communication.

Accordingly, all future correspondence will be mailed to Milbank, Tweed, Hadley & McCloy LLP. A copy this acceptance of the "Revocation and Power of Attorney" will be mailed to Fay, Sharpe, Fagan, Minnich & McKee, LLP.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 373-1810

CC: Richard J. Minnich
Fay, Sharpe, Fagan, Minnich & McKee, LLP
1100 Superior Avenue, 7th Floor
Cleveland, OH 44114

06 MAY 2005

#4

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Paul J. Farrell
Dilworth & Barrese, LLP
333 Earle Ovington Boulevard, Suite 702
Uniondale, New York 11553

In re Application of	:	
QIN et al.	:	
Application No.: 10/522,452	:	DECISION ON PETITION
PCT No.: PCT/US02/06141	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 28 February 2002	:	
Priority Date: 28 February 2001	:	
Attorney Docket No.: 788-20PCTUS	:	
For: METHOD AND APPARATUS FOR SCANNING CONFOCAL ACOUSTIC DIAGNOSTIC FOR BONE QUALITY		

The petition to revive under 37 CFR 1.137(b) filed 20 January 2005 in the above-captioned application is hereby **GRANTED** as follows:

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

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

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration along with the $65 surcharge for filing the oath or declaration after the twenty-month period is required.

Anthony Smith

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

19 JUL 2005

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Mary A Appollina
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933

In re Application of ARIEN et al.
Application No.: 10/522,456
PCT Application No.: PCT/EP03/04368
Int. Filing Date: 24 April 2003
Priority Date Claimed: 03 May 2002
Attorney Docket No.: JAB1715-US-PCT
For: POLYMERIC MICROEMULSIONS

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

Applicants' "Petition For Revival Under 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office on 21 January 2005 is **GRANTED**.

BACKGROUND

On 24 April 2003, applicants filed international application PCT/EP03/04368. The international application claims a priority date of 03 May 2002 and designates the United States. The deadline for paying the basic national fee in the United States is thirty months from the priority date, that is 03 November 2004. The application became abandoned at midnight 03 November 2004 for failure to pay the national basic fee.

On 21 January 2005, applicants filed the instant petition for revival accompanied by, *inter alia*, a transmittal letter for entry into the US national stage under 35 U.S.C. 371, 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 $1,500.

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 requisite papers to initiate the national phase from the due date for entering the national phase (November 3, 2004) until the filing of this petition 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 24 April 2003 under 35 U.S.C. 363 and a date of 21 January 2005 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.

Helen Kwok
PCT Legal Administration Detailee
Telephone: 571-272-6095
Facsimile: 571-273-0459

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

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HEDMAN & COSTIGAN P.C.
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036

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FEB 29 2008

In re Application of	:	
Ferrandis, et al.	:	
Application No. 10/522,457	:	DECISION DISMISSING PETITION
Filed: January 21, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 427.094	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 8, 2007 and supplemented on August 23, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional Application No.10/470,112, filed July 24, 2003, which is a 371 of PCT/FR02/00691, filed February 27, 2001.

The petition is **DISMISSED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the filing date of nonprovisional Application no. 10/470,112, as provided in the amendment, is incomplete. The amendment filed March 8, 2007 states that U.S. Patent Application Serial No. 10/470,112 was filed on "July 24, 203".

Also, 37 CFR § 1.78(a)(3) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being

construed as the statement required by 37 CFR §1.78(a)(3). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

Before the petition can be granted, petitioner must submit a substitute amendment that lists the desired complete benefit claim, including the correct filing date of Application No. 10/470,112, along with a renewed petition under 37 CFR 1.78(a)(3).[1]

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

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

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

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2 7 MAR 2008

HEDMAN & COSTIGAN P.C.
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036

In re Application of	:	
FERRANDIS, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/522,457	:	
PCT No.: PCT/FR03/02570	:	UNDER 37 CFR 1.78(a)(3)
Int. Filing Date: 25 August 2003	:	
Priority Date: 26 August 2002	:	AND 37 CFR 1.55(c)
Atty Docket No.: 427.094	:	
For: HETEROCARPINE, A PROTEIN OF VEGETABLE ORIGIN WITH ANTI-CANCER PROPERTIES	:	

This is a decision on the renewed petition filed 07 March 2008 in the United States Patent and Trademark Office (USPTO). The renewed petition is being treated under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the concurrently filed amendment and under 37 CFR 1.55(c) for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of foreign application number 01/02631, filed 27 February 2001.

I. Renewed Petition Under 37 CFR 1.78(a)(3)

On 29 February 2008, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.78(a)(3) as there was a typographical error in the filing date of the nonprovisional application as provided in the filed amendment.

Applicant has presently filed an amendment correcting the error and has thus satisfied the last remaining item and the renewed petition is **GRANTED**.

Accordingly, having found that the instant renewed petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the renewed 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)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this

benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

II. Petition Under 37 CFR 1.55(c)

Applicant is advised that the petition procedure under 37 CFR 1.55(c) to add a delayed foreign priority claim does not apply to U.S. National Phase applications filed under 35 U.S.C. 371. Foreign priority in a U.S. National Phase application is governed by 35 U.S.C. 365(b). As such, the petition to accept the late claim of priority of French Patent application serial number 01/02631 filed February 27, 2001 is **DISMISSED**.

A Corrected Filing Receipt which includes the priority claim to the prior-filed nonprovisional application accompanies this decision.

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

Boris Milef
Senior Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
10/522,457	01/21/2005	1643	2270	427.094	5	1

CONFIRMATION NO. 5578

CORRECTED FILING RECEIPT

47888
HEDMAN & COSTIGAN P.C.
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

OC000000029126081

Date Mailed: 03/27/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Eric Ferrandis, Saint Remy Les Chevreuse, FRANCE;
Beng Poon, Gif-Sur-Yvette, FRANCE;
Christine Sohier, Saint Roch, FRANCE;
Christophe Thurieau, Paris, FRANCE;

Power of Attorney: The patent practitioners associated with Customer Number 20311

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/FR03/02570 08/25/2003
which is a CIP of 10/470,112 07/24/2003
which is a 371 of PCT/FR02/00691 02/26/2002

Foreign Applications

FRANCE 02/10560 08/26/2002

If Required, Foreign Filing License Granted: 03/27/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/522,457**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Heterocarpine, a plant-derived protein with anti-cancer properties

Preliminary Class

514

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).

08 SEP 2005

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Thomas R. Vigil
Welsh & Katz
120 South Riverside Plaza
Floor 22
Chicago, IL 60606

In re Application of HASKELL, Thomas Rex Application No.: 10/522,459 PCT No.: PCT/NZ03/00150 Int. Filing Date: 11 July 2003 Priority Date: 11 July 2002 Attorney Docket No.: 8130-93559 For: ENERGY ABSORBING GARMENT	: : : : : : : :	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 24 January 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the 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 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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PYLE & PIONTEK, LLC
221 N LASALLE STREET , ROOM 1207
CHICAGO, IL 60601

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OFFICE OF PETITIONS

In re Application of Haskell :
Application No. 10/522,459 :
Filing Date: January 24, 2008 :
Attorney Docket No. VAJP-40008 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed September 2, 2009, to revive the above-identified application.

The petition is **granted**.

The Office mailed a final Office action on October 29, 2008. The Office action set a shortened statutory period for reply of three (3) months. A reply was filed January 28, 2009. As stated in the Advisory Action mailed July 8, 2009, the reply filed January 28, 2009, was not a proper reply to the Office action. As a result, the application became abandoned on January 30, 2009.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee,
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

The petition is accompanied by a Request for Continued Examination and the required petition fee. Petitioner states the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

Technology Center Art Unit 3765 will be informed of the instant decision and the application will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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P O BOX 464
DUNCAN SC 29334

MAILED

AUG 31 2009

OFFICE OF PETITIONS

In re Application of	:	
Charles KANNANKERIL et al.	:	
Application No. 10/522,473	:	DECISION ON PETITION
Filed: September 26, 2005	:	
Attorney Docket No. D-30298-01-US	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 08, 2008 which set a shortened statutory period for reply of three (3) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 09, 2009.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment (2) the petition fee of $1620.00 and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the restriction requirement of November 21, 2008 has been accepted as having been unintentionally delayed.

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

The application is being referred to the Technology Center AU 1791 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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OFFICE OF PETITIONS

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

In re Application of
Thierry Machicoane
Application No. 10/522,487
Filed: April 14, 2005
Attorney Docket No. 979-114

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 12, 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, May 28, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136 (a) were obtained. Accordingly, the application became abandoned on August 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 an Amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 3628 for appropriate action by the Examiner in the normal course of business on the reply received.

Brian W. Brown
Petitions Examiner
Office of Petitions

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WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
500 W. MADISON STREET
SUITE 3800
CHICAGO, IL 60661

Mail Date: 04/21/2010

Applicant	: David Williams	: DECISION ON REQUEST FOR
Patent Number	: 7591192	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/522,489	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **771** 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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KUSNER & JAFFE
HIGHLAND PLACE SUITE 310
6151 WILSON MILLS ROAD
HIGHLAND HEIGHTS, OH 44143

Mail Date: 04/21/2010

Applicant	: Mauri Salmisuo	: DECISION ON REQUEST FOR
Patent Number	: 7611604	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/522,491	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/06/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **987** 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 JUN 2005
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Eric B. Meyertons
Meyertons, Hood, Kivlin, Kowert &
Goetzel, P.C.
P.O. Box 398
Austin, TX 78767-0398

In re Application of	:	DECISION ON
FLORIANO et al	:	
Application No.: 10/522,499	:	PETITION
Filing Date: January 24, 2005	:	
Attorney's Docket No.: 5936-11111	:	UNDER 37 CFR 1.182
For: CAPTURE AND DETECTION OF MICROBES	:	
BY MEMBRANE METHODS	:	

This is in response to applicants' submission, "PETITION TO CONVERT A NATIONAL APPLICATION FILED UNDER 37 USC 371 TO AN APPLICATION FILED UNDER 35 U.S.C. 111(a)," filed 04 March 2005, which is being treated as a petition under 37 CFR 1.182. The petition requests the above referenced application be converted from a national stage application filed under 35 U.S.C. 371 to a national application filed under U.S.C. 111(a). The $400.00 petition fee will be charged to Deposit Account No. 50-1505.

BACKGROUND

On 24 July 2003, applicants filed international application PCT/US03/23131, which claimed priority of earlier applications filed on 24 July 2002. The international application as filed contained a total of 73 claims. Claim 73 was cancelled during international preliminary examination. in response to the written opinion, applicants offered an amendment which added claims 74-80. However, applicant did not offer replacement sheets in compliance with PCT Rule 66.8. Accordingly the amendments were not considered when the international preliminary examination report was established. The thirty-month period for paying the basic national fee in the United States expired at midnight on 24 January 2005.

On 24 January 2005, applicants filed a transmittal letter (Form PTO-1390) for entry into the national stage in the United States which was accompanied by, inter alia, the basic national fee and a copy of the international publication. The papers were accompanied by a preliminary amendment that stated "Claims 50-54, 69, and 81-94 are currently pending. Claims 81-93 are new. Claims 1-49, 55-68 and 70-80 have been cancelled without prejudice." These papers were identified with attorney docket number 5936-11111. These papers were assigned an application number of 10/522,499.

Also on 24 January 2005, applicants filed a second set of papers which was accompanied by, inter alia, a transmittal letter (Form PTO-1390) for entry into the national stage in the United States which was accompanied by, the basic national fee and a copy of the international publication. The papers were accompanied by a preliminary amendment that stated "Claims 31-39,41-49, 79, and 80 are currently pending. Claims 1-13, 15-30, 40, 50-71 and 74-78 have been cancelled without prejudice." These papers were identified with attorney docket number 5936-11112. These papers were assigned an application number of 10/522,926.

Additinally on 24 January 2005, applicants filed a third set of papers which was accompanied by, inter alia, a transmittal letter (Form PTO-1390) for entry into the national stage in the United States, the basic national fee and a copy of the international publication. The papers were accompanied by a preliminary amendment that stated "Claims 1,2, 5, 8-13, 15-17, 22, 24, 28, 30, and 81-83 are currently pending. Claims 81-83 are new. Claims 3, 4, 6, 7, 18-21, 23, 25-27, 29, 31-71, and 74-80 have been cancelled without prejudice."These papers were identified with attorney docket number 5936-11110. These papers were assigned an application number of 10/470,646.

On 04 March 2004, applicants filed a petition to convert the above national stage application filed under 37 USC 371 to an application filed under 35 USC 111(a).

DISCUSSION

As is evident from the above recited facts, three sets of papers to enter the national stage were submitted for international application number PCT/US03/23131. 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. The USPTO has treated application number 10/522,296 as the national stage of international application PCT/US03/23131.

Applicants have submitted papers that, inter alia, request the above-captioned application (Docket No. 5936-11111) be processed as a continuation of the U.S. National Phase application based on PCT/US03/23131. This request is being treated as a petition under 37 CFR 1.182.

A review of the papers filed 24 January 2005 reveals that a copy of the international application and a preliminary amendment were submitted. This is sufficient to meet the requirements of a filing under 35 U.S.C. 111(a).

The $400.00 petition fee will be charged from Deposit Account No. 50-1505 as authorized.

Applicants are entitled to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter, since this application

(U.S. Serial No. 10/522,499) and the international application (PCT/US03/23131) designating the United States were copending on 24 January 2005.

Applicants are entitled to claim benefit under 35 U.S.C. 119(e) of the filing date of the provisional applications for the common subject matter, since the international application (PCT/US03/23131) claimed benefit to these applications. In order to obtain benefit of the earlier international application, applicants must make reference to the previous application and state the relationship. The required reference may either be in an application data sheet, or the specification must contain or be amended to contain such reference in the first sentence. An appropriate passage would be, "International application PCT/US03/23131 claims the benefit of U.S. Provisional Application No. 60/---,--- filed ------ -- -- and U.S. Provisional Application No. 60/---,--- filed ---- -- ---, etc." Applicants must provide this reference within four (4) months from the filing date of this application. See 37 CFR 1.78(a)(5)(ii). If the reference to the prior application is supplied later than 4 months from the filing date, the reference must be accompanied by a petition fee and petition to accept an unintentionally delayed claim under 37 U.S.C. 119(e). See 37 CFR 1.78(a)(6).

CONCLUSION

Applicants' petition under 37 CFR 1.182 is hereby GRANTED.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for treatment as a filing under 35 U.S.C. 111(a) with a filing date of 24 January 2005, which is a continuation of international application PCT/US03/23131 filed 24 July 2003.

Leonard E. Smith

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2-6-09

TO SPE OF : ART UNIT 1794

SUBJECT : ~~Request for Certificate~~ of Correction for Appl. No.: 10/522512 Patent No.: 7393551

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

FOR IFW FILES: Check claims

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

C Yang

Certificates of Correction Branch
703-308-9390 ext. 117

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: _____

R.D.
RENA DYE
SUPERVISORY PATENT EXAMINER

_____ **SPE**

1794 **Art Unit**

25 AUG 2006

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JAECKLE FLEISCHMANN & MUGEL, LLP
190 Linden Oaks
ROCHESTER NY 14625-2812

In re Application of JOHN BROWNIE et al. U.S. Serial No.: 10/522,513 PCT Application No.: PCT/GB03/02832 Int. Filing Date: 01 July 2003 Priority Date: 27 July 2002 Attorney Docket No.: 10069.0006US1 For: CANINE RESPIRATORY CORONAIVRUS (CRCV)....	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is in response to applicants' "Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.181", filed in the United States Patent and Trademark Office (USPTO) on 02 June 2006 in the above referenced application.

On 26 September 2005, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration was not in compliance with 37 CFR 1.497(a) and (b). On 21 November 2005, applicants filed an executed declaration.

On 7 February 2006, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed to applicant indicating that the declaration did not identify the citizenship of each inventor and thus, was not in compliance with 37 CFR 1.497(a) and (b).

On 23 May 2006, applicant made a status inquiry regarding this application using PAIR and discovered that the Notification of Defective Response had been issued on February 7, 2006.

According to Petitioner, upon contacting the PCT Help Desk to inquire about the status of the application, applicant was advised that the application was abandoned for failure to respond to the 07 February 2006 Notification of Defective Response. On 02 June 2006, applicant filed the instant Petition to Withdraw the Holding of Abandonment along with docket record for the instant application.

On 22 June 2006, applicant filed a response to Notification of Defective Response along with a newly executed declaration.

DISCUSSION

Counsel indicates that he did not receive the 07 February 2006 Notification of Defective Response until it was received via facsimile on May 26, 2006 from the PCT Help Desk. Applicant petitions to withdraw the holding of abandonment for failure to timely respond to the Notification of Defective Response, which he alleges was never received.

In order to establish that papers were not received, as set forth in the Official Gazette at 1156 OG 53, applicant must provide 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 records must also be referenced in practitioner's statement). No petition fee is required. See MPEP §711.03(c), p.700-168.

Counsel states that the 07 February 2006 Notification was not received and that "a search of the file jacket and the docket record for the subject application indicates that said Notification was never received by the Attorneys of Record, Jaeckle, Fleischmann & Mugel, LLP [(JFM)] ." Counsel states that the standard practice at JFM is that every piece of mail is stamped by the receptionist with the due date received and then goes directly to the docket clerk to be docketed.

Counsel has not satisfied Item (1) because he has not stated that the Office action was not received by the practitioner. Item (2) above is not satisfied because counsel states that a search of the file jacket and docket record for the subject application was conducted. What is required is a search of the file jacket and a search of the firm's docket records.

With regard to item (3), applicant submitted the docket record only for the instant application to show the non-receipt of the 07 February 2006 Notification. Counsel has not provided a copy of the docket record where the non-received Office action would have been entered had it been received. The docket record required is the docket report showing all replies docketed for the date one month from the mail date of the non-received Notification (07 March 2006 in this case) indicating that there was no record of a response for the present application being due on that date. This docket record should be attached to and referenced in practitioner's statement.

With regard to the declaration filed on 22 June 2006, the declaration is in compliance with 37 CFR 1.497(a) & (b) and is acceptable.

CONCLUSION

For the reasons discussed above, the petition under 37 CFR 1.181 is **DISMISSED WITHOUT PREJUDICE**. The application remains **ABANDONED**.

Applicant should submit a true copy of the docket record where the non-received Office action would have been entered had it been received (that is, the docket record for 07 March 2006) and should be referenced in the practitioner's statement.

Any request for reconsideration on the merits of this decision must be filed within **TWO (2) MONTHS** 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.

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

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JAECKLE FLEISCHMANN & MUGEL, LLP
190 LINDEN OAKS
ROCHESTER NY 14625-2812

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Application of JOHN BROWNIE et al. U.S. Serial No.: 10/522,513 PCT Application No.: PCT/GB03/02832 Int. Filing Date: 01 July 2003 Priority Date: 27 July 2002 Attorney Docket No.: 10069.0006US1 For: CANINE RESPIRATORY CORONAIVRUS (CRCV)....	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is in response to applicants' "Request for Reconsideration of Decision on Petition to Withdraw the Holding of Abandonment", filed in the United States Patent and Trademark Office (USPTO) on 11 September 2006 in the above referenced application.

It is noted that a revocation and power of attorney in this application was filed on 27 September 2006 and has been recorded in the USPTO. This decision is directed to both the previous law firm and the current law firm because the request for reconsideration was filed by the previous law firm, whose records are at issue in this matter.

BACKGROUND

On 26 September 2005, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration was not in compliance with 37 CFR 1.497(a) and (b). On 21 November 2005, applicants filed an executed declaration.

On 7 February 2006, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed to applicant indicating that the declaration did not identify the citizenship of each inventor and thus, was not in compliance with 37 CFR 1.497(a) and (b).

On 23 May 2006, applicant made a status inquiry regarding this application using PAIR and discovered that the Notification of Defective Response had been issued on February 7, 2006. Petitioner contacted the PCT Help Desk to inquire about the status of the application, and was advised that the application was abandoned for failure to respond to the 07 February 2006 Notification of Defective Response.

On 02 June 2006, applicant filed a Petition to Withdraw the Holding of Abandonment along with docket record for the instant application. On 22 June 2006, applicant filed a response to Notification of Defective Response along with a newly executed declaration.

On 25 August 2006, a decision dismissing applicant's petition was mailed indicating that Petitioner had not provided sufficient evidence of the nonreceipt of an Office action.

On 11 September 2006, Petitioner filed "Request for Reconsideration of Decision on Petition to Withdraw Holding of Abandonment".

DISCUSSION

Applicant petitions to withdraw the holding of abandonment for failure to timely respond to the Notification of Defective Response, which he alleges was never received until it was sent via facsimile by the PCT Help Desk.

As stated in the decision mailed on 25 August 2006, in order to establish that papers were not received, as set forth in the Official Gazette at 1156 OG 53, applicant must provide 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 records must also be referenced in practitioner's statement). *See* MPEP §711.03(c).

Counsel has now satisfied Item (1) with the statement: "Practitioner did not receive the Office action dated Feb. 7.2006 until it was faxed to the Practitioner by the PCT Help Desk on May 25, 2006 at the request of the Practitioner."

Item (2) above is not yet satisfied because counsel states that a search of the file jacket and docket record for the **subject application** was conducted. What is required is a search of the file jacket and a search of the **law firm's docket records**. A search of the law firm's docket record for the date that a response was due (07 March 2006) is required to show that the Office action was not received at the correspondence address of record. It is possible that the Office action was received by the docketing department but never recorded in the docket record for the instant application file. Likewise, the docket record for a single attorney does not provide evidence that the Office action was not received at the correspondence address of record.

The MPEP provides the following example:"if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing <u>all replies</u> 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."

With regard to item (3), Counsel's assumption that the reference in the decision to "docket records of the firm means docket records for all application the firm is handling" is correct. However, applicant resubmitted <u>the docket record for the instant application</u> to show the non-receipt of the 07 February 2006 Notification rather than the law firm's docket record.

A single document containing only docket information on the U.S. application in question shows no other corroborating information to add weight and credibility to the information contained therein and can be too easily manipulated. In order to satisfy the docket record requirement to prove nonreceipt of an Office communication, applicant must provide a copy of counsel's docket records for the date upon which a response to the Notification of Defective

Response was due (*i.e.*, 07 March 2006). An example of such a record would be a daily "tickler" report or a daily log showing all applications for which a response is due on that date. The docket report showing only the subject application does not satisfy this requirement.

CONCLUSION

For the reasons discussed above, the petition under 37 CFR 1.181 is **DISMISSED WITHOUT PREJUDICE**. The application remains **ABANDONED**.

Applicant should submit a true copy of the docket record where the non-received Office action would have been entered had it been received (that is, the docket record for 07 March 2006) and should be referenced in the practitioner's statement.

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

Cynthia M. Kratz

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

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JAECKLE FLEISCHMANN & MUGEL, LLP
190 LINDEN OAKS
ROCHESTER NY 14625-2812

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Application of JOHN BROWNIE et al. U.S. Serial No.: 10/522,513 PCT Application No.: PCT/GB03/02832 Int. Filing Date: 01 July 2003 Priority Date: 27 July 2002 Attorney Docket No.: 10069.0006US1 For: CANINE RESPIRATORY CORONAIVRUS (CRCV)....	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is in response [1] to applicants' "Second Request for Reconsideration of Decision on Petition to Withdraw the Holding of Abandonment", filed in the United States Patent and Trademark Office (USPTO) on 13 December 2006 in the above referenced application.

BACKGROUND

On 26 September 2005, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration was not in compliance with 37 CFR 1.497(a) and (b). On 21 November 2005, applicants filed an executed declaration.

On 7 February 2006, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed to applicant indicating that the declaration did not identify the citizenship of each inventor and thus, was not in compliance with 37 CFR 1.497(a) and (b).

On 23 May 2006, applicant made a status inquiry regarding this application using PAIR and discovered that the Notification of Defective Response had been issued on February 7, 2006.

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[1]It is noted that a revocation and power of attorney in this application was filed on 27 September 2006 and has been recorded in the USPTO. This decision is directed to both the previous law firm and the current law firm because the request for reconsideration was filed by the previous law firm, whose records are at issue in this matter.

Petitioner contacted the PCT Help Desk to inquire about the status of the application, and was advised that the application was abandoned for failure to respond to the 07 February 2006 Notification of Defective Response.

On 02 June 2006, applicant filed a Petition to Withdraw the Holding of Abandonment along with docket record for the instant application. On 22 June 2006, applicant filed a response to Notification of Defective Response along with a newly executed declaration.

On 25 August 2006, a decision dismissing applicant's petition was mailed indicating that Petitioner had not provided sufficient evidence of the nonreceipt of an Office action.

On 11 September 2006, Petitioner filed "Request for Reconsideration of Decision on Petition to Withdraw Holding of Abandonment". On 1 December 2006, a decision dismissing the petition was mailed indicating that Petitioner had not yet provided sufficient evidence of the nonreceipt of an Office action.

On 13 December 2006, Petitioner filed the instant petition along with the law firm's docket record for 7 March 2006.

On 27 February 2007, a Notification of Abandonment was mailed to applicant indicating that applicant had failed to respond to the 26 September 2005 Notification of Missing Requirements.

DISCUSSION

As previously stated, applicant petitions to withdraw the holding of abandonment for failure to timely respond to the Notification of Defective Response, which he alleges was never received until it was sent via facsimile by the PCT Help Desk.

As applicant is aware, in order to establish that papers were not received, as set forth in the Official Gazette at 1156 OG 53, applicant must provide 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 records must also be referenced in practitioner's statement). *See* MPEP §711.03(c).

Counsel previously satisfied Item (1). Item (2) is satisfied with Counsel's statement that:

> "a search was conducted of the file jacket and of JFM's [law firm's] docket records for the date that a response to the Notification of Defective Response ("Notice:) was due (i.e. March 7, 2006). The result of said search indicates that the Notice was not received at the correspondence address of record on or before March 7 , 2006."

With regard to item (3), Counsel's submitted a "true copy of JFM's docket records for the date that a response to the Notice was due (i.e. March 7 2006)". A review of the docket record for the due date of March 7, 2006 indicates that the Notification of Missing Requirements was not received. The petition under 37 CFR 1.181 is GRANTED. A review of the newly executed declaration submitted on 22 June 2006 reveals that it is in compliance with 37 CFR 1.497(a) and (b) and is acceptable.

CONCLUSION

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

The 27 February 2007 Notification of Abandonment is hereby **VACATED.**

The application will be forwarded to the United States Designated/Elected Office for further processing. The newly executed declaration submitted on 22 June 2006 is in compliance with 37 CFR 1.497(a) and (b) and is acceptable. The 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date is **22 June 2006.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (571) 272-3286

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25271
GALLAGHER & LATHROP, A PROFESSIONAL CORPORATION
601 California Street
Suite 1111
San Francisco, CA 94108

In re Application of DAVIS *et al* Application No.: 10/522,515 PCT No.: PCT/US2003/024570 Filing Date: 06 August 2003 Priority Date: 07 August 2002 Attorney Docket No.: DOL08801 US For: AUDIO CHANNEL SPATIAL TRANSLATION	**DECISION**

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed 15 December 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed Application Data Sheet.

The petition is hereby **DISMISSED** without prejudice.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition fails to comply with items (1) and (3) above.

With regard to item (1), the benefit claim to U.S. provisional application number 60/267,284 as indicated in the ADS is inconsistent with the benefit claim to application 60/267,284 made in international application number PCT/US02/03619. More specifically, although application PCT/US02/03619 contains a benefit claim to application 60/267,284, application PCT/US02/03619 does not contain any indication that it is a continuation of application 60/267,284.

MPEP 201.11, Section III. C., states in relevant part,

> Sometimes a pending application is one of a series of applications wherein the pending application is not copending with the first filed application but is copending with an intermediate application entitled to the benefit of the filing date of the first application. . . . Appropriate references must be made in each intermediate application in the chain of prior applications. If an applicant desires, for example, the following benefit claim: "this application is a continuation of Application No. C, filed ---, which is a continuation of Application No. B, filed ---, which claims the benefit of provisional Application No. A, filed ---," then Application No. C must have a reference to Application No. B and provisional Application No. A, and Application No. B must have a reference to provisional Application No. A. (Emphasis added.)

Because the reference to application 60/267,284 in the present ADS is not present in the intermediate application, the reference cannot be accepted at the present time.

Applicant is advised that although it is permissible to file a continuation, divisional, or continuation-in-part of a provisional application, doing so is not recommended because such a claim could potentially reduce patent term. See MPEP 201.11, Section III. B., Reference to Prior Provisional Applications.

Applicant is further advised that the ADS does not bear a signature as required in accordance with 37 CFR 1.33 and 10.18. Applicant is encouraged to use the most recent version of the ADS which includes a signature block. It can be obtained at: **http://www.uspto.gov/ebc/portal/efs/sb0014_fill.pdf** .

With regard to item (3), the petition fails to include the statement specified in 37 CFR 1.78(a)(6)(iii).

Before the petition under 37 CFR § 1.78(a)(3) and 1.78(a)(6) can be granted, either a revised ADS or an amendment (complying with 37 CFR 1.121) stating the proper relationship of the prior-filed international application to the provisional application is required. Applicant must also submit the required statement specified in 37 CFR 1.78(a)(6)(iii).

11/675,155

Any further correspondence with respect to this matter may be filed electronically via the USPTO EFS-Web, by facsimile to (571) 273-0459, or if mailed 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.

Any questions concerning this matter may be directed to James Thomson at (571) 272-3302.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

1 2 MAY 2009

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25271
GALLAGHER & LATHROP, A PROFESSIONAL CORPORATION
601 California Street
Suite 1111
San Francisco, CA 94108

In re Application of :
DAVIS *et al* :
Application No.: 10/522,515 :
PCT No.: PCT/US2003/024570 :
Filing Date: 06 August 2003 :
Priority Date: 07 August 2002 :
Attorney Docket No.: DOL08801 US : **DECISION**
For: AUDIO CHANNEL SPATIAL :
TRANSLATION :

This is a decision on the "Response to Decision on Petition" filed March 3, 2009 which is treated under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

(1) the reference required by 35 U.S.C. § 120, § 119(e) and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) in that: (1) a reference was provided in an amendment stating the proper relationship of the prior-filed international application to the provisional application. The amendment is in compliance with 37 CFR 1.121 and is acceptable; (2) the surcharge fee required by 37 CFR 1.17(t) has been previously paid; and (3) the required statement was provided.

Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt accompanies this decision on petition.

This matter is being referred to Technology Center Art Unit 2614 for appropriate action on the amendment filed March 3, 2009.

Any questions concerning this decision may be directed to James Thomson at (571) 272-3302.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

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Dolby Laboratories Inc.
999 Brannan Street
San Francisco, CA 94103

Mail Date: 04/20/2010

Applicant	: Mark Franklin Davis	: DECISION ON REQUEST FOR
Patent Number	: 7660424	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/522,515	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1403** 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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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 04/20/2010

Applicant	: Thomas Manfredotti	: DECISION ON REQUEST FOR
Patent Number	: 7582032	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/522,516	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **853** 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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07 NOV 2006

NORRIS, MCLAUGHLIN & MARCUS
875 THIRD AVE
18TH FLOOR
NEW YORK, NY 10022

In re Application of	:	
MOSSAKOWSKI, Gerd	:	
Application No.: 10/522,520	:	DECISION ON
PCT No.: PCT/DE03/02556	:	
Int. Filing Date: 29 July 2003	:	PETITION
Priority Date: 29 July 2002	:	
Attorney Docket No.: 102132-24	:	UNDER 37 CFR 1.181
For: METHOD FOR VIDEO MONITORING	:	
OBJECTS BY MEANS OF A MOBILE	:	
COMMUNICATION SYSTEM	:	

This decision is in response to "Petition to Withdraw Holding of Abandonment," filed on 14 August 2006.

BACKGROUND

On 29 July 2003, applicants filed international application PCT/DE03/02556. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 19 February 2004. The deadline for entry into the national stage in the United States was 29 January 2005.

On 27 January 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 29 July 2005, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 18 July 2006, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application went abandoned for failure to timely reply to the Notification of Missing Requirements.

On 14 August 2006, applicants filed the instant petition.

DISCUSSION

Applicant claims to have not received the Notification of Missing Requirements. Applicant alleges this may be because the Notification failed to listed the law firm in the address

and listed only the street address and floor. This seems unlikely. This petition has been treated as a non-receipt of Office action, rather than misdirected communications.

The showing required to establish nonreceipt of an Office communication is set forth in the notice entitled *Withdrawing the Holding of Abandonment When Office Actions Are Not Received*, 1156 O.G. 53 (Nov. 16, 1993). The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Items (1) and (2) have been satisfied. Practitioner states that the Notification of Missing Requirement was not received. The docket clerk submitted a declaration indicating that a search of the file and docket records indicates that the Notification of Missing Requirements was not received.

Item (3) has not been satisfied.

First, it appears that a Notification of Missing Requirements is docketed for this application, with a response date of 27 September 2005. An explanation of this entry and "NM CUI AWAIT FILING RECEIPT" are required.

Second, practitioner must provide a copy of the docket record for the firm, where the nonrecieved Office communication would have been entered had it been received and docketed and reference the docket record in the practitioner's statement. "For example, if a three month period for reply was set in the nonreceived Office Action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action." MPEP §711.03(c) para. II. The docket records for this application alone are not sufficient. Further, the docket records are only referenced in the declaration of Nanci Manfredi, not in the petition of Christa Hildebrand.

The declaration appears to be in compliance with 37 CFR 1.497(a)-(b). The fee for late submission of the search fee, examination fee or oath or declaration will be charged to deposit account no. 14-1263, as authorized.

CONCLUSION

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

The application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." No additional petition fee is required.

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

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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NORRIS, MCLAUGHLIN & MARCUS
875 THIRD AVE
18TH FLOOR
NEW YORK, NY 10022

In re Application of	:	
MOSSAKOWSKI, Gerd	:	
Application No.: 10/522,520	:	DECISION ON
PCT No.: PCT/DE03/02556	:	
Int. Filing Date: 29 July 2003	:	PETITION
Priority Date: 29 July 2002	:	
Attorney Docket No.: 102132-24	:	UNDER 37 CFR 1.181
For: METHOD FOR VIDEO MONITORING	:	
OBJECTS BY MEANS OF A MOBILE	:	
COMMUNICATION SYSTEM	:	

This decision is in response to "Renewed Petition Under 37 CFR 1.181," filed on 22 November 2006.

BACKGROUND

On 07 November 2006, the Office mailed Decision On Petition Under 37 CFR 1.181, dismissing applicant's petition.

On 22 November 2006, applicant filed this renewed petition under 37 CFR 1.181.

DISCUSSION

The showing required to establish nonreceipt of an Office communication is set forth in the notice entitled *Withdrawing the Holding of Abandonment When Office Actions Are Not Received*, 1156 O.G. 53 (Nov. 16, 1993). The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Items (1) and (2) were previously satisfied.

Item (3) has now been satisfied. Applicant has provided a copy of the docket record where the non-received Office action would have been entered had it been received and the docket record is referenced in practitioner's statement. Additionally, applicant has provided an explanation of the indications in the docket record.

CONCLUSION

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing consistent with this decision. The application has a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 14 August 2006.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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

In re Application of	:	
GRAHAM et al.	:	
Application No.: 10/522,539	:	DECISION
PCT No.: PCT/GB03/03266	:	
Int. Filing Date: 24 July 2003	:	
Priority Date: 27 July 2002	:	
Attorney Docket No.: K-0128	:	
For: PLANT WATERING SYSTEM	:	

This decision is in response to applicants submission filed in the United States Patent and Trademark Office (USPTO) on 21 November 2005.

BACKGROUND

On 24 July 2003, applicants filed international application PCT/GB03/03266 which claimed a priority date of 27 July 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 05 February 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 27 January 2005.

On 27 January 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a declaration of inventors.

On 19 August 2005, a Notification was mailed indicating that the first-named inventor was listed as both Graham Graham and Neil Bunette Graham, that a new declaration of inventors specifying only one name for Mr. Graham--his correct name–was required, and that if Mr. Graham's correct name is Neil Bunette Graham, a proper petition under 37 CFR 1.182 would be required. It was also noted that such a petition would need to be accompanied by the requisite petition fee of $400 as well as a statement from the inventor setting forth that he is a joint inventor of the subject matter of the present application and setting forth the circumstances surrounding the difference in names on the international application and the declaration.

On 21 November 2005, applicants submitted the instant "PETITION UNDER 37 CFR § 1.182", which was accompanied by the petition fee, a declaration of inventors, and a statement of Neil Bonnette Graham.

DISCUSSION

The petition fee has been paid. The statement of Neal Bonnette Graham is accepted. The declaration of inventors filed 21 November 2005 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, 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, including the accordation of a 35 U.S.C. §§371(c)(1), (c)(2), and (c)(4) date of **21 November 2005**.

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

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Alexandria, VA 22313-1450
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SMITH, GAMBRELL & RUSSELL
1130 CONNECTICUT AVENUE, N.W.,
SUITE 1130
WASHINGTON, DC 20036

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OFFICE OF PETITIONS

In re Application of
Ogawa et al.
Application No. 10/522,569
Filed: November 17, 2005
Attorney Docket No. 033082M239

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 9, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2))within the time period provided in 37 CFR 41.37(a)(1). No extensions of time under the provisions of 37 CFR 1.136(b) were obtained. As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed August 7, 2007, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on October 8, 2007. *See* MPEP 1215.04.

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

Further, since the $810.00, Request for Continued Examination fee submitted with the petition on September 9, 2008 is a duplicate payment, this fee is unnecessary and will be refunded to petitioner's deposit account in due course.

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

The file is now being forwarded to Technology Center 1792for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

02 FEB 2007

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NOVAK DRUCE DELUCA & QUIGG, LLP
1300 EYE STREET NW
SUITE 400 EAST TOWER
WASHINGTON DC 20005

In re Application of MIHAN et al. Application No.: 10/522,574 PCT No.: PCT/EP03/08900 Int. Filing Date: 11 August 2003 Priority Date: 13 August 2002 Attorney Docket No.: LU6046 For: MONOCYCLOPENTADIENYL COMPLEXES	DECISION UNDER 35 U.S.C. 371 and MERGING APPLICATION FILES

The above-identified application is before the PCT Legal Office for matters arising under 35 U.S.C. 371.

BACKGROUND

On 11 August 2003, applicant filed international application No. PCT/EP03/08900, which claimed priority of an earlier international application filed 13 August 2002 and designating the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 11 March 2004. The deadline for entering the U.S. national stage to 30 months or as of midnight on 13 February 2005.

On 28 January 2005, applicant filed, through the law firm of Keil & Weinkauf, a transmittal letter for entry into the national stage in the United States (Form PTO-1390) which was accompanied by, *inter alia*, the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and an declaration identifying PCT/EP03/08900. The submission, identifying PCT/EP03/08900, was assigned U.S. application number: 10/522,574. On 1 November 2005, a declaration, identifying PCT/EP03/08900 and executed by the joint inventors, and in compliance with 37 CFR 1.497(a) and (b) was submitted. On 23 March 2006, a Notification of Acceptance was mailed to applicant identifying PCT/EP03/08900 and indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 1 November 2005.

After the thirty month period for entry into the national stage and without a petition to revive, on 22 February 2005, applicant, through the law firm of Novak Druce DeLuca & Quigg, filed another Transmittal Letter referencing PCT/EP03/08900 but with an incorrect title of invention, requesting entry into the national stage in the United States. The communication was accompanied by, *inter alia*, authorization to charge fees to applicant's credit card account. These papers were assigned U.S. application number 10/525,223. On 22 February 2005, an executed declaration was also filed in the national stage application, identifying PCT/EP03/08900. On 20 October 2005, a Notification of Acceptance was erroneously issued identifying PCT number PCT/JP03/10076.

DISCUSSION

As is evident from the above recited facts, applicant submitted papers to enter the national stage for the same international application on 28 January 2005 and 22 February 2005. The end result for an international application designating the United States of America is a single U.S. national stage application.[1] Therefore, assigning a second U.S. application number arising from PCT/EP03/08900 was improper. Thus, the Notification of Acceptance mailed on 20 October 2005 directed to 10/525,223 is hereby **VACATED**.

The papers filed on 22 February 2005, assigned application no. 10/523,223, will be merged in application file 10/522,574. Application no. 10/522,574 is considered the U.S. national stage application arising from PCT/EP03/08900. The Notification of Acceptance mailed on 24 March 2006 in 10/522,574 remains in effect.

CONCLUSION

Application no. 10/522,574 is considered the U.S. national stage application arising from PCT/EP03/08900. Applicant is advised to use U.S. application no. 10/522,574 in all future correspondence. The Notification of Acceptance mailed on 24 March 2006 in 10/522,574 remains in effect.

With regard to application no. 10/523,223, the papers filed on 22 February 2005 will be merged into U.S. application file 10/522,574. The Notification of Acceptance mailed on 20 October 2005 directed to 10/525,223 is hereby **VACATED**. The national stage fees paid in 10/523,223 will be refunded to applicant.

The application will be forwarded to Art Unit 1755 for examination in due course.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney/Advisor
PCT Legal Office

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

Refund Ref:
06/02/2007 0030037641

Credit Card Refund Total: $1040.00

Am Exp..: XXXXXXXXXXX1048

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[1] 35 U.S.C. 363 states:

An international application designating the United States shall have the effect, from its international filing date under article 11 of the treaty, of a national application for patent regularly filed in the Patent and Trademark Office except as otherwise provided in 102(e) of this title. (emphasis added)

Further, 35 U.S.C. 371(b) states:

(b) Subject to subsection (f) of this section, the national stage shall commence with the expiration of the applicable time limit under article 22(1) or (2), or under article 39(1)(a) of the treaty. (emphasis added)

The language of 35 U.S.C. 363 and 371 refers to the national stage of the PCT in the singular only, and thus only one (1) national stage application in the U.S. may develop from an international application.

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0 1 OCT 2007

MCDERMOTT WILL & EMERY LLP
18191 VON KARMAN AVE.
SUITE 500
IRVINE CA 92612-7108

In re Application of	:	
Patel et al.	:	
Application No.: 10/522,576	:	
PCT No.: PCT/US04/33736	:	
Int. Filing Date: 14 October 2004	:	DECISION
Priority Date: 14 October 2003	:	
Attorney Docket No.: 070602-0568	:	
For: Precision Attitude Control	:	
System For Gimbaled Thruster	:	

This is in response to the "Third Request For Corrected 371(c) Date And Corrected Filing Receipt" filed on 11 July 2007.

BACKGROUND

This international application was filed on 14 October 2004, claimed an earliest priority date of 14 October 2003, and designated the United States. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 14 April 2006. On 28 January 2005, applicants filed *inter alia* the basic national fee.

On 16 November 2005, a Notice of Acceptance (Form PCT/DO/EO/903) was mailed to applicants, indicating the date of receipt of U.S.C. 371(c)(1), (2) and (4) requirements to be "04/28/2005."

DISCUSSION

Petitioner urges that

> all requirements under 35 U.S.C. § 371 are believed to have been completed on January 28, 2006, not April 28, 2006. Accordingly, Applicants respectfully request a corrected Notice of Acceptance which identifies January 28, 2005, as the date of receipt of the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements, as well as a corrected Filing Receipt which reflects the correct 371(c) receipt date.

Review of the application file reveals that applicants satisfied the requirements of 35 U.S.C. 371(c)(1), (2) and (4) on 28 January 2005. Therefore, the Notice of Acceptance (Form PCT/DO/EO/903) mailed on 16 November 2005 was defective, and it is hereby **VACATED**.

CONCLUSION

The request is **GRANTED**.

This application is being returned to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **28 January 2005**.

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

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01 2005

Dean H. Nakamura
DLA Piper Rudnick Gray Cary, US LLP
1625 Massachusetts Avenue, NW
Suite 300
Washington, D.C. 20036

In re Application of
HELMLING et al.
U.S. App. No. 10/522,582
PCT No.: PCT/EP03/08542
Int. Filing Date: 01 August 2003
Priority Date: 01 August 2002
Attorney Docket No.: 2502491-991150
For: GHRELIN BINDING NUCLEIC ACIDS

DECISION ON PETITION
UNDER 37 CFR 1.181

This decision is in response to applicants' "Petition to Withdraw Notice of Abandonment" filed 24 October 2005, which is being treated as a Petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 01 August 2003, applicants filed international application PCT/EP03/08542 which claimed a priority date of 01 August 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 12 February 2004. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 01 February 2005.

On 26 January 2005, applicants filed a transmittal letter for entry into the national stage in the United States which included a copy of the international application.

On 01 August 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 (37 CFR 1.495(b)(2).

On 24 October 2005, applicants filed a petition to withdraw the holding of abandonment under 37 CFR 1.181.

DISCUSSION

A review of the petition papers reveals that applicants have not paid the full basic national fee in accordance with 37 CFR 1.495(b)(2). The above-identified application was abandoned on 02 February 2005 for failure to pay the full basic national fee 30 months

from the priority date for international application no. PCT/EP03/08542. The basic national fee for a large entity was $300. The transmittal letter filed 26 January 2005 states, "[f]ees at this time are not to be paid. Applicant will pay upon receipt of Missing Requirements." Additionally, an authorization to charge additional fees to the deposit account was not provided. Accordingly, applicants have failed to pay full basic national fee prior to the expiration of the 30th month deadline.

Applicants may wish to consider filing a petition to the Commissioner under 37 CFR 1.137(a) or (b) requesting that the application be revived. Any petition filed under 37 CFR 1.137(a) and/or a petition under 37 CFR 1.137(b) requesting that the application be revived must meet the criteria indicated in 37 CFR 1.137. This recommendation to file a petition under 37 CFR 1.137(a) or (b) should not be construed as an indication as to whether or not any such petition(s) will be favorably considered.

CONCLUSION

The Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 is **DISMISSED** without prejudice and the application remains **ABANDONED**.

If reconsideration of the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." No additional fee is required. Extensions of time under 37 CFR 1.136(a) are permitted.

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

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

#7

UNITED STATES PATENT AND TRADEMARK OFFICE

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15 FEB 2006

Dean H. Nakamura
DLA Piper Rudnick Gray Cary, US LLP
1625 Massachusetts Avenue, NW
Suite 300
Washington, D.C. 20036

In re Application of	:	
HELMLING et al.	:	
U.S. App. No. 10/522,582	:	
PCT No.: PCT/EP03/08542	:	DECISION ON PETITION
Int. Filing Date: 01 August 2003	:	UNDER 37 CFR 1.137(b)
Priority Date: 01 August 2002	:	
Attorney Docket No.: 2502491-991150	:	
For: GHRELIN BINDING NUCLEIC ACIDS		

The petition to revive under 37 CFR 1.137(b) filed 30 January 2006 in the above-captioned application is hereby **GRANTED** as follows:

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

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

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration along with the $65 surcharge for filing the oath or declaration after the thirty-month period is required.

Anthony Smith

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

14 MAR 2005

#3

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Robert W. Becker & Associates
707 Highway 66 East, Suite B
Tijeras, NM 87059

In re Application of LUCHT et al	:	
U.S. Application No.: 10/522,608	:	
PCT Application No.: PCT/EP03/05545	:	
Int. Filing Date: 27 May 2003	:	DECISION
Priority Date Claimed: 29 May 2002	:	
Attorney Docket No.: AFK-16214-WO-US	:	
For: SAFETY BELT RETRACTOR	:	
COMPRISING A PRE-TENSIONING	:	
DEVICE	:	

This is in response to applicant's "Letter" filed 27 January 2005, which is being treated as a petition under 37 CFR 1.10(e).

BACKGROUND

On 27 May 2003, applicant filed international application PCT/EP03/05545, which claimed priority of an earlier Germany application filed 29 May 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 04 December 2003. The thirty-month period for paying the basic national fee in the United States expired on 29 November 2004.

On 24 November 2004, applicant purportedly filed national stage papers in the United States Designated/Elected Office (DO/EO/US) via the Express Mail Post Office to Addressee service of the USPS ("Express Mail").

On 27 January 2005, applicant filed the present petition under 37 CFR 1.10(e).

On 02 March 2005, applicant filed an executed declaration.

DISCUSSION

37 CFR 1.10(e) states,

> Any person mailing correspondence addressed as set out in 1.1(a) to the Office with sufficient postage utilizing the Express Mail Post Office to Addressee service of the USPS but not received by the Office, may petition the

> Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
>
> (2) The number of the Express Mail mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by Express Mail;
>
> (3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the Express Mail mailing label thereon, a copy of any returned postcard receipt, a copy of the Express Mail mailing label showing the date-in, a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the date-in on the Express Mail mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the Express Mail Post Office to Addressee service prior to the last scheduled pickup for that day; and
>
> (4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the Express Mail mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original Express Mail mailing label, returned postcard receipt, and official notation entered by the USPS.

With regard to item (1) above, the petition was filed promptly after applicant became aware that the USPTO has no evidence of receipt of the correspondence in question.

With regard to item (2) above, the Express Mail mailing label number appears on the copy of the correspondence.

With regard to item (3) above, applicant has provided a copy of the originally deposited papers and a copy of the Express Mail label showing a "date-in" of 24 November 2004.

With regard to item (4) above, the petition includes a sufficient statement that the correspondence was deposited on the date of notation by the USPS and that the copies of the correspondence and Express Mail mailing label are true copies of the originally mailed correspondence.

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 27 May 2003, and a date under 35 U.S.C. 371(c) of 02 March 2005.

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

submitted funds towards the national stage filing fees in effect on 24 November 2004 and refunding any excess or charging any deficiency as appropriate.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

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ROBERT W. BECKER & ASSOCIATES
707 HIGHWAY 333
SUITE B
TIJERAS NM 87059-7507

COPY MAILED
JAN 07 2009

Applicant: LUCHT, et al.
Appl. No.: 10/522,608
International Filing Date: May 27, 2003
Title: SAFETY BELT RETRACTOR HAVING A PRETENSIONING DEVICE
Attorney Docket No.: AFK-16214-WO-US
Pub. No.: US 2005/0173580 A1
Pub. Date: August 11, 2005

This is a decision on the request entitled "Letter to Publication Office", received on February 26, 2008, which appears to be a request to amend the publication to include the drawings. It is unclear if the Letter is a request to republish. If it is such a request, Applicants failed to follow the requirements under 37 CFR 1.221.

The request is DISMISSED.

If applicants are requesting relief under 37 CFR 1.221 (b), the request is late. If applicants are requesting relief under 37 CFR 1.221 (a) then the procedures required for republication have not been followed.

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 February 26, 2008, was not timely filed under 37 CFR 1.221(b).

As to the republication request under 37 CFR 1.221(a) applicants have failed to meet the requirements. 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

[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).

"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

Inquiries relating to this matter may be directed to Michael Cygan at (571) 272-7700, or to the undersigned 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,623	12/13/2005	Shinichiro Kondo	264867US6PCT	6748

7590 01/31/2008
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
KING, BRADLEY T

ART UNIT	PAPER NUMBER
3683	

NOTIFICATION DATE	DELIVERY MODE
01/31/2008	ELECTRONIC

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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REINHART BOERNER VAN DEUREN S.C.
ATTN: LINDA KASULKE, DOCKET COORDINATOR
1000 NORTH WATER STREET
SUITE 2100
MILWAUKEE, WI 53202

Mail Date: 04/20/2010

Applicant	: Sarah Margaret Gardner	: DECISION ON REQUEST FOR
Patent Number	: 7610879	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/522,637	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/23/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **956** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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FEB 09 2007

TECHNOLOGY CENTER 3600

BARNES & THORNBURG LLP
P.O. BOX 2786
CHICAGO IL 60690-2786

In re application of
Arthur H. Bunn
Application No. 10/522,639
Filed: January 26, 2005
For: SYSTEM AND METHOD FOR MAINTAINING DISTRIBUTOR LOYALTY

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 CFR 1.102

This is a decision on the petition filed on December 28, 2006 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102.

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 and pursuant to the "Changes 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 filed under 37 C.F.R. § 1.102(c) 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 December 28, 2006 the petition must be considered under the new guidelines and thus is properly **DENIED**.

For the above-stated reason, the petition is denied. Therefore, the application will be examined in its regular turn.

Any inquiry regarding this decision should be directed to Randolph A. Reese, Special Program Examiner, at (571) 272-6619.

Randolph A. Reese

Randolph A. Reese
Special Programs Examiner
Technology Center 3600

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GIBSON & DERNIER L.L.P.
900 ROUTE 9 NORTH
SUITE 504
WOODBRIDGE, NJ 07095

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JAN 21 2009

OFFICE OF PETITIONS

In re Application of :
Oleg Iliich Epshtein et al :
Application No. 10/522,651 : ON PETITION
Filed: January 22, 2005 :
Attorney Docket No. 841-007 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 12, 2008, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 26, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 27, 2008.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $555 extension of time submitted with the petition on December 12, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credit to petitioner's credit card.

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

This matter is being referred to Technology Center AU 1646 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Kaplan Gilman & Pergament LLP
1480 Route 9 North
Woodbridge, NJ 07095

Mail Date: 04/21/2010

Applicant	: Oleg Iliich Epshtein	: DECISION ON REQUEST FOR
Patent Number	: 7572441	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/522,652	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **328** 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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Kaplan Gilman & Pergament LLP
1480 Route 9 North
Woodbridge, NJ 07095

Mail Date: 04/21/2010

Applicant	: Oleg Iliich Epshtein	: DECISION ON REQUEST FOR
Patent Number	: 7582294	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/522,653	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **341** 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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FOLEY & LARDNER LLP
975 PAGE MILL ROAD
PALO ALTO, CA 94304

Mail Date: 05/21/2010

Applicant	: Heinz-Josef Lenz	: DECISION ON REQUEST FOR
Patent Number	: 7662553	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/522,664	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/03/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **476** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

MAILED

AUG 27 2009

OFFICE OF PETITIONS

In re Patent No. 7,488,811 :
Issue Date: February 10, 2009 :
Application No. 10/522,671 : DECISION ON PETITION
Filed: August 4, 2005 :
Attorney Docket No. 265084US0PCT :

This is a decision on the Petition for Certificate of Correction under 37 CFR 1.183, filed April 3, 2009, requesting correction on the Title Page of the subject patent, via issuance of a Certificate of Correction under 37 CFR 1.323, to identify the name of assignee. The Request has been treated as a Petition under 37 CFR 3.81. A completed Certificate of Correction Form accompanied the petition.

The petition under 37 CFR 3.81 is **GRANTED**.

Petitioner urges that the present Petition was submitted to correct assignee's name on the previously submitted PTOL-85B and that such error was inadvertently included on form PTOL-85B. Accordingly, petitioner requests that a corrected Certificate of Correction be issued to correct the erroneously assignee's name to the Title Page of the Letters Patent.

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

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

The requisite $100.00 fee (Fee Code 1811) as set forth under 37 CFR 1.20(a), and the requisite $130.00 processing fee (Fee Code 1464) as set forth under 37 CFR 1.17(i) were submitted. Further, Office assignment records are consistent with the requested correction. Accordingly,

since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the form that accompanied the present Petition.

Inquiries related this communication should be directed to Cheryl Gibson-Baylor at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,488,811.

Brian W. Brown
Petitions Examiner
Office of Petitions

03 AUG 2005

#6

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WENDEROTH, LIND & PONACK, LLP
2033 K Street, N.W., Suite 800
Washington, D.C. 20006-1021

In re Application of: GRANDINI, Gabriele	:	
U.S. Application No.: 10/522,674	:	DECISION ON PETITION FOR
PCT No.: PCT/IT03/00130	:	REVIVAL OF ABANDONED
International Filing Date: 04 March 2003	:	APPLICATION UNDER
Priority Date: 02 July 2002	:	37 CFR 1.137(b)
Attorney's Docket No.: 2005-0040A	:	
For: WATERPROOFED AND	:	
VENTILATED ITEM OF FOOTWEAR	:	

The petition for revival under 37 CFR 1.137(b) filed 31 January 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date further [sic] required reply until the filing of this grantable petition under 37 CFR 1.137(b) was unintentional" is construed as being the statement required by 37 CFR 1.137(b)(3), that is, 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." Applicant **must** notify this Office if this is **not** a correct interpretation of these statements. Based on this interpretation of the statement contained in the petition, 37 CFR 1.137(b)(3) is considered satisfied.

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

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the issuance of a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date.

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

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DARDI & ASSOCIATES, PLLC
220 S. 6TH ST.
SUITE 2000, U.S. BANK PLAZA
MINNEAPOLIS MN 55402

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NOV 2 0 2008

In re Application of	:	
Kurt Hoffman	:	
Application No.: 10/522690	:	
Filing or 371(c) Date: 08/09/2005	:	DECISION
Attorney Docket Number: 3581.07US01	:	ON PETITION

This is a decision in response to the Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action, filed October 7, 2008. The petition is properly treated under 37 CFR §1.181(a).

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely/properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed February 11, 2008. The Notice set a non-extendable three (3) month period for reply. No response having been received, the application became abandoned on May 12, 2008. A Notice of Abandonment was mailed September 25, 2008.

Applicant incorrectly notes that this Office mailed Supplemental Notices of Allowance on May 12, 2008 and September 15, 2008; however, Office records reveal that the Notices mailed May 12, 2008 and September 15, 2008 were copies of the Notice of Allowability, mailed February 11, 2008, and not a supplemental Notice of Allowance

With the present petition, Applicant has demonstrated non-receipt of the Notice by a preponderance of the evidence.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application will be referred to the Office of Data Management for processing into a patent.

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

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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ANDRUS, SCEALES, STARKE & SAWALL, LLP
100 EAST WISCONSIN AVENUE, SUITE 1100
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: Lyder Moen	: DECISION ON REQUEST FOR
Patent Number	: 7580802	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/522,692	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/29/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **829** 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 0 JAN 2007

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CHARLOTTE, NC 28280-4000

In re Application of	:	
Wang et al.	:	
Application No.: 10/522,696	:	DECISION
PCT No.: PCT/US03/24666	:	
Int. Filing Date: 04 August 2003	:	ON
Priority Date: 04 August 2002	:	
Attorney Docket No.: 048767/287534	:	PETITION
For: Methods And Compositions For Converting	:	
Taxane Amides To Paclitaxel Or Other Taxanes	:	

This is in response to the petition under 37 CFR 1.47(a) filed on 30 May 2006.

BACKGROUND

This international application was filed on 04 August 2003, claimed an earlier priority date of 04 August 2002, and designated the U.S. The 30 month time period for paying the basic national fee in the United States expired at midnight on 04 February 2005. Applicants filed *inter alia* the basic national fee on 27 January 2005.

On 28 November 2005, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration compliant with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(h).

DISCUSSION

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

Regarding requirement (1), the $200.00 petition fee is being charged to counsel's Deposit Account No. 16-0605, as authorized by the petition.

Regarding requirement (2), petitioner urges that the absence on the declaration of the signature of joint inventor Dasheng Wang be excused because he allegedly refused to sign the declaration. Counsel's attention is respectfully drawn to MPEP 409.03(d), which 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. 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

In support of the proposition that Dasheng Wang has refused to execute the declaration, counsel has provided evidence including a copy of e-mail correspondence from Dasheng Wang to Atty. Cynthia Hall, dated 26 May 2006. In this e-mail, Dasheng Wang states that

> I can not sign the documents as you asked. As I mentioned to you on the e-mail which I sent to you on May 1, I'd like to sign the documents when I get the revised version of WO patent on which the order of inventorship is as same as on the Declaration document. It is Patent instead of Declaration will be published. Plus, everybody knows that the the order of inventorship on the Patent shouldn't conflict with the Declaration. I think that you know that better than I do. Thanks a lot.

The copy of this e-mail in which Dasheng Wang explicitly refuses to sign the declaration document establishes his "refusal" within the meaning of 37 CFR 1.47(a); as such, requirement (2) has been satisfied.

Regarding requirement (3), the petition includes a statement of the last known address of Dasheng Wang. Accordingly, requirement (3) has been satisfied.

Regarding requirement (4), the declaration filed on 30 May 2006 has been signed by joint inventors Rex Gallagher, John Juchum and James Johnson on behalf of themselves and non-

signing joint inventor Dasheng Wang. However, the declaration is defective because it nominates "Rex T. Gallagher" in place of "GALLEGHER, Rex, T." whose name appears on the published international application. The record does not appear to address this discrepancy, such as an explanation of whether it arose from a mere typographical error. As such, it would not be appropriate to accept the declaration in satisfaction of requirement (4) at this time.

DECISION

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

The $200.00 petition fee is being charged to counsel's Deposit Account No. 16-0605.

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

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

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

01/30/2007 SBASHEIR 00000001 160605 10522696
Sale Ref: 00000001 DA#: 160605 10522696
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CHARLOTTE, NC 28280-4000

In re Application of Wang et al. Application No.: 10/522,696 PCT No.: PCT/US03/24666 Int. Filing Date: 04 August 2003 Priority Date: 04 August 2002 Attorney Docket No.: 048767/287534 For: Methods And Compositions For Converting Taxane Amides To Paclitaxel Or Other Taxanes	DECISION ON PETITION

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 19 April 2007.

DISCUSSION

In a Decision mailed on 30 January 2007, the petition under 37 CFR 1.47(a) filed on 30 May 2006 was dismissed without prejudice because

> Regarding requirement (4), the declaration filed on 30 May 2006 has been signed by joint inventors Rex Gallagher, John Juchum and James Johnson on behalf of themselves and non-signing joint inventor Dasheng Wang. However, the declaration is defective because it nominates "Rex T. Gallagher" in place of "GALLEGHER, Rex, T." whose name appears on the published international application. The record does not appear to address this discrepancy, such as an explanation of whether it arose from a mere typographical error. As such, it would not be appropriate to accept the declaration in satisfaction of requirement (4) at this time.

In response, petitioner states that

> Applicants point out that "Rex T. Gallagher", the signing inventor on the declaration of May 30, 2006, and "GALLEGHER, Rex, T.", the listed inventor on the international application are the same individual, and the discrepancy in the spelling of the surname is merely the result of a typographical error in the international publication.
>
> The correct spelling of the inventor's name is "Gallagher", as spelled and signed on the declaration filed May 30, 2006. Applicants submit the spelling of the name on the international publication results from a typographical error, and the discrepancy in the spellings was purely as a result of the typographical error and was without deceptive intent on the part of the Applicants.

Reference is made to MPEP 605.04(b), which explains in part that

When a typographical or transliteration error in the spelling of an inventor's name is discovered during pendency of an application, a petition is not required, nor is a new oath or declaration under 37 CFR 1.63 needed. However, applicants are strongly encouraged to use an application data sheet such that any patent to issue will reflect the correct spelling of the inventor's name. Without an application data sheet with the corrected spelling, any patent to issue is less likely to reflect the correct spelling since the spelling of the inventor's name is taken from the oath or declaration, or any subsequently filed application data sheet.

In view of applicants' explanation that the discrepancy in Mr. Gallagher's name arose from a mere typographical error, it would now be appropriate to accept the declaration filed on 30 May 2006. As such, all of the requirements of 37 CFR 1.47(a) have now been satisfied.

DECISION

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

The $750.00 petition fee under 37 CFR 1.137(b) was not required, and it is being refunded to Deposit Account No. 16-0605 per the Transmittal Letter filed on 30 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.

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 **30 May 2006**.

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

11 JUN 2007

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Dasheng Wang
6109 Round Tower Lane
Dublin, OH 43017

In re Application of
Wang et al.
Application No.: 10/522,696
PCT No.: PCT/US03/24666
Int. Filing Date: 04 August 2003
Priority Date: 04 August 2002
Attorney Docket No.: 048767/28753
For: Methods And Compositions For Converting Taxane Amides To Paclitaxel Or Other Taxanes

Dear Dasheng Wang:

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

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
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CHARLOTTE, NC 28280-4000

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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 (Dasheng WANG) 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/US03/24666 and was filed on August 04, 2003 in the names of James H. JOHNSON, Rex T. GALLAGHER, Dasheng WANG and John S. JUCHUM for the invention entitled METHODS AND COMPOSITIONS FOR CONVERTING TAXANE AMIDES TO PACLITAXEL OR OTHER TAXANES. The national stage application number is 10/522,696 and has a 35 U.S.C. 371(c)(1), (2) and (4) date of May 30, 2006.

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CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Dasheng Wang	: DECISION ON REQUEST FOR
Patent Number	: 7605278	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/522,696	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/30/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **752** 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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BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Dasheng Wang	: DECISION ON REQUEST FOR
Patent Number	: 7605278	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/522,696	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/30/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **752** 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.

27 FEB 2006

#8

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Keiko Tanaka Kubovcik
Kubovcik & Kubovcik
The Farragut Building
Suite 710
900 7th Street, N.W.
Washington, D.C. 20006

In re Application of TAKEMURA, et al. Application No.: 10/522,717 PCT No.: PCT/JP03/10254 Int. Filing Date: 11 August 2003 Priority Date: 13 August 2002 Atty Docket No.: ABE-030 For: TECHNIQUE ON OZONE WATER FOR USE IN CLEANING SEMICONDUCTOR SUBSTRATE	COMMUNICATION

This communication is in response to applicant's "Response to Notification of Missing Requirements Under 35 U.S.C. 371 in The United States Designated/Elected Office (DO/EO/US)" filed 24 August 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 11 August 2003, applicant filed international application PCT/JP03/10254 which claimed priority to an earlier Japanese application filed 13 August 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 26 February 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 13 February 2005.

On 28 January 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the international application, an executed declaration of the inventors; three assignment documents for recording and a first preliminary amendment.

On 29 June 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. Specifically, clarification was needed as to the third listed inventor who was identified as Kazuaki Hayata on the published international application and Kazuaki Souda on one of the filed declarations. In addition, applicant was notified of the need to provide a surcharge of $130.00 for filing the oath or declaration later than the appropriate 20 or 30 months

from the earliest priority date. (37 CFR 1.492(e). Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 24 August 2005, applicant filed the present response.

DISCUSSION

As explained in the Manual of Patent Examining Procedure (MPEP) ¶ 2.14.01, where a typographical or transliteration error in the name of an inventor is discovered a petition is not required. Instead, it is sufficient to inform the Office of the error, as well as, the correct name of the inventor. Applicant has presently provided such an explanation. However, in the present case the error occurred in the international application. A new declaration and payment of the surcharge for providing an oath or declaration of the inventors is required as the declarations executed by inventors Kato and Suhara did not properly identify inventor Souda. Applicant's present filing contains newly executed declarations and authorization to charge the surcharge to deposit account no.: 11-1833, as such a proper reply to the Form PCT/DO/EO/905 has been filed and it is proper to forward this application for the continued National stage processing.

CONCLUSION

The application has an international filing date of 13 August 2003 under 35 U.S.C. 363 and will be given a date of **24 August 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

09 MAY 2006

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

09 MAY 2006

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

Stephen A. Bent
Foley and Lardner, LLP
3000 K Street, NW
Suite 500
Washington, DC 20007

In re Application of	:	
JACKSON, et al.	:	
PCT No.: PCT/IB03/04177	:	DECISION ON PETITION
Application No.: 10/522,777	:	
Int. Filing Date: 18 August 2003	:	UNDER 37 CFR 1.47(a)
Priority Date: 16 August 2002	:	
Atty. Docket No.: 027524-0122	:	
For: INHIBITION OF PHSPHOINOSTIDE	:	
3-DINASE BETA	:	

This decision is in response to applicant's "Petition Under 37 CFR §1.47(a)" filed 23 January 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 18 August 2003, applicant filed international application PCT/IB03/04177, which claimed priority of an earlier application filed 16 August 2002. A copy of the International Application was forwarded to the United States Patent and Trademark Office (USPTO) from the International Bureau (IB) on 26 February 2004. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 16 February 2005.

On 31 January 2005, 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 application data sheet and a First Preliminary Amendment. An executed oath or declaration was not included.

On 20 July 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 given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 23 January 2006, applicant responded with the present petition to accept the combined declaration and power of attorney without the signature of joint inventor Vijaya Kenche

accompanied by a declaration executed by the remaining joint inventors on their own behalf and on the behalf of the non-signing joint inventor. The petition was also accompanied by a petition for a five-month extension of time and payment of the appropriate petition fee.

DISCUSSION

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

As to item (4), applicant has a combined declaration and power of attorney executed by the remaining joint inventors on their own behalf and on the behalf of the non-signing joint inventor. However, the filed declaration does not comply with 37 CFR 1.497 (a)-(b). The Manual of Patent Examining Procedure (MPEP) Section 201.03 states, in part:

> An oath or declaration under 37 CFR 1.63 by each actual inventor must be presented. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration.

As to the presently filed declaration, the document contains three pages "page 4 of 6" and four pages "page 5 of 6." This suggests that the declaration was assembled from numerous declarations or that the signing inventors returned only their signature pages. Either version renders the declaration non-compliant.

CONCLUSION

For the reasons 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)."

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

#8

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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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25 JUL 2006

Stephen A. Bent
Foley and Lardner, LLP
3000 K Street, NW
Suite 500
Washington, DC 20007

In re Application of	:	
JACKSON, et al.	:	
PCT No.: PCT/IB03/04177	:	DECISION ON RENEWED
Application No.: 10/522,777	:	
Int. Filing Date: 18 August 2003	:	PETITION UNDER
Priority Date: 16 August 2002	:	
Atty. Docket No.: 027524-0122	:	37 CFR 1.47(a)
For: INHIBITION OF PHSPHOINOSTIDE	:	
3-DINASE BETA	:	

This decision is in response to applicant's "Renewed Petition Under 37 C.F.R. 1.47(a)" filed 06 July 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 09 May 2006, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47 to accept the application without the signature of joint inventor Vijaya Kenche. Applicant was afforded two months to file any request for reconsideration.

On 06 July 2006, applicant filed the present renewed petition.

DISCUSSION

As discussed in the decision mailed 09 May 2006, a petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant previously satisfied items 1-3.

Applicant has presently filed executed declarations which comply with 37 CFR 1.497(a)-(b) satisfying the remaining item. Therefore, it is proper to grant applicant's renewed petition at this time.

CONCLUSION

For the reasons stated above, applicant's renewed petition under 37 CFR 1.47(b) is **GRANTED**.

The application has an international filing date of 18 August 2003 under 35 U.S.C. 363, and will be given a date of **06 July 2006** 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(b) will be published in the Official Gazette.

This application is being returned to the DO/EO/US for processing in accordance with this decision. Specifically, the mailing of a Notification of Acceptance (Form PCT/DO/EO/903).

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

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Alexandria, VA 22313-1450
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25 JUL 2006

Dr. Vijaya Kenche
9 Kings Close
Oakleigh East
Victoria 3166
AUSTRALIA

In re Application of
JACKSON, et al.
PCT No.: PCT/IB03/04177
Application No.: 10/522,777
Int. Filing Date: 18 August 2003
Priority Date: 16 August 2002
Atty. Docket No.: 027524-0122
For: INHIBITION OF PHSPHOINOSTIDE
3-DINASE BETA

Dear Dr. Kenche:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor. As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternately, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, the law firm of record (see below) would presumably assist you. Joining in the application would entail the filing of the appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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

Stephen A. Bent
Foley and Lardner, LLP
3000 K Street, NW
Suite 500
Washington, DC 20007

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Pepper Hamilton LLP
400 Berwyn Park
899 Cassatt Road
Berwyn, PA 19312-1183

Mail Date: 04/21/2010

Applicant	: Shaun P. Jackson	: DECISION ON REQUEST FOR
Patent Number	: 7598377	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/522,777	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/06/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **658** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

#6

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30 JAN 2006

Smith Gambrell & Russell
1850 M Street, N. W., Suite 800
Washington DC 20036

In re Application of	:	
RUSSELL et al.	:	
Application No.: 10/522,809	:	DECISION
PCT No.: PCT/AU03/00393	:	
Int. Filing Date: 31 March 2003	:	
Priority Date: 31 July 2002	:	
Attorney Docket No.: 034164.002	:	
For: ANIMATED MESSAGING	:	

This is a decision on applicants' submissions filed 10 November 2005 and 23 November 2005 in the United States Patent and Trademark Office (USPTO), which together have properly been treated as a petition under 37 CFR 1.47(a).

BACKGROUND

On 31 March 2003, applicants filed international application PCT/AU03/00393, which designated the United States and claimed a priority date of 31 July 2002. A copy of the international application was communicated from the International Bureau to the USPTO on 05 February 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 31 January 2005.

On 31 January 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and an assertion of small entity status.

On 09 June 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 10 November 2005, applicants filed a submission which included, *inter alia*, a petition/fee for a four month extension of time, a declaration of inventors, and the surcharge under 37 CFR 1.492(e) for providing the declaration of inventors later than thirty months from the priority date.

On 23 November 2005, applicants filed a "DECLARATION OF NICHOLAS RUSSELL IN SUPPORT OF ONE CO-INVENTOR SIGNING ON BEHALF OF ANOTHER".

DISCUSSION

As noted above, the submission filed 10 November 2005 and 23 November 2005 together have been properly treated as a petition under 37 CFR 1.47(a).

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

As to item (1), the petition fee of $200 has been charged to Deposited Account 02-4300. Accordingly, item (1) has been met.

Item (4) has been met as well.

As to item (3), a clear statement of the last known address of the missing inventor has not been given. Thus, item (3) has not been met.

Item (2) has not been met. As noted in MPEP § 409.03(d), the statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Here, it is not clear that Nicholas Russell has firsthand knowledge of the facts recited in the declaration by him. Statements based on hearsay will not normally be accepted. Additionally, to establish a refusal to sign, it is required that the inventor be presented with the application papers (specification, including claims, drawings, and oath or declaration). See MPEP 409.03(d). "It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956)." MPEP 409.03(d). Here, it is not clear that Mr. Felich was presented with a copy of the application papers.

CONCLUSION

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

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

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

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

05 MAY 2006

#6

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Smith Gambrell & Russell
1850 M Street, N. W., Suite 800
Washington DC 20036

In re Application of	:	
RUSSELL et al.	:	
Application No.: 10/522,809	:	DECISION
PCT No.: PCT/AU03/00393	:	
Int. Filing Date: 31 March 2003	:	
Priority Date: 31 July 2002	:	
Attorney Docket No.: 034164.002	:	
For: ANIMATED MESSAGING	:	

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed 28 March 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 31 March 2003, applicants filed international application PCT/AU03/00393, which designated the United States and claimed a priority date of 31 July 2002. A copy of the international application was communicated from the International Bureau to the USPTO on 05 February 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 31 January 2005.

On 31 January 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and an assertion of small entity status.

On 09 June 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 10 November 2005, applicants filed a submission which included, *inter alia*, a petition/fee for a four month extension of time, a declaration of inventors, and the surcharge under 37 CFR 1.492(e) for providing the declaration of inventors later than thirty months from the priority date.

On 23 November 2005, applicants filed a "DECLARATION OF NICHOLAS RUSSELL IN SUPPORT OF ONE CO-INVENTOR SIGNING ON BEHALF OF ANOTHER".

On 30 January 2006, a decision treating the submissions filed 10 November 2005 and 23 November 2005 together as a petition under 37 CFR 1.47(a) was mailed dismissing the petition without prejudice. Specifically, it was noted that factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort had not been provided and that a clear statement of the last known address of the missing inventor had not been provided.

On 28 March 2006, applicants submitted the instant renewed petition under 37 CFR 1.47(a) which was accompanied by an appendix which contains various purported e-mails between Nick Russell and Anton Felich.

DISCUSSION

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

As noted in the decision mailed 30 January 2006, items (1) and (4) have been met. Item (3) has now been met as well.

Item (2) still has not been met. As noted in the decision mailed 30 January 2006 and in MPEP § 409.03(d), the statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Here, it is not clear that Nicholas Russell has firsthand knowledge of the facts recited in the declaration by him. Statements based on hearsay will not normally be accepted. As to Appendix A, there is no statement by Nicholas Russell verifying that these are copies of e-mails exchanged between himself and Anton Felich. Also, it is suggested in the renewed petition that the reference to "paperwork on the patent" refers to the application papers, which include the specification, claims, drawings, and oath or declaration (as noted in the decision mailed 30 January 2006). However, there is nothing of record to suggest that the papers sent to Mr. Felich included the specification, claims, and drawings. Indeed, the declaration of Mr. Russell indicates that only Declaration and Assignment Forms were sent to Mr. Felich (paragraph 8). As noted in the decision mailed 30 January 2006, to establish a refusal to sign, it is required that the inventor be presented with the application papers (specification, including claims, drawings, and oath or declaration). See MPEP 409.03(d). "It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956)." MPEP 409.03(d).

CONCLUSION

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

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

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

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

27 SEP 2006

#10

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1850 M Street, N. W., Suite 800
Washington DC 20036

In re Application of	:	
RUSSELL et al.	:	
Application No.: 10/522,809	:	DECISION
PCT No.: PCT/AU03/00393	:	
Int. Filing Date: 31 March 2003	:	
Priority Date: 31 July 2002	:	
Attorney Docket No.: 034164.002	:	
For: ANIMATED MESSAGING	:	

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed 05 July 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 31 March 2003, applicants filed international application PCT/AU03/00393, which designated the United States and claimed a priority date of 31 July 2002. A copy of the international application was communicated from the International Bureau to the USPTO on 05 February 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 31 January 2005.

On 31 January 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and an assertion of small entity status.

On 09 June 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 10 November 2005, applicants filed a submission which included, *inter alia*, a petition/fee for a four month extension of time, a declaration of inventors, and the surcharge under 37 CFR 1.492(e) for providing the declaration of inventors later than thirty months from the priority date.

On 23 November 2005, applicants filed a "DECLARATION OF NICHOLAS RUSSELL IN SUPPORT OF ONE CO-INVENTOR SIGNING ON BEHALF OF ANOTHER".

On 30 January 2006, a decision treating the submissions filed 10 November 2005 and 23 November 2005 together as a petition under 37 CFR 1.47(a) was mailed dismissing the petition without prejudice. Specifically, it was noted that factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort had not been provided and that a clear statement of the last known address of the missing inventor had not been provided.

On 28 March 2006, applicants submitted a renewed petition under 37 CFR 1.47(a) which was accompanied by an appendix which contains various purported e-mails between Nick Russell and Anton Felich.

On 05 May 2006, a decision was mailed dismissing applicants' renewed petition under 37 CFR 1.47(a) without prejudice. Specifically, it was noted that factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort had not been provided.

On 05 July 2006, applicants filed the instant renewed petition under 37 CFR 1.47(a), which was accompanied by, *inter alia*, a declaration of facts by Nicholas Russell.

DISCUSSION

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

As noted in the decision mailed 05 May 2006, items (1) and (3) have been met.

Item (2) has now been met as well. The declaration of facts by Nicholas Russell filed 05 July 2006 makes it clear that Mr. Felich understands exactly what he is being asked to sign. Additionally, bona fide attempts have been made to present the application papers to Mr. Felich (see paragraphs 22, 23, and 25 of the Russell declaration) but his whereabouts at this moment are unknown (see paragraph 21 of the Russell declaration and e-mail from Anton Felich to Nick Russell dated 15 March 2005).

The decision mailed 05 May 2006 also indicated that item (4) had been met. However, upon further review it is noted that the international application indicates the inventor as *Andrew* Felich while the declaration of inventors filed 10 November 2005 identifies the inventor as Anton Felich. Thus, the declaration of inventors is not in compliance with 37 CFR 1.497(a)-(b). If applicant's correct name is Anton Felich, as would appear to be the case, an acceptable explanation of how applicant was named as Andrew Felich rather than Anton Felich in the

international publication is required. However, if the applicant has changed his name, a petition under 37 CFR 1.182 (see MPEP § 605.04(c)) is required. Any inconvenience is regretted.

CONCLUSION

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

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

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

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

#12

UNITED STATES PATENT AND TRADEMARK OFFICE

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

06 DEC 2006

Smith Gambrell & Russell
1850 M Street, N. W., Suite 800
Washington DC 20036

In re Application of	:	
RUSSELL et al.	:	
Application No.: 10/522,809	:	DECISION
PCT No.: PCT/AU03/00393	:	
Int. Filing Date: 31 March 2003	:	
Priority Date: 31 July 2002	:	
Attorney Docket No.: 034164.002	:	
For: ANIMATED MESSAGING	:	

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed 17 November 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 31 March 2003, applicants filed international application PCT/AU03/00393, which designated the United States and claimed a priority date of 31 July 2002. A copy of the international application was communicated from the International Bureau to the USPTO on 05 February 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 31 January 2005.

On 31 January 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and an assertion of small entity status.

On 09 June 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 10 November 2005, applicants filed a submission which included, *inter alia*, a petition/fee for a four month extension of time, a declaration of inventors, and the surcharge under 37 CFR 1.492(e) for providing the declaration of inventors later than thirty months from the priority date.

On 23 November 2005, applicants filed a "DECLARATION OF NICHOLAS RUSSELL IN SUPPORT OF ONE CO-INVENTOR SIGNING ON BEHALF OF ANOTHER".

On 30 January 2006, a decision treating the submissions filed 10 November 2005 and 23 November 2005 together as a petition under 37 CFR 1.47(a) was mailed dismissing the petition without prejudice. Specifically, it was noted that factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort had not been provided and that a clear statement of the last known address of the missing inventor had not been provided.

On 28 March 2006, applicants submitted a renewed petition under 37 CFR 1.47(a) which was accompanied by an appendix which contains various purported e-mails between Nick Russell and Anton Felich.

On 05 May 2006, a decision was mailed dismissing applicants' renewed petition under 37 CFR 1.47(a) without prejudice. Specifically, it was noted that factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort had not been provided.

On 05 July 2006, applicants filed a renewed petition under 37 CFR 1.47(a), which was accompanied by, *inter alia*, a declaration of facts by Nicholas Russell.

On 27 September 2006, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a). Specifically, it was noted that had been provided but that, upon further review, the declaration of inventors filed 10 November 2005 was not in compliance with 37 CFR 1.497(a)-(b) because the international application indicates the inventor as *Andrew* Felich while the declaration of inventors filed 10 November 2005 identifies the inventor as Anton Felich. The decision noted that if applicant's correct name is Anton Felich, as would appear to be the case, an acceptable explanation of how applicant was named as Andrew Felich rather than Anton Felich in the international publication is required.

DISCUSSION

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

As noted in the decision mailed 05 May 2006, items (1) and (3) have been met.

As noted in the decision mailed 27 September 2006, item (2) has been met.

Item (4) has now been met as well. The renewed petition states that the international application indicated the inventor's first name as Andrew rather than Anton because of a clerical

error. The renewed petition further states that the error was discussed with applicants' representatives who indicated that the error could be corrected at a future stage in the application process. However, it does not appear that applicants' representatives corrected this problem during the international phase under PCT Rule 92bis. Applicants' explanation of the difference in the translation of Anton Felich's name is accepted and noted for the record.

CONCLUSION

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

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

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. §§371(c)(1), (c)(2), and (c)(4) date of **10 November 2005**.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

06 DEC 2006

ANTON FELICH
6 GRANGE RD
KALORAMA
VIC 3766
AUSTRALIA

In re Application of
RUSSELL et al.
Application No.: 10/522,809
PCT No.: PCT/AU03/00393
Int. Filing Date: 31 March 2003
Priority Date: 31 July 2002
Attorney Docket No.: 034164.002
For: ANIMATED MESSAGING

Dear Mr. Felich:

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

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

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

Smith Gambrell & Russell
1850 M Street, N. W., Suite 800
Washington DC 20036

06 JUL 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

In re Application of ALVAREZ, Vernon L. et al. Application No.: 10/522,810 PCT No.: PCT/US03/17411 Int. Filing Date: 02 June 2003 Priority Date: 31 May 2002 Docket No.: 051530-5008-US For: TREATMENT OF CELL PROLIFERATIVE DISORDERS WITH CHLOROTOXIN	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicants' "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 31 January 2005 is **GRANTED**.

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

A signed oath or declaration has not yet been submitted.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

MAILED

JUN 15 2009

OFFICE OF PETITIONS

In re Application of	:	
Alvarez et al.	:	DECISION ON PETITION
Application No. 10/522,810	:	TO WITHDRAW
Filed: September 20, 2005	:	FROM RECORD
Attorney Docket No. 2006636-0011	:	

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 19, 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 Morgan Lewis & Bockius LLP, has been revoked by the assignee of the patent application on May 12, 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: CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 04/20/2010

Applicant	: Christopher Ralph Van Den Brink	: DECISION ON REQUEST FOR
Patent Number	: 7600596	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/522,816	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **854** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

COPY MAILED
JUL 29 2008

In re Application of	:	
Yusei UKAWA	:	
Application No. 10/522,846	:	DECISION ON PETITION
Filed: January 28, 2005	:	
Attorney Docket No. 0941-1716PUS1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 30, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before June 4, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed March 2, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on June 5, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the Issue Fee of $1440 and Publication Fee of $300; (2) the petition fee of $1540; and (3) the required statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to 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 Diane Goodwyn at (571) 272-6735.

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

Christopher Bottle

for Thurman Page
Petitions Examiner
Office of Petitions

cc : JOE MCKINNEY MUNCY
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 GATEHOUSE ROAD
SUITE 100 EAST, P.O. BOX 747
FALLS CHURCH VA 22040-0747

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P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & RICHARDSON P.C.
P.O BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

MAR 3 0 2010

OFFICE OF PETITIONS

In re Patent No. 7,582,644	: DECISION ON REQUEST
Ebden, et al.	: FOR
Issue Date: September 1, 2009	: RECONSIDERATION OF
Application No.10/522,871	: PATENT TERM ADJUSTMENT
Filed: August 18, 2005	: and
Atty Docket No. 06275-436US1/100795-1P US	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 2, 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 forty-five (745) 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 forty-five (745) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred and forty-five (745)** days is **GRANTED**.

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

for

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,582,644 B2

DATED : Sep. 1, 2009

INVENTOR(S) : Ebden 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 (200) days

Delete the phrase "by 200 days" and insert – by 745 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO Box 142950
GAINESVILLE, FL 32614

Mail Date: 04/20/2010

Applicant	: Michel Christian Morre	: DECISION ON REQUEST FOR
Patent Number	: 7585947	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/522,883	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **630** 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 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

Randolph A. Smith
Smith Patent Office
1901 Pennsylvania Avenue, N.W.
Suite 200
Washington, DC 20006-3433

In re Application of	:	
KUSUSE, et al.	:	DECISION ON REQUEST
Application No.: 10/522,887	:	
PCT No.: PCT/JP02/09836	:	FOR REFUND
Int. Filing Date: 01 August 2003	:	
Priority Date: 01 August 2002	:	
Atty. Docket No.: 0055/076001	:	
For: SEMICONDUCTOR LIGHT-EMITTING DEVICE: METHOD FOR MANUFACTURING SAME AND : LIGHT-EMITTING APPARATUS USING SAME	:	

Applicant's request for refund filed 07 September 2005 in the above-captioned application is hereby **GRANTED** as follows:

A review of the application file finds that applicant provided a copy of the international search report at the time of filing. As such, while applicant authorized the charging of $500.00 as payment of the U.S. National stage search fee, the proper fee was $400.00. Therefore, as requested, $100.00 will be refunded to Deposit Account No.: 19-2586.

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

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

OIPE JC81
FEB 25 2005
PATENT & TRADEMARK OFFICE

DT03 Rec'd PCT/PTO 25 FEB 2005

PCT #2.

PTO/SB/83 (05-03)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT

Application Number	10/522,888
Filing Date	February 1, 2005
First Named Inventor	Rainer Stürmer
Art Unit	Not yet assigned
Examiner Name	Not yet assigned
Attorney Docket Number	532622010600

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

I hereby apply to withdraw as attorney or agent for the above identified patent application.

The reasons for this request are:
Application is being transferred to another attorney.

This request is being made at the request of the assignee, **BASF Aktiengesellschaft**

APPROVED 9/13/07 MCS

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☐ Change the correspondence address and direct all future correspondence to:

CORRESPONDENCE ADDRESS

☐ Customer Number [ ] → [ ]

OR

☒ Firm or Individual Name	James Remenick (Powell Goldstein LLP)				
Address	901 New York Avenue, NW Third Floor				
City	Washington	State	DC	Zip	20001-4413
Country	USA				
Telephone	(202)347-0066			Fax	(202) 624-7222

☒ This request is made on behalf of myself and
- ☐ all the attorneys/agents of record,
- ☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- ☒ the attorneys/agents associated with Customer Number 25227

This request is enclosed in **triplicate** (including any attachments).

Name	Wayne C. Jaeschke, Jr. Registration No. 38,503
Signature	
Date	February 25, 2005

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: February 25, 2005 Signature: _____ (Chimin Taylor)

va-94875

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12-03-08

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/522888 Patent No.: 7435888

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch
703-308-9390 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE **Art Unit** 1626

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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OFFICE OF PETITIONS

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

In re Application of	:	
Sergio Restelli, et al.	:	
Application No. 10/522,891	:	ON PETITION
Filed: February 1, 2006	:	
Attorney Docket No. 2504-1159	:	

This is a decision in response to a petition under 37 CFR 1.181 to withdraw the holding of abandonment filed July 21, 2006.

Petitioners explain that an amendment was timely filed on January 17, 2006 in response to a non-final Office action mailed October 14, 2006; however, the amendment was directed to an incorrect application number. Petitioners suggest that the Office considers the application to be abandoned and request that the abandonment be withdrawn. A corrected copy of the amendment filed January 17, 2006 accompanies the petition.

A review of the record fails to disclose that an abandonment has occurred in this application. In fact, the response filed January 17, 2006 appears to have been appropriately handled in accordance with MPEP 508.03, as it is present in the file.

Under the circumstances, the petition is DISMISSED AS MOOT.

This application is being referred to Technology Center AU 3767 for consideration of the amendment filed January 17, 2006.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

07 NOV 2006

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Washington, D.C. 20231
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Fish & Richardson, P.C.
1425 K Street, NW
11th Floor
Washington, D.C. 20005-3500

In re Application of :
ZAORALEK, Heinz-Michael :
Serial No.: 10/522,892 : DECISION ON PETITION
PCT No.: PCT/DE03/02581 :
Int. Filing Date: 31 July 2003 :
Priority Date: 01 August 2002 :
Atty Docket No.: 18773-002US1/SHW-P-0938.9 :
For: DEVICE AND METHOD FOR SURFACE PROCESSING WEBS OF PAPER AND SIMILAR ENDLESS NON-WOVENS BY MEANS OF A HEATABLE ROLLER

The petition to revive under 37 CFR 1.137(b) filed 03 October 2006 in the above-captioned application is hereby **GRANTED** as follows:

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

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

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

Anthony Smith

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

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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

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OFFICE OF PETITIONS

In re Application of Preaudat et al. :
Application No. 10/522,909 :
Filing Date: October 5, 2005 :
Attorney Docket No. LOM-0047 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.181 filed September 25, 2008, requesting the Office withdraw the holding of abandonment.

The petition is **granted**.

On September 24, 2007, petitioner filed an Appeal Brief.

The Office issued an Examiner's Answer on November 28, 2007. The Examiner's Answer did not require petitioner to file a Reply Brief in order to avoid dismissal of the appeal and/or abandonment.

Office internal records indicate that on December 13, 2007, an Appeal Specialist issued a notice informing the examiner that the Examiner's Answer was deficient. The notice indicated the reason the answer was deficient was "c(8) Evidence relied upon should list the reference name, number and date. The correction can be made on pto-90c."

On December 21, 2007, the Examiner issued a three-page document. The first page stated, "The time period for reply, if any, is set in the attached communication." The second page ambiguously stated,

> Please find below and/or attached an Office communication concerning this application or proceeding....
>
> Examiner's Answer
> (8) Evidence Relied Upon
> 1. Bazin et al. Homogeneous time resolved fluorescence resonance energy transfer using rare earth cryptates as a tool for probing molecular interactions in biology. Spectrochimica Acta Part A 2001;(57);2197-2211.
> 2. Nicholson et al. USPN 4859581 August 22, 1989.
>
> [Handwritten signature of inventor]

The third page of the December 21, 2007, included a copy of page 2 of the November 28, 2007 Examiner's Answer. The copy of page 2 included a handwritten notation of "name, number & date" with a line connecting the phrase to section (8) on the page. The copy of page 2 also included a handwritten notation of "08-22-1989" located by part 2 of section (8).

On September 10, 2009, the Office mailed a Notice of Abandonment asserting the application was abandoned due to a failure to reply to the December 21, 2007 communication.

Petitioner asserts the December 21, 2007 communication did not set forth any time period for response.

The first page of the communication clearly indicated if any time period for reply existed, it would be set forth in the attachment. The attachment did not set forth any time period. Therefore, no time period has been set. An application cannot become abandoned for a failure to comply with a non-existent time limit.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Petitioner has also asserted other grounds for relief other than the failure of the communication to set forth a period for reply. However, since the holding of abandonment has been withdrawn based on the fact the communication did not set a period for reply, the Office need not address the other grounds set forth by petitioner.

Technology Center Art Unit 1657 will be informed of the instant decision in order to allow Darlene Brown or another Appeals Specialist to review the case and to determine the next step to be taken by the Office.

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

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

Mail Date: 04/27/2010

Applicant	: Peter D Senter	: DECISION ON REQUEST FOR
Patent Number	: 7659241	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/522,911	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1080** 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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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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OFFICE OF PETITIONS

In re Application of	:	
Henri Klein et al	:	
Application No. 10/522,917	:	DECISION GRANTING PETITION
Filed: January 31, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 045956-0103	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 30, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 22, 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]

Additionally, the petition filed January 28, 2009 under 37 CFR 1.182 to expedite the petition under 37 CFR 1.313(c)(2) is dismissed as moot since the above petition was not filed until January 30, 2009, after the filing of the petition under 37 CFR 1.182.

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

This application is being referred to Technology Center AU 3744 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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OFFICE OF PETITIONS

GARY C. COHN, PLLC
1147 NORTH FOURTH STREET
UNIT 6E
PHILADELPHIA, PA 19123

In re Application of
Ichiro Sato
Application No. 10/522,928
Filed: January 24, 2005
Attorney Docket No. TIP 031

ON PETITION

This is a decision in response to the petition, filed August 23, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed January 23, 2007. This decision precedes the mailing of a Notice of Abandonment. On August 23, 2007, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 1796 for consideration of the amendment filed August 23, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA, GA 30339-5994

Mail Date: 04/21/2010

Applicant	: Wayne R. Danter	: DECISION ON REQUEST FOR
Patent Number	: 7585866	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/522,944	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/28/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **907** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA, GA 30339-5994

Mail Date: 05/18/2010

Applicant : Wayne R. Danter
Patent Number : 7585866
Issue Date : 09/08/2009
Application No : 10/522,944
Filed : 07/28/2005

: 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 **964** 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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JAN 0 5 2010

Robert E. Bushnell & Law Firm
2029 K Street NW
Suite 600
Washington, DC 2006-1004

In re application of	: **DECISION ON PETITION**
MAEDER et al.	: **TO RECONSIDER**
Application No. 10/522,953	: **DRAWING REQUIREMENT**
Filed: February 9, 2006	: **UNDER 37 CFR 1.181**
For: Conveyor-Technology Device	

This is a decision on applicant's petition under 37 C.F.R. 1.181 filed on June 6, 2008 requesting the withdrawal of the requirement to label Figure 1 as "Prior Art".

The Petition is **GRANTED**.

A review of the record indicates that Figure 1 as originally filed and discussed was referred to as containing a "conventional" device with a drum for gathering, collating or inserting printed products. The original disclosure did not indicate the figure was prior art. Hence, in keeping with the disclosure and applicant's arguments, the requirement to label this figure as "Prior Art" is withdrawn.

Inquiries related to this decision may be directed to Supervisory Patent Examiner Gene O. Crawford at (571) 272-6911.

Frederick Schmidt, Director
Technology Center 3600
571-272-5150

gc/lm: 12/28/09

LM

05 MAY 2005

#2

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

In re Application of	:	
DAVIDSON, Beverly L. *et al*	:	
Application No.: 10/522,954	:	
PCT No.: PCT/US03/16887	:	
Int. Filing Date: 26 May 2003	:	**DECISION**
Priority Date: 05 August 2002	:	
Attorney's Docket No.: 17023-045US2/03054	:	
For: ALLELE-SPECIFIC siRNA-MEDIATED	:	
GENE SILENCING	:	

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

BACKGROUND

On 31 January 2005, applicants filed papers to enter the national stage of PCT/US03/16887 using docket number 17023-045US2/03054 which was accompanied by, *inter alia*, a preliminary amendment, fees to enter the national stage and authorization to charge any additional fees or credit any fees to Deposit Account No. 06-1050. This application was given U.S. application number 10/522,954.

On the same day, counsel filed a duplicate national stage application for PCT/US03/16887 using attorney docket number 17023-045US1/03054. The papers included another preliminary amendment and appropriate fees for the claims. This application was given U.S. application number 10/522,935.

DISCUSSION

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/US03/16887. 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.

CONCLUSION

Both applications will be merged into one national stage application for PCT/US03/16887.

Applicants are advised that U.S. application No. 10/522,935 is no longer a valid U.S. National stage application. Applicants must use only U.S. application No. **10/522,954** for all correspondence to the national stage application of PCT/US03/16887. The attorney docket number is 17023-045US2/03054.

Counsel is advised that only the preliminary amendment filed under docket number 17023-045US2/03054 will be effective in the national stage of PCT/US03/16887. This amendment canceled claims 1-81 and added new claims 82-119.

The preliminary amendment filed under docket number 17023-045US1/03054 will not be considered. Applicants may file a Continuation and preliminary amendment to have these claims considered.

The $6,250.00 in fees paid in U.S. application No. 10/522,935 have been credited back to Deposit Account No. 06-1050.

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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12 SEP 2007

VIKSNINS HARRIS & PADYS PLLP
P.O. BOX 111098
ST. PAUL MN 55111-1098

In re Application of:	:	
DAVIDSON, Beverly, L., et al.	:	
U.S. Application No.: 10/522,954	:	DECISION ON PETITION
PCT No.: PCT/US2003/016887	:	FOR REVIVAL UNDER
International Filing Date: 26 May 2003	:	37 CFR 1.137(b) AND
Priority Date: 05 August 2002	:	PETITION UNDER
Attorney's Docket No.: 17023.045US2	:	37 CFR 1.48(b)
For: ALLELE-SPECIFIC siRNA-MEDIATED GENE	:	
SILENCING	:	

This decision is issued in response to applicants' "Petition for Revival Of Application" under 37 CFR 1.137(b) and "Request To Correct Inventorship Under 37 CFR 1.48(b)," filed 04 December 2006. Applicants have submitted the required petition fees

BACKGROUND

On 26 May 2003, applicants filed international application PCT/US2003/016887. The international application claimed a priority date of 01 May 2002, and it designated the United States. The deadline for filing the basic national fee was thirty months from the priority date, that is, 05 February 2005.

On 31 January 2005, applicants filed a Transmittal Letter seeking entry into the U.S. national stage accompanied by, among other materials, payment of the basic national fee.

On 08 December 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 09 February 2006, applicants filed a response to the Notification Of Missing Requirements which included sequence listing materials, the small entity surcharge payment, and a declaration that named as inventors, and was executed by, only two of the five inventors of record.

On 21 March 2006, the DO/EO/US mailed a Notification Of Defective Response (Form PCT/DO/EO/916) indicating that the filed declaration was defective for failure to include all the inventors of record.

On 13 April 2006, applicants filed a response to the Notification Of Defective Response which asserted that the filed declaration should be accepted because the inventorship listed therein was correct, based on the preliminary amendment filed with the national stage papers.

On 08 August 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 proper response to the Notification Of Missing Requirements mailed 08 December 2005.

On 04 December 2006, applicants filed the petition for revival under 37 CFR 1.137(b) considered herein accompanied by, among other materials, the "Request To Correct Inventorship Under 37 CFR 1.48(b)" also considered herein.

DISCUSSION

1. Petition For Revival Under 37 CFR 1.137(b)

37 CFR 1.137(b) permits the filing of a petition to revive an abandoned application where the abandonment resulted from an unintentional delay. A grantable petition under this section must include: (1) the required reply, unless previously filed; (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 here has failed to satisfy item (1).

Regarding item (1), the "required reply," section 711.03(c) of the Manual of Patent Examining Procedures states that "[g]enerally, the required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed." Here, the "required reply" was a proper response to the Notification Of Defective Response mailed 21 March 2006, that is, an oath or declaration in compliance with 37 CFR 1.497.

The present petition is not accompanied by the required oath or declaration. Rather, applicants have submitted a "Request To Correct Inventorship Under 37 CFR 1.48(b)" seeking to correct the inventors of record herein to correspond to those set forth in the previously filed declaration. However, as discussed below, the inventorship of a U.S national stage application filed under 35 U.S.C. 371(c) cannot be corrected pursuant to 37 CFR 1.48(b) until after applicants have satisfied the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) by, among other things, filing an acceptable oath or declaration executed by all the inventors of record in the international application.

Since applicants' present submission is insufficient to correct the inventorship herein to correspond to the previously filed declaration, the "required reply" of an oath or declaration acceptable under 37 CFR 1.497 has not been filed; item (1) above is therefore not satisfied.

Because applicants have failed to satisfy all the requirements of a grantable petition, revival of the application on the present record is not appropriate.

2. **Request To Correct Inventorship Under 37 CFR 1.48(b)**

By its express terms, 37 CFR 1.48(b) applies only to "non-provisional" applications. As set forth in 37 CFR 1.9(a)(3), a national stage application filed under 35 U.S.C. 371 is not considered a "non-provisional" application until "after compliance with 35 U.S.C. 371." Applicants here have not filed a declaration executed by the inventors of record in the international application, as required by 35 U.S.C. 371(c)(4). Accordingly, applicants' request to correct the inventorship herein pursuant to 37 CFR 1.48(b) is premature, and must be held in abeyance pending revival of the application and satisfaction of the requirements of 35 U.S.C. 371(c).

The inventors of record remain the five inventors set forth in the international application.

CONCLUSION

Applicants' petition or revival under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

Applicants' request to correct inventorship under 37 CFR 1.48(b) is **HELD IN ABEYANCE** pending revival of the application and satisfaction of the requirements of 35 U.S.C. 371(c).

If reconsideration on the merits of the petition for revival is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should be entitled "Renewed Petition Under 37 CFR 1.137(b)" and include the materials required to satisfy item (1) above.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

17 OCT 2008

Commissioner for Patents
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VIKSINS HARRIS & PADYS PLLP
P.O. BOX 111098
ST. PAUL MN 55111-1098

In re Application of: DAVIDSON, Beverly, L., et al. U.S. Application No.: 10/522,954 Int'l Application No: PCT/US2003/016887 Int'l Filing Date: 26 May 2003 Priority Date: 05 August 2002 Atty Docket No.: 17023.045US2 For: ALLELE-SPECIFIC siRNA-MEDIATED GENE SILENCING	DECISION ON RENEWED PETITION

This decision is issued in response to the correspondence filed by applicants on 29 January 2008, treated herein as a renewed petition for revival under 37 CFR 1.137(b). No petition fee is required.

BACKGROUND

The background for the present application was set forth in the decision mailed herein on 12 September 2007, which dismissed applicants' petition for revival under 37 CFR 1.137(b) for failure to satisfy all the requirements of a grantable petition. Specifically, applicants had failed to submit the "required reply" in the form of an oath or declaration in compliance with 37 CFR 1.497. The decision also held in abeyance applicants' petition under 37 CFR 1.48(b), noting that such a petition could not be considered until applicants had successfully satisfied the requirements of 35 U.S.C. 371(c) by submitting an acceptable oath or declaration executed by all the inventor's of record in the international application.

On 29 January 2008, applicants filed the correspondence considered herein as a renewed petition, with required extension fee.

DISCUSSION

As indicated in the previous decision, the "required reply" necessary to satisfy the final element of a grantable petition under 37 CFR 1.137(b) is an oath or declaration in compliance with 37 CFR 1.497 executed by the five inventors of record in the international application.

The present submission includes a declaration document that names and is executed by the five inventors of record. However, the declaration is not acceptable as filed. Specifically, the declaration appears to be an unacceptable compilation of multiple documents. See MPEP

Section 201.03(II)(B): "While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration." The compilation here is evident from the fact that the six-page declaration document submitted contains three different copies of "Supplemental Sheet 1 of 2," each signed by a different inventor. Applicants must provide copies of the complete four-page declaration executed by each of the inventors (each such declaration containing all required information, including the names of all five inventors of record).

It is also noted that the declaration is defective with respect to inventor Henry PAULSON because this inventor's signature block includes hand-written alterations that were not initialed and dated (See MPEP §605.04(a) and 37 CFR 1.52(c)). Any changes made in ink in the application or oath prior to signing should be initiated and dated by the applicants prior to execution of the oath or declaration. The Office will not consider whether non-initialed and/or non-dated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. See MPEP 605.04(a). Therefore, a newly executed declaration form Henry PAULSON (containing all required information, including the names of all five inventors of record) is required.

Based on the above, applicants have failed to submit an acceptable declaration in compliance with 37 CFR 1.497. Accordingly, the final element of a grantable petition under 37 CFR 1.137(b) remains unsatisfied.

CONCLUSION

The renewed petition for revival is **DISMISSED** without prejudice.

If reconsideration on the merits of the petition for revival is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should be entitled "Second Renewed Petition Under 37 CFR 1.137(b)" and include the materials required to satisfy the remaining element of a grantable petition, as discussed above and in the MPEP. 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

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

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

VIKSINS HARRIS & PADYS PLLP
P.O. BOX 111098
ST. PAUL MN 55111-1098

In re Application of: DAVIDSON, Beverly, L., et al. U.S. Application No.: 10/522,954 Int'l Application No: PCT/US2003/016887 Int'l Filing Date: 26 May 2003 Priority Date: 05 August 2002 Atty Docket No.: 17023.045US2 For: ALLELE-SPECIFIC siRNA-MEDIATED GENE SILENCING	DECISION ON SECOND RENEWED PETITION

This decision is issued in response to the "Second Renewed Petition For Revival Of Application" filed by applicants on 21 October 2008. No additional petition fee is required.

BACKGROUND

The background for the present application was set forth in the decisions mailed herein on 12 September 2007 and 17 October 2008, which dismissed applicants' petition for revival under 37 CFR 1.137(b) for failure to satisfy all the requirements of a grantable petition. Specifically, applicants had failed to submit the "required reply" in the form of an oath or declaration in compliance with 37 CFR 1.497.

On 21 October 2008, applicants filed the second renewed petition considered herein.

DISCUSSION

As indicated in the previous decisions, the "required reply" necessary to satisfy the final element of a grantable petition under 37 CFR 1.137(b) is an acceptable oath or declaration in compliance with 37 CFR 1.497 executed by the five inventors of record in the international application. The most recent decision indicated that the declaration filed by applicants on 29 January 2008 was not in acceptable form in that it appeared to be a compilation of multiple documents and because it contained unacceptable hand-written alterations.

The present submission includes revised declarations executed by the five inventors of record. These declarations are acceptable in compliance with 37 CFR 1.497. Accordingly, applicants have now provided the "required reply," thereby satisfying the final requirement of a grantable petition for revival under 37 CFR 1.137(b).

CONCLUSION

The second renewed petition for revival under 37 CFR 1.137(b) is **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. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 21 October 2008.

Applicant's request to correct inventorship under 37 CFR 1.48(b), filed 04 December 2006, will be addressed by the examiner in due course.

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

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Alexandria, VA 22313-1450
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21 SEP 2007

Kramer Levin Naftalis & Frankel LLP
Intellectual Property Department
1177 Avenues of the Americas
New York, New York 10036

In re Application of
SPRYCHA et al.
Application No.: 10/522,972
PCT No.: PCT/US03/25137
Int. Filing Date: 08 August 2003
Priority Date: 08 August 2002
Attorney Docket No.: C-553US
For: APPARATUS AND METHOD FOR QUANTATIVELY MEASURING LIQUID DRYING RATES ON SUBSTRATES

DECISION ON PETITION UNDER 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 in the Patent and Trademark Office (PTO) on 13 July 2007.

BACKGROUND

On 08 August 2003, applicants filed international application PCT/US03/25137 which claimed a priority date of 08 August 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 08 February 2005.

On 01 February 2005, applicants filed a Transmittal Letter for entry into the national stage accompanied, *inter alia,* by: the requisite basic national fee and a copy of the international application.

On 05 December 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) along with a surcharge for providing the oath or declaration later than 30 months from the priority date was required. The notification set a two (2) month period for response.

On 20 July 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the above identified

application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 05 December 2005 within the time period set therein.

On 13 July 2007, applicants filed "Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)."

DISCUSSION

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

With regard to Item (1), the proper response is the submission of the declaration of the inventors which complies with 37 CFR 1.497(a) and (b). (An additional claim fees of $150 was also due.) A review of the declaration filed on 13 July 2007 reveals that the declaration is not in an acceptable form. Applicants have provided a defective executed composite declaration. Section 201.03(II)(B) of the Manual of Patent Examining Procedure states, in part,

> 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 declaration rather than combined into one declaration.

A composite declaration under 37 CFR 1.497(a)-(b) requires that the declaration must be complete and identify each inventor in each set of declarations provided. The composite declaration is defective because it contains multiple duplicate sheets (the signature page containing the second through fifth inventors). This suggests that the enclosed declaration was constructed from numerous complete declarations or that the inventors forwarded to counsel only the signature pages of the declaration. Either alternative renders the submitted declaration defective under 37 CFR 1.497. While each inventor need not execute the same oath or declaration, where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. (See MPEP 201.03 B. Oath or Declaration.)

Further, the declaration executed by Doreen Smith is defective and is insufficient to satisfy the oath or declaration requirement of 35 CFR 371(c)(4) for entry into the national stage in the United States of America. Specifically, the declaration includes an alteration that has not been initialed and dated by the inventor. (See MPEP §605.04(a) and 37 CFR 1.52(c))

Application No.: 10/522,972

Since applicants have not met the requirements for revival of an application under 37 CFR 1.137(b), revival at this time would not be proper.

CONCLUSION

The petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice and the application remains **ABANDONED**.

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

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

Anthony Smith

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

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Alexandria, VA 22313-1450
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0 2 APR 2008

Kramer Levin Naftalis & Frankel LLP
Intellectual Property Department
1177 Avenue of the Americas
New York, New York 10036

In re Application of
SPRYCHA et al.
Application No.: 10/522,972
PCT No.: PCT/US03/25137
Int. Filing Date: 08 August 2003
Priority Date: 08 August 2002
Attorney Docket No.: C-553US
For: APPARATUS AND METHOD FOR QUANTATIVELY MEASURING LIQUID DRYING RATES ON SUBSTRATES

DECISION ON PETITION UNDER 37 CFR 1.137(b)

The renewed petition to revive under 37 CFR 1.137(b) filed 21 March 2008 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 applicants have submitted an executed declaration and power of attorney and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

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

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

30 AUG 2005

#7

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JACOBSON HOLMAN PLLC
400 7th Street, N.W. Suite 600
Washington, DC 20004

In re Application of	:	
Kleran John TRASS	:	DECISION ON
Application No.: 10/522,981	:	
PCT No.: PCT/NZ03/00004	:	
Int. Filing Date: 22 January 2003	:	REQUEST UNDER
Priority Date: 02 August 2002	:	
Attorney's Docket No.: P70401US0	:	
For: BOARD GAME	:	37 CFR 1.497(d)

This is a decision on applicants' "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C.371" filed on 18 July 2005, which is being treated as a request under 37 CFR 1.497(d) requesting adding inventor, Steven John McMenemy, in the executed declaration.

BACKGROUND

On 22 January 2003, applicant filed international application No. PCT/NZ03/00004 designating the United States and claiming a priority date of 22 January 2003. A copy of the intentional application was transmitted on 12 February 2004 to the USPTO from the International Bureau.

On 02 February 2005, applicant filed a Transmittal Letter for entry into the national stage in the United States of America. Filed with the Transmittal Letter were, *inter alia*, the requisite basic national fee, and the international application. No executed declaration or oath was submitted at such time.

On 02 May 2005, applicant filed a Transmittal of Missing Requirements of Application, which included an executed declaration that contained two inventors.

On 20 May 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by International application number and international filing date. The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it: The second inventor's name is not listed on the published International Application.

On 18 July 2005, applicants filed the present request to add inventor, Steven John McMenemy, in the executed declaration because by error and without deceptive intent he was not named as an inventor.

DISCUSSION

A submission under 37 CFR 1.497(d) must include:

(1) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
(2) the fee set forth in § 1.17(i); and
(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see 37 CFR §3.73(b) of this chapter).

A review of the application file reveals that applicants have satisfied item (1) but not items (2) and (3) under 37 CFR 1.497(d).

With respect to item (1), a statement has been submitted by Steven John McMenemy stating that the error in inventorship occurred without a deceptive intent.

With respect to item (2), the processing fee has not been provided.

With respect to item (3), the assignee, Hybrid Edutainment Limited, consents to the addition Steven John McMenemy. However, there is no copy of the executed assignment to the assignee in the file. To establish the right of the assignee to take action, applicants must submit a copy of the executed assignment or specify the reel and frame number. Note MPEP 324 and 37 CFR 3.73(b).

Accordingly, the request does not meet the requirements under 37 CFR 1.497(d).

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.497(d)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

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

26 SEP 2005

#9

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JACOBSON HOLMAN PLLC
400 7th Street, N.W. Suite 600
Washington, DC 20004

In re Application of	:	
Kleran John TRASS	:	DECISION ON
Application No.: 10/522,981	:	
PCT No.: PCT/NZ03/00004	:	
Int. Filing Date: 22 January 2003	:	REQUEST UNDER
Priority Date: 02 August 2002	:	
Attorney's Docket No.: P70401US0	:	
For: BOARD GAME	:	37 CFR 1.497(d)

This is a decision on applicants' "RENEWED REQUEST UNDER 37 CFR 1.497(d)" filed on 09 September 2005.

BACKGROUND

In a decision from this Office mailed on 30 August 2005, the decision indicated that the request was dismissed because the request did not satisfy items (2) and (3) of 37 CFR 1.497(d). The assignee, Hybrid Edutainment Limited, had neither a copy of the executed assignment in the file or the reel and frame number so it needed to establish the right to take action under 37 CFR 3.73(b.

On 09 September 2005, applicant filed the current communication, which included, *inter alia*, a copy of the assignment of the patent application to Hybrid Edutainment Limited.

DISCUSSION

A review of the renewed request reveals that applicant has satisfied item (3) of 37 CFR 1.497(d). In regard to item (3), applicant has submitted a copy of the assignment showing that Hybrid Edutainment Limited is the assignee of the above application and has establish its right to take action under 37 CFR §3.73(b).

In addition, applicant has paid the request fee.

Accordingly, applicant is deemed to satisfy requirements (1), (2), and (3) under 37 CFR 1.497(d).

CONCLUSION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing consistent with this decision. The 35 USC 371 (c)(1), (c)(2), and (c)(4) date of this application is **18 July 2005**.

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

25 MAY 2006
United States Patent and Trademark Office

#7

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Arent Fox PLLC
1050 Connecticut Avenue, NW
Suite 400
Washington, DC 20036

In re Application of	:	
Del Soldato et al.	:	
Application No.: 10/522,986	:	DECISION
PCT No.: PCT/EP03/08700	:	
Int. Filing Date: 06 August 2003	:	ON
Priority Date: 29 August 2002	:	
Attorney Docket No.: 026220-00061	:	PETITION
For: Process For Preparing Nitrooxylalkyl Substituted Esters Of Carbolic Acids, Intermediates Useful In Said Process And Preparation Thereof	:	

This is in response to the petition under 37 CFR 1.47(a) filed on 15 September 2005.

BACKGROUND

This international application was filed on 06 August 2003, claimed an earlier priority date of 29 August 2002, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 11 March 2004. The 30 month time period for paying the basic national fee in the United States expired at midnight on 28 February 2005. Applicants filed *inter alia* the basic national fee on 02 February 2005.

On 08 August 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(h).

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), petitioner paid $130.00 toward the petition fee on 15 September 2005. The remaining $70.00 is being charged to counsel's Deposit Account No. 01-2300, as authorized by the petition.

Regarding requirement (2), petitioner urges that the absence on the declaration of the signature of joint inventor Piero Del Soldato be excused because his "conduct clearly indicates that he does not intend to join this application." Counsel's attention is respectfully drawn to MPEP 409.03(d), which 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. 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

Counsel has presented an "Affidavit" signed by Maria Teresa Noro which states that she sent parcels to Mr. Del Soldato and to his attorney on 02 May 2005 and 23 May 2005, each such parcel including "a copy of the entire application" and a "USA/Assignment and Declaration" for each of four applications, requesting that he sign and return "said documents," but "Mr. Piero Del Soldato never sent back to me these documents." However, neither the "Affidavit" nor the supporting documentation clearly establishes that any of the documents in question pertained to the instant application number. Though the title of one of the applications referenced in the "Affidavit" superficially resembles the title of the instant application, such resemblance does not establish that Atty. Noro sent a declaration and a copy of ***this*** application to be executed by Mr. Del Soldato. In the absence of a clear showing that Mr. Del Soldato refused to execute this specific application after being presented with a copy of this application specifically, and an oath or declaration directed to it, it would not be appropriate to conclude that his conduct constitutes a refusal within the meaning of 37 CFR 1.47(a).

Regarding requirement (3), the petition includes a statement the last known address of Piero Del Soldato. Accordingly, requirement (3) has been satisfied.

Regarding requirement (4), the petition is accompanied by a declaration document signed by joint inventors Giancarlo Santus and Francesca Benedini on behalf of themselves and non-signing joint inventor Piero Del Soldato. 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.

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

PCT DAC

IAP7 Rec'd PCT/PTO 06 JUN 2006

OIPE IAP13 JUN 06 2006 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:	Confirmation No.: 6969
Del Soldato *et al.*	Group Art Unit: Unknown
Application Serial No.: 10/522,986	Examiner: Unassigned
Filed: February 2, 2005	Attorney Docket No.: 026220-00061

For: Process for Preparing Nitrooxyalkyl Substituted Esters of Carboxylic Acids, Intermediates Useful in Said Process and Preparation Thereof

RENEWED PETITION UNDER 37 C.F.R. §1.47(a)

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

June 6, 2006

Sir:

This is in response to the Decision on Petition, dated May 25, 2006, regarding the applicants' Petition under 37 C.F.R. § 1.47(a) filed September 15, 2005 requesting acceptance of the enclosed Oath/Declaration containing the signature of inventors Giancarlo SANTUS and Francesca BENEDINI, in response to the Notification of Missing Requirements dated August 8, 2005, which requested an oath/declaration.

The PCT Legal Examiners Richard Cole and George M. Dombroske acknowledged that, in the previously filed Petition, the applicants satisfied the following requirements of 37 C.F.R. §1.47(a):

(1) the requisite petition fee under 37 C.F.R. § 1.17(h);

(2) a statement of the last known address of Piero DEL SOLDATO, the nonsigning inventor; and

(3) an oath or declaration by each 37 C.F.R. § 1.47(a) applicant on his/his own behalf and on behalf of the non-signing inventor.

PCT Legal Examiner Richard Cole and George M. Dombroske stated, however, that the Applicants have not satisfied the requirement that "factual proof that the missing join inventor refuses to execute the application or cannot be reached after diligent effort." The assertion is made that "neither the 'Affidavit' nor the supporting documentation clearly establishes that any of the documents in question pertained to the instant application number" (Decision, page 2, last full paragraph).

However, Applicants respectfully submit that the previously filed May 2, 2005 and May 23, 2005 letters to Piero DEL SOLDATO (with the accompanying translation) specifically disclose the following paragraph:

> Our ref. NP0004 titled "PROCESS FOR PREPARING NITROXYALKYL SUBSTITUTED ESTERS OF CARBOXYLIC ACIDS, INTERMEDIATES USEFUL IN SAID PROCESS AND PREPARATION THEREOF" - 2 documents: USA/Assignment and Declaration and text of the patent.

(emphasis added). Further, page 2 of the Affidavit of Maria Teresa Noro discloses the following:

> ns. rif. NP0004 entitled "PROCESS FOR PREPARING NITROXYALKYL SUBSTITUTED ESTERS OF CARBOXYLIC ACIDS, INTERMEDIATES USEFUL IN SAID PROCESS AND PREPARATION THEREOF" - 2 documents: USA/Assignment and Declaration and a copy of the entire application (i.e. specification, including claims and drawings).

(emphasis added).

Applicants submit that NP0004, as well as the above disclosed title, specifically references the above-identified patent application, such that the 'Affidavit' and the supporting documentation clearly establishes that the documents sent to Piero DEL

SOLDATO relate to the instant application number. In fact, Applicants note that "NP0004" is cited as Applicant's reference number throughout the previously filed documents of the related PCT Application. As such, Applicants submit that the previously submitted Affidavit of Maria Teresa Noro and the accompanying documents are sufficient factual proof of Piero DEL SOLDATO's refusal to execute the above-identified patent application or that he cannot be reached after diligent effort.

For at least the above reasons, the applicants respectfully request that the Office of PCT Legal Administration grant this petition and forward the file to the Office of Initial Patent Examination (OIPE) for further processing. Any further delay will cause irreparable harm to the invention. If any questions or issues remain, the Office of PCT Legal Administration is respectfully requested to contact the undersigned to help with their resolution.

As this response is filed within two months of the Decision on Petition, the applicants do not believe that a fee is due. If this response is not timely filed, the applicants hereby petition for an appropriate extension of time. The Commissioner is authorized to charge any additional fees or credit any over-payments to Deposit Account No. 01-2300, referencing Attorney Docket No. **026220-00061**.

Respectfully submitted,

ARENT FOX PLLC

Amy E.L. Schoenhard

Amy E.L. Schoenhard
Registration No.: 46,512

Customer No.: **004372**
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5339
Telephone No.: 202-857-6000
Facsimile No.: 202-857-6395

United States Patent and Trademark Office

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Arent Fox PLLC
1050 Connecticut Avenue, NW
Suite 400
Washington, DC 20036

0 9 JAN 2007

In re Application of	:	
Del Soldato et al.	:	
Application No.: 10/522,986	:	DECISION
PCT No.: PCT/EP03/08700	:	
Int. Filing Date: 06 August 2003	:	ON
Priority Date: 29 August 2002	:	
Attorney Docket No.: 026220-00061	:	PETITION
For: Process For Preparing Nitrooxylalkyl Substituted Esters Of Carbolic Acids, Intermediates Useful In Said Process And Preparation Thereof	:	

This is in response to the renewed petitions under 37 CFR 1.47(a) filed on 06 June 2006 and 13 September 2006.

DISCUSSION

In a Decision mailed on 25 May 2006, the petition under 37 CFR 1.47(a) filed on 15 September 2005 was dismissed without prejudice because

> Counsel has presented an "Affidavit" signed by Maria Teresa Noro which states that she sent parcels to Mr. Del Soldato and to his attorney on 02 May 2005 and 23 May 2005, each such parcel including "a copy of the entire application" and a "USA/Assignment and Declaration" for each of four applications, requesting that he sign and return "said documents," but "Mr. Piero Del Soldato never sent back to me these documents." However, neither the "Affidavit" nor the supporting documentation clearly establishes that any of the documents in question pertained to the instant application number. Though the title of one of the applications referenced in the "Affidavit" superficially resembles the title of the instant application, such resemblance does not establish that Atty. Noro sent a declaration and a copy of ***this*** application to be executed by Mr. Del Soldato. In the absence of a clear showing that Mr. Del Soldato refused to execute this specific application after being presented with a copy of this application specifically, and an oath or declaration directed to it, it would not be appropriate to conclude that his conduct constitutes a refusal within the meaning of 37 CFR 1.47(a).

The renewed petition filed on 13 September 2006 was accompanied by a declaration executed by Piero Del Soldato, along with the other inventors nominated in the published international application. Inspection of this declaration reveals that it is in compliance with the requirements of 37 CFR 1.497(a) and (b). Therefore, the petition under 37 CFR 1.47(a) is MOOT.

DECISION

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

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **13 September 2006**.

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,988	02/02/2005	William Leslie Barnes	124-1104	4650

23117 7590 09/05/2008
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER
KALAM, ABUL

ART UNIT	PAPER NUMBER
2814	

MAIL DATE	DELIVERY MODE
09/05/2008	PAPER

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

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

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028008

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

In re Application of:	:	
Barnes et al.	:	DECISION ON PETITION
Serial No.: 10/522,988	:	
Filed: February 02, 2005	:	
Attorney Docket No.: SCS-124-1104	:	

This is a decision on the petition, filed July 08, 2008, requesting the examiner's holding that the inventions of elected claims 1, 2, 4, 6-11 and 15 and of withdrawn non-elected claims 3, 12, 13 and 16 do not share a common special technical feature be reviewed and reversed and all pending claims be examined. The petition is being treated as a petition under 37 C.F.R 1.144 requesting review of the restriction requirement. The petition is before the Director of TC 2800 for review.

The petition is **DENIED.**

BACKGROUND

A final Office action was mailed on January 02, 2008. At the time this final Office action was mailed, claims 1-4 and 6-16 were pending. Claims 1, 2, 4, 6, 7, 9,14 and 15 were finally rejected under 35 U.S.C. 102 as being anticipated by Scherer et al. (US 6,534,798), claims 3, 8 and 10 were finally rejected under 35 U.S.C. 103(a) as being unpatentable over Scherer et al. (US 6,534,798) in view of Arnold et al. (US 2004/00112328) and claim 11 was finally rejected under 35 U.S.C. 103(a) as being unpatentable over Arnold et al. (US 2004/00112328).

A notice of Appeal and a Pre-Appeal Brief Request for Review were filed on May 02, 2008.

A panel decision on the Pre-Appeal Brief Request for Review was issued on June 06, 2008, advising the appellant that the appeal would proceed.

The instant petition was filed on July 08, 2008, requesting that the examiner's action be reviewed and reversed, and all pending claims be examined.

REGULATION AND PRACTICE

37 C.F.R. § 1.144 states:

> Petition from requirement for restriction.
> After a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Director to review the requirement. **Petition** may be deferred until after final action on or allowance of claims to the invention elected, **but must be filed not later than appeal**. A petition will not be considered if reconsideration of the requirement was not requested (see § 1.181). (Emphasis added).

MPEP § 821.01 states in part:

> Note that the petition under 37 CFR 1.144 must be filed not later than appeal. This is construed to mean appeal to the Board of Patent Appeals and Interferences...

OPINION

Although the petition does not indicate that it was filed under 37 C.F.R. § 1.144, a petition requesting review of an examiner's requirement for restriction falls under this section of the Rules. The instant petition requests review and reversal of the examiner's withdrawal of claims 3, 12, 13 and 16 upon finding that the inventions presented in the pending claims lack unity of invention. This petition is properly treated as a petition under 37 CFR 1.144 and must meet the requirements under this section of the Rules.

37 CFR 1.144 requires that a petition thereunder must be filed no later than the filing of an appeal to the Board of Patent Appeals and Interferences. The appeal in the instant application was filed on May 02, 2008, and the instant petition was filed on July 08, 2008, more than two months after the appeal. Accordingly, the petition was not timely and must be denied without considering the propriety of the restriction requirement.

Petitioner also raises issues with the interpretation of the claims and of the prior art. These are appealable issues that are not petitionable.

Regarding the amendment filed under 37 C.F.R. 1.116, it is noted that amendments filed after appeal are governed by 37 CFR 41.33.

Petitioner requests clarification of the status of claim 3. It is noted that claim 3 was inadvertently rejected with claims 8 and 10. Claim 3 remains withdrawn from consideration along with claims 12, 13 and 16.

Any inquiry regarding this decision should be directed Wael Fahmy Supervisory Patent Examiner at (571) 272-1705.

Richard Seidel, Director
Technology Center 2800

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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 04/20/2010

Applicant	: Marc Vertes	: DECISION ON REQUEST FOR
Patent Number	: 7577720	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/523,025	: OF WYETH
Filed	: 02/02/2005	:
		:

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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INTELLECTUAL PROPERTY GROUP
FREDRIKSON & BYRON, P.A.
200 SOUTH SIXTH STREET, SUITE 4000
MINNEAPOLIS, MN 55402

Mail Date: 06/03/2010

Applicant	: Paride Grisenti	: DECISION ON REQUEST FOR
Patent Number	: 7667056	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/523,058	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/02/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1216** 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 APR 2006

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17 APR 2006

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of WINTER (Deceased) Application No.: 10/523,063 PCT No.: PCT/EP03/08445 Int. Filing Date: 30 July 2003 Priority Date: 13 August 2002 Attorney Docket no.: 081539-000000US For: METHOD FOR THE TREATMENT OF FIBER MATERIAL	DECISION ON REQUEST UNDER 37 CFR 1.42

This is a decision on applicant's Response to Notification of Missing Requirements filed in the United States Patent and Trademark Office (USPTO) on 21 October 2005 and is being treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 01 September 2005, a Notification of Missing Requirements was mailed to applicant indicating that to satisfy the requirements of 35 U.S.C. 371(c), an oath or declaration of the inventors be furnished.

On 21 October 2005, applicant filed a response to the Notification with a declaration which was signed by 8 inventors and by the legal representative for deceased inventor Peter-Rigobert Winter. The declaration identifies Erika Winter as the heir of deceased inventor Peter-Rigobert Winter.

DISCUSSION

37 CFR § 1.42 requires that in the case of the death of the inventor, the legal representative of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent.

37 CFR 1.497(a)(3) requires that the declaration identify each inventor and the country of citizenship of each inventor. 37 CFR 1.497(b)(2) requires the declaration to state the relationship of the person (under 37 CFR 1.42) making the declaration for a deceased inventor. 37 CFR 1.497(b)(2) further states that, if the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration must state that the person is a legal representative and indicate the citizenship, residency and mailing address of the legal representative. The declaration must also state the citizenship, residency and last mailing address of the deceased inventor to comply with 37 CFR 1.497(a)(3).

The declaration is unacceptable for several reasons. First, the declaration does not state the country of citizenship, former residency and mailing address for *both* the deceased inventor

and the heir, for compliance with 37 CFR 1.497(b)(2). The new declaration must provide the citizenship, residency and mailing address of the heir(s) and the citizenship, last known residency and mailing address of the deceased inventor.

Second, it is unclear whether Erika Winter is the only heir of deceased inventor Peter-Rigobert Winter. (See MPEP §409.01(a)). That is, there may be other heirs who are required to also sign the declaration. A new declaration must indicate that Erika Winter is the only heir for the deceased inventor to accept the application under 37 CFR 1.42. Alternatively, applicants' attorney may file a statement certifying that Erika Winter is the only heir.

Finally, the declaration is comprised of nine pages, containing one page 1 and one page 2 and seven duplicate page 3 signature pages. Each page 3 is executed by a different inventor(s). 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. Accordingly, it is inappropriate, at this time, to accord the application status under 37 CFR 1.42.

For the reasons stated above, a new declaration is required in compliance with 37 CFR 1.497 and 1.64. Accordingly, it is inappropriate, at this time, to accord the application status under 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **DISMISSED WITHOUT PREJUDICE.**

The declaration submitted on 21 October 2005 cannot be accepted as a proper response to the Notification of Missing Requirements at this time. What is required is a new 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 Notification of Missing Requirements.

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

Cynthia M Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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

27 SEP 2006

#6

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In re Application of WINTER (Deceased) Application No.: 10/523,063 PCT No.: PCT/EP03/08445 Int. Filing Date: 30 July 2003 Priority Date: 13 August 2002 Attorney Docket no.: 081539-000000US For: METHOD FOR THE TREATMENT OF FIBER MATERIAL	DECISION ON REQUEST UNDER 37 CFR 1.42

This is a decision on applicant's Response to Decision on Request under 37 CFR 1.42 filed in the United States Patent and Trademark Office (USPTO) on 18 August 2006. Applicant requests a two month extension of time, which is granted.

BACKGROUND

On 01 September 2005, a Notification of Missing Requirements was mailed to applicant indicating that to satisfy the requirements of 35 U.S.C. 371(c), an oath or declaration of the inventors be furnished.

On 21 October 2005, applicant filed a response to the Notification with a declaration which was signed by 8 inventors and by the legal representative for deceased inventor Peter-Rigobert Winter. The declaration identifies Erika Winter as the heir of deceased inventor Peter-Rigobert Winter.

On 17 April 2006, a decision on applicant's petition was mailed indicating that the declaration was unacceptable for several reasons: (1) the declaration did not state the country of citizenship, former residency and mailing address for *both* the deceased inventor and the heir, for compliance with 37 CFR 1.497(b)(2); (2) it was unclear whether Erika Winter is the only heir of deceased inventor Peter-Rigobert Winter; (3) the declaration was comprised of nine pages, containing one page 1 and one page 2 and seven duplicate page 3 signature pages.

On 18 August 2006, applicant filed 9 newly executed declarations.

DISCUSSION

37 CFR § 1.42 requires that in the case of the death of the inventor, the legal representative of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent.

37 CFR 1.497(a)(3) requires that the declaration identify each inventor and the country of citizenship of each inventor. 37 CFR 1.497(b)(2) requires the declaration to state the relationship of the person (under 37 CFR 1.42) making the declaration for a deceased inventor. The

declaration must also state the citizenship, residency and last mailing address of the deceased inventor to comply with 37 CFR 1.497(a)(3).

Petitioner submitted nine (9) newly executed declarations. The declarations submitted are acceptable. The attorney of record states that each declaration states the country of citizenship, residency and mailing address for *both* the deceased inventor and the heir, for compliance with 37 CFR 1.497(b)(2) and that Erika Winter is the sole heir of deceased inventor Peter-Rigobert Winter. (See MPEP §409.01(a)). The new declarations indicate that Erika Winter is the sole heir for the deceased inventor.

Petitioner provided nine, separate complete declarations. The requirements of 37 CFR 1.497 (a) and (b) have been met and the declarations are acceptable as filed. Accordingly, it is appropriate, at this time, to accord the application status under 37 CFR 1.42.

CONCLUSION

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

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **18 August 2006.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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

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BRACHER RAWLINS LLP
Fox Court
14 Gray's Inn Road
London WC1X 8HN

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JUL 11 2008

Enclosure: February 13, 2008 letter, requesting registration of a "Freezing Injunction"

For: U.S. Patent Nos. 6,818,033; 6,849,094; 6,936,095; 7,207,197 and 7,300,482; and U.S. Patent Application Publication Nos. 2003/0159412; 2004/0103785; 2004/0083773; 2004/0244438; 2005/0092032; 2005/0194295 and 2006/0162299	**DECISION DISMISSING REQUEST**

This is a decision on the letter, dated February 13, 2008, requesting registration of a "Freezing Injunction," issued In The High Court of Justice, Chancery Division, against (a) U.S. Patent Nos. 6,818,033, 6,849,094, 6,936,095, 7,207,197, 7,300,482, any other U.S. patents for which John Herbert North is the applicant, and (b) U.S. Patent Application Publication Nos. 2003/0159412, 2004/0103785, 2004/0083773, 2004/0244438, 2005/0092032, 2005/0194295 and 2006/0162299. The letter is taken as written requests for both (a) a citation of information under 35 U.S.C. § 301 in multiple patents, and (b) a citation of information under 35 U.S.C. § 122(b) in multiple published patent applications.

This request is before the Office of Patent Legal Administration for decision.

The present request for citation of the Freezing Injunction in the above-captioned U.S. patents and patent application publications has been fully considered. The request is **dismissed**, for the reasons set forth below.

RELEVANT STATUTES, REGULATIONS, AND EXAMINING PROCEDURE

37 CFR 1.4(c) provides:

> "Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must

be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects."

35 U.S.C. § 122(b) provides:

> (c) PROTEST AND PRE-ISSUANCE OPPOSITION.— The Director shall establish appropriate procedures to ensure that no protest or other form of pre-issuance opposition to the grant of a patent on an application may be initiated after publication of the application without the express written consent of the applicant.

The Manual of Patent Examining Procedure (MPEP) § 1134 provides (in part):

> Any submission filed by a third party (e.g., a protest) in an application published under 35 U.S.C. 122(b) (without the express written consent of the applicant) that does not comply with the requirements of 37 CFR 1.99 will be disregarded and not entered into the application file.

35 U.S.C. § 301 provides:

> Any person at any time may cite to the Office in writing prior art consisting of patents or printed publications which that person believes to have a bearing on the patentability of any claim of a particular patent. If the person explains in writing the pertinency and manner of applying such prior art to at least one claim of the patent, the citation of such prior art and the explanation thereof will become a part of the official file of the patent. At the written request of the person citing the prior art, his or her identity will be excluded from the patent file and kept confidential.

The Manual of Patent Examining Procedure (MPEP) § 2205 provides (in part):

> The prior art which may be submitted under 35 U.S.C. 301 is limited to "written prior art consisting of patents or printed publications."
>
> If the prior art citation contains any issue not directed to patents and printed publications, it should not be entered into the patent file, despite the fact that it may otherwise contain a complete submission of patents and printed publications with an explanation of the pertinency and applicability. Rather, the prior art citation should be returned to the sender as described in MPEP § 2206.

DISCUSSION

The instant written request for citation of the Freezing Injunction is improper, because 37 CFR 1.4(c) provides that "each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects." In

this instance, a third party has provided written requests for both (a) a citation of information under 35 U.S.C. § 301 in a patent, and (b) a citation of information under 35 U.S.C. § 122(b) in a published patent application. Accordingly, the request is improper, and is dismissed.

It is additionally noted as follows:

1. The request for "any other U.S. patents for which John Herbert North is the applicant" is indefinite and does not identify a specific patent to which the request may be applied. Further, 37 CFR 1.4(b) requires that "a separate copy of every paper to be filed in a patent, patent file, or other proceeding must be furnished for each file to which the paper pertains, even though the contents of the papers filed in two or more files may be identical," and requestor clearly has not provided copies for all the above-captioned patents, published patent applications, and any other patents for which John Herbert North is the applicant.

2. The prior art which may be submitted under 35 U.S.C. § 301 is limited to patents or printed publications. The present information citation (submission) contains an issue not directed to patents and printed publications, as well as comments on the information submitted. Requester has not shown the present information submission to be compliant with 35 U.S.C. § 301 and MPEP 2205.

3. Any submission filed by a third party (e.g., a protest) in an application published under 35 U.S.C. 122(b) (without the express written consent of the applicant) must comply with the requirements of 37 CFR 1.99. Requester has not shown the present information submission to be compliant with 35 U.S.C. § 122(b) and MPEP 1134.

CONCLUSION

Accordingly, the written request under 35 U.S.C. § 301 and 35 U.S.C. § 122(b) for citation of prior art is **dismissed**

The citation (submission) of information will not be entered into any file, and it is returned herewith to the sender.

Any questions concerning this communication should be directed to Nicole D. Dretar, Legal Advisor, at 571-272-7717.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

June 24, 2008

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DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
New York, NY 10008-0770

Mail Date: 04/21/2010

Applicant	: Hiroo Muramoto	: DECISION ON REQUEST FOR
Patent Number	: 7579401	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/523,085	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/02/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **143** 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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DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
New York, NY 10008-0770

Mail Date: 05/18/2010

Applicant : Hiroo Muramoto
Patent Number : 7579401
Issue Date : 08/25/2009
Application No : 10/523,085
Filed : 02/02/2005

: 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 **227** 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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Alexandria, VA 22313-1450
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DEC 13 2007

James S. Keddie. Ph.D.
BOZICEVIC, FIELD & FRANCES LLP
ARENA PHARMACEUTICALS, INC.
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

In re Application of:
ADAMS et al.
Serial No.: 10/523,100
Filed: January 31, 2005
Attorney Docket No.: AREN-27
(27.US2.PCT)

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.181, filed September 20, 2007, requesting that the Notice of Non-Responsive Amendment of September 4, 2007 be withdrawn.

BACKGROUND

This application was filed as a national stage application under 35 USC 371 of PCT/US03/23296 and, as such, is eligible for unity of invention practice.

A review of this application reveals that the examiner mailed a restriction requirement on March 3, 2006 y. The examiner divided claims 85-121 into 14 Groups and indicated that the Groups lacked unity of invention and therefore were properly restrictable under PCT Rule 13.1. The Groups of the Restriction requirement were set out by the examiner as follows:

I. Claims 85-96, drawn to a method of identifying a modulator of a RUP41 GPCR.
II. Claim 97, drawn to a process for making a modulator of a RUP41 GPCR.
III. Claims 98-100 and 104, drawn to a modulator.
IV. Claims 101 and 102, drawn to a method of modulating the activity of a RUP41 GPCR.
V. Claim 103, drawn to a method of preparing a composition.
VI. Claims 105-109, drawn to a method of cardioprotection.
VII. Claim 110, drawn to a method of making a knockout mouse or rat.
VIII. Claims 111 and 112, drawn to a method of using the knockout mouse or rat.
IX. Claims 113-115, drawn to an isolated rat RUP41 polynucleotide, a vector, and a host cell.
X. Claim 116, drawn to a GPCR fusion protein comprising a RUP41 amino acid

sequence.

XI. Claim 117, drawn to a method of identifying a ligand of a RUP41 GPCR.

XII. Claims 118 and 119, drawn to a method of radioimaging.

XIII. Claim 120, drawn to a non-human mammal transgenic for a human RUP41 GPCR.

XIV. Claim 121, a method of using the tansfenic [*sic*] non-human mammal.

The examiner further required a restriction between the claimed amino acid sequences (i.e., SEQ ID's 1, 2, 3, 4 and 5) indicating that the polypeptides having the SEQ ID No's lacked unity of invention and additionally required an election of species between the diseases of claims 89-91; the examiner indicating that the species lacked a special technical feature and thus lacked unity of invention.

In response to the Restriction requirement set forth by the examiner on March 3, 2006 , applicants filed a reply on September 26, 2006 which included the election of Group I and SEQ ID NO. 3 with traverse. Applicants' reply further included amendments to the claims, the addition of new claims 122-131 and arguments traversing the restriction requirement.

The examiner mailed a non-final Office action on December 21, 2006. In this Office action, the examiner considered applicants' traversal of the restriction requirement; however, the examiner indicated that applicants' arguments were not persuasive and thus rendered the restriction requirement FINAL. The examiner did however, join new claims 122-131 with Group I for examination.

In response, applicants filed an amendment and remarks on June 8, 2007. In this response, applicants cancelled claims 85-131 and added new claims 132-152.

On September 4, 2007, the examiner set forth a Notice of Non-Responsive Amendment. In this Notice, the examiner indicated that:

> The amendment filed on 06/08/2007 canceling all claims drawn to the elected invention and presenting only new claims drawn to non-elected inventions is non-responsive (MPEP § 821.03. Moreover, the amendment does not show the specific support for each of the newly added claims.

In response to the Notice of Non-Responsive Amendment of September 4, 2007, applicants filed a petition under 37 CFR § 1.181 on September 20, 2007, requesting that the Notice of Non-Responsive Amendment of September 4, 2007 be withdrawn.

DISCUSSION

The petition and the file history have been carefully considered.

The MPEP states that:

> 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] (MPEP § 821.03, emphasis added)

Thus, in situations where an amendment is submitted by applicants canceling all claims directed toward the elected invention, and a Notice of Non-responsive amendment is submitted by the examiner, the MPEP *requires* an explanation of why the remaining claims (in the present instance, claims 132-152) do not read on the elected invention. However, the examiner provided no such reasoning and therefore did not fulfill the requirement of MPEP § 821.03, hence rendering the Notice incomplete.

Applicants argue that the Notice of Non-Responsive Amendment submitted by the examiner on September 4, 2007 was in error because:

> While the scope of the new and old claim sets may be different, the Applicants submit that both claim sets are directed to a method of identifying a modulator of RUP41. As such, it is the Applicants' belief that both claim sets are directed to elected subject matter. (p. 1, Petition)

Applicants further argue that their response of June 8, 2007 set forth support for the addition of new claims 132-152 (p. 2, Petition). New Claim 132 is set forth below.

> 132. (New) A method comprising:
>
> (a) contacting a candidate compound with a G protein-coupled receptor comprising an amino acid sequence having at least 90% identity to SEQ ID NO:3, wherein said GPCR is present on a cell or isolated membrane thereof;
>
> (b) determining the ability of the compound to modulate the G protein-coupled receptor; and
>
> (c) determining if said compound has cardioprotective activity.

Claim 88, part (h) which was examined in the first Office action on the merits, recites a similar limitation as Claim 132(a) of "..an amino acid sequence of a G-protein coupled receptor having at least 90% identity to SEQ ID NO 2, SEQ ID NO:3 or SEQ ID NO 5."

Thus, claims 132-147 are directed toward the same subject matter as the elected invention and should be entered and examined.

DECISION

The petition under 37 CFR § 1.181, filed September 20, 2007, requesting that the Notice of Non-Responsive Amendment of September 4, 2007 be withdrawn is **GRANTED.**

The incomplete Notice of Non-Responsive Amendment dated June 08, 2007 is hereby withdrawn.

The application will be forwarded to the examiner to reconsider the amendment filed by applicants on June 8, 2007 and to examine at least claims 132-147 which are directed toward the elected invention. If the examiner withdraws any claims on the merits, an explanation of why those claims are not directed toward the elected invention must be incorporated in the next communication to applicants.

Should there be any questions about this decision please contact Quality Assurance Specialist Julie Burke, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0512 or by facsimile sent to the general Office facsimile number, 571-273-8300.

John LeGuyader
Director, Technology Center 1600

16 AUG 2005

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Clifford W. Vermette
VERMETTE & CO.
BOX 40, GRANVILLE SQUARE
SUITE 230, 200 GRANVILLE STREET
VANCOUVER, BRITISH COLUMBIA
CANADA V6C 1S4

In re Application of PAUKOV Application No.: 10/523,109 PCT Application No.: PCT/CA03/00927 Int. Filing Date: 10 June 2003 Priority Date Claimed: 10 June 2002 Attorney Docket No.: 2282-173 For: BUNG FOR A PAPER ROLL	DECISION ON PETITION UNDER 37 CFR 1.137(a)

Applicants' "Petition For Revival Under 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office on 03 February 2005 is **DISMISSED**.

BACKGROUND

On 10 June 2003, applicants filed international application PCT/CA03/00927. The international application claims a priority date of 10 June 2002 and designates the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 18 December 2003. The deadline for paying the basic national fee in the United States is thirty months from the priority date, that is 10 December 2004. The application became abandoned at midnight 10 December 2004 for failure to pay the national basic fee.

On 03 February 2005, applicants filed the instant petition for revival accompanied by, *inter alia*, a transmittal letter for entry into the US national stage under 35 U.S.C. 371, 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 $750.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper reply, (2) 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 has satisfied items (1) and (3) and, as to item (4), since the application was filed after 08 June 1996, a terminal disclaimer is not required.

As to item (2), applicant's petition states that:

> "At the time the application was abandoned, there were a number of patent applications being considered for cancellation and due to a miscommunication, this patent application was included in the list of patent applications to be allowed to go abandoned. This situation was not discovered until two weeks ago."

The showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unintentional. Applicant has not presented any evidence of who considered this application to be included in the list of patent applications that is to go abandoned. Nor has applicant presented any evidence of how was the application discovered and determined for it not to be abandoned. Applicant needs to provide more information for clarification, such as the indicated list of the patent applications to be abandoned and statements from people having first hand knowledge of putting this application on the list for abandonment and of discovery that the application was abandoned.

CONCLUSION

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

Applicant is hereby afforded **TWO (2) MONTHS** from the mailing date of this decision to submit appropriate evidence in accordance with 37 CFR 1.237(b).

Extensions of time may be obtained under 37 CFR 1.136(a).

The application papers will be retained in the PCT Legal Office pending response to this Decision. Failure to timely file a response to this Decision will result in holding of ABANDONMENT of this application.

Helen Kwok
PCT Legal Administration Detailee
Telephone: 571-272-6095
Facsimile: 571-273-0459

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

#6

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05 DEC 2005

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Vermette & Co.
Box 40, Granville Square
Suite 230, 200 Granville Street
Vancouver BC V6C 1S4 CANADA

In re Application of	:	DECISION
PAUKOV	:	
Application No.: 10/523,109	:	
PCT No.: PCT/CA03/00927	:	
Int. Filing Date: 10 June 2003	:	
Priority Date: 10 June 2002	:	
Attorney Docket No.: 2282-173	:	
For: BUNG FOR A PAPER ROLL	:	

This decision is in response to applicant's submission filed in the United States Patent and Trademark Office (USPTO) on 16 November 2005.

BACKGROUND

On 10 June 2003, applicant filed international application PCT/CA03/00927, which designated the U.S. and claimed a priority date of 10 June 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 18 December 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 10 December 2004.

On 03 February 2005, 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, the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date, an assertion of small entity status, a declaration of the inventor, and a petition under 37 CFR 1.137(b) to revive the application.

On 16 August 2005, a decision was mailed dismissing applicant's petition under 37 CFR 1.137(b). Specifically, it was noted that the showing of record was not sufficient to establish to the satisfaction of the Commissioner that the delay was unintentional.

On 17 October 2005, applicant filed a petition/fee for a one-month extension of time.

On 16 November 2005, the instant request for reconsideration of the petition to revive under 37 CFR 1.137(b) was filed, which was accompanied by Exhibits A-C.

BEST AVAILABLE COPY

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 noted in the decision mailed 16 August 2005, items (1) and (3) have been satisfied.

As to item (2), the showing is still not sufficient to establish to the satisfaction of the Commissioner that the delay was unintentional. The e-mail from Kevin Shoesmith to Kim Smith dated 10 June 2004 (Exhibit C) indicates by implication that file 2282-167 was intended to be closed or abandoned. The declaration of Fay Ferreira (Exhibit A) indicates that this was an error (paragraph 5). However, this indication is merely an assertion that there was an error; no evidence has been provided to support this assertion. For example, it is unclear what the basis was for Mr. Shoesmith's conclusions regarding which files should remain open. For example, was another list generated by someone other than Mr. Shoesmith and the file numbers taken from such a second list? Or did Mr. Shoesmith generate a second list by himself? And if so, what was his decision based on? For example, it may have been based on something like commercial viability estimates. However, there is no evidence that this something, e.g., commercial viability estimates, indicated that file 2282-167 should have been kept open but was inadvertently left off the list sent in the e-mail.

CONCLUSION

The petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice, for the reasons set forth above.

Applicant is hereby given the time limit of **TWO (2) MONTHS** from the mail date of this communication in order to file a proper response.

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

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

Daniel Stemmer
Legal Examiner

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

08 MAY 2006

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GOWLING LAFLEUR HENDERSON LLP
P.O. BOX 49122
2300-1055 DUNSMUIR ST.
VANCOUVER, CANADA V7X 1-J1

In re Application of	:	DECISION
PAUKOV	:	
Application No.: 10/523,109	:	
PCT No.: PCT/CA03/00927	:	
Int. Filing Date: 10 June 2003	:	
Priority Date: 10 June 2002	:	
Attorney Docket No.: 2282-173	:	
For: BUNG FOR A PAPER ROLL	:	

This decision is in response to applicant's submission filed via facsimile transmission in the United States Patent and Trademark Office (USPTO) on 03 March 2006, which has been treated as a renewed petition under 37 CFR 1.137(b).

BACKGROUND

On 10 June 2003, applicant filed international application PCT/CA03/00927, which designated the U.S. and claimed a priority date of 10 June 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 18 December 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 10 December 2004.

On 03 February 2005, 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, the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date, an assertion of small entity status, a declaration of the inventor, and a petition under 37 CFR 1.137(b) to revive the application.

On 16 August 2005, a decision was mailed dismissing applicant's petition under 37 CFR 1.137(b). Specifically, it was noted that the showing of record was not sufficient to establish to the satisfaction of the Commissioner that the delay was unintentional.

On 17 October 2005, applicant filed a petition/fee for a one-month extension of time.

On 16 November 2005, a request for reconsideration of the petition to revive under 37 CFR 1.137(b) was filed, which was accompanied by Exhibits A-C.

On 05 December 2005, a decision was mailed dismissing applicant's request for reconsideration of the petition to revive under 37 CFR 1.137(b). Specifically, it was noted that the showing was still not sufficient to establish to the satisfaction of the Commissioner that the delay was unintentional.

On 02 February 2006, applicant filed a petition/fee for a one-month extension of time along with a REVOCATION OF POWER OF ATTORNEY WITH NEW POWER OF ATTORNEY AND CHANGE OF CORRESPONDENCE ADDRESS.

On 03 March 2006, applicant filed via facsimile transmission the instant renewed petitin under 37 CFR 1.137(b).

DISCUSSION

Renewed Petition Under 37 CFR 1.137(b)

A petition to revive the present application under 37 CFR 1.137(b) must include:

(1) The required reply;

(2) The petition fee;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As noted in the decision mailed 16 August 2005, items (1) and (2) have been satisfied. (The decision mailed 05 December 2005 incorrectly indicated that items (1) and (3) had been satisfied.)

As to item (3), the declaration of Matt Friesen is sufficient to establish to the satisfaction of the Commissioner that the delay was unintentional.

Declaration of Inventors

The declaration of the inventor filed 03 February 2005 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

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

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

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

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

21 JUL 2005

#6

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Burns Doane Swecker & Mathis
P O Box 1404
Alexandria VA 22313-1404

In re Application of CHAN Application No.: 10/523,113 PCT No.: PCT/IB03/03080 Int. Filing: 01 August 2003 Priority Date: 01 August 2002 Attorney Docket No.: 007198-619 For: IMPROVED PERSONAL CARE WITH THERMAL FEEDBACK AND OPERATING CONDITIONS DISPLAY	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 03 February 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing this application from the February 1, 2005, due date until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $300 has been provided. The required petition fee of $1500 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

It is noted that the declaration filed under PCT Rule 4.17 does not properly identify the international application to which it is directed and thus, is not compliance with 37 CFR 1.497(a) and (b).

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 an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and 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

Kratz, Cynthia

From: pt13.pct [pt13.pct@wipo.int]
Sent: Thursday, July 21, 2005 3:21 AM
To: Kratz, Cynthia
Subject: PCT/IB03/03080

Hello,
Further to your request, please be informed that the Declaration under Rule 4.17 was submitted to the International Bureau after the filing date of 01 August 2003.
It was received on 19 August 2003, as indicated in our Form PCT/IB/371 issued on 26 September 2003.
Kind regards

Fabienne Socié
PCT Receiving and Processing Section

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OFFICE OF PETITIONS

In re Application of

COURTNEY, Stephen M. et al.
Application No. 10/523,118
Filed: October 04, 2005
Attorney Docket No. **CELL-0289**

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 01, 2007.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, no longer represents this client, does not meet any of the conditions set forth in 37 CFR 10.40.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MICHAEL S. GREENFIELD**
MCDONNELL BOEHNEN HULBERT &
BERGHOFF LLP
300 SOUTH WACKER DRIVE
CHICAGO, IL 60606

28 JUL 2005

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ALEXANDRIA, VA 22313-1450
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Kirk Hahn
14431 HOLT AVENUE
SANTA ANA, CA 92705

In re Application of YOSHIMURA et al.
Application No.: 10/523,120
PCT Application No.: PCT/JP04/02756
Int. Filing Date: 04 March 2004
Priority Date Claimed: 17 March 2003
Attorney Docket No.: ASA-007
For: STATION

DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to applicants' "Facsimile Response" filed in the United States Patent and Trademark Office on 24 June 2005 which has been treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment. The petition is **GRANTED**. However, for reasons below, applicants have not yet forwarded the required basic national fee.

BACKGROUND

On 04 March 2004, applicants filed international application PCT/JP04/02756 designating the United States. The international application claims priority date of 17 March 2003. The deadline for paying the basic national fee in the United States is thirty months from the priority date, that is 17 September 2005.

On 24 January 2005, applicants filed a transmittal letter for entry into the U.S. national stage under 35 U.S.C. 371, which was accompanied by, *inter alia*, 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 authorization to charge the basic national fee of $1000 to applicants' credit card. The credit card was declined, and thus the basic national fee was not paid.

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On 20 June 2005, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that the basic national fee was not paid due to credit card being declined.

On 24 June 2005, applicants filed the instant facsimile response accompanied by, *inter alia*, a new credit card payment form for the requisite basic national fee as required by 35 U.S.C. 371(c)(1).

DISCUSSION

§ 37 C.F.R. 1.6, **Receipt of correspondence**, states, in part:

"(d) *Facsimile transmission*. Except in the cases enumerated below, correspondence, including authorizations to charge a deposit account, may be transmitted by facsimile. The receipt ...cover sheet. Facsimile transmission are not permitted and, if submitted will not be accorded a date of receipt in the following situation:

(3) Correspondence which cannot receive the benefit of the certification 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 C.F.R. 1.8, **Certificate of mailing or transmission**, states, in part:

"(a) Except in the situations enumerated in paragraph (a)(2) of this section as otherwise expressly excluded in this chapter, correspondence required to be filed in the U.S. Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.

(2) 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:

(i) Relative to Patents and Patent Applications

(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)."

§ 37 C.F.R. 1.495, **Entering the national stage in the United States of America**, states, in part:

"(b) To avoid abandonment of the application, the applicant shall furnish the United States Patent and Trademark Office not later than the expiration of thirty months from the priority date:

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(2) The basic national fee (see § 1.492(a))."

Accordingly, with regards to § 37 C.F.R. 1.8(a)(2)(i)(F), the required basic national fee has **not** been paid. Thus, applicants have not met the requirements under 35 U.S.C. 371(c)(1) for the reasons discussed above. Furthermore, according to 37 CFR 1.495, the Notification of Abandonment (Form PCT/DO/EO/909) was inadvertently mailed since the deadline to meet the requirements for entering into the national stage in the United States is thirty months from the priority date, that is 17 September 2005. Payment submitted by credit card authorization faxed 24 June 2005 has been credited back to such credit card.

CONCLUSION

For the reasons discussed above, the petition under 37 CFR 1.181 is **GRANTED**. However, applicants have not submitted the basic national fee as required under 35 USC 371 1.371(c)(1). To avoid abandonment, applicants must furnish such fee prior to the expiration of 30 months from the priority date. See 37 CFR 1.495(b).

The application is being returned to the Office of PCT Operations to await receipt of the payment of the basic national fee.

Helen Kwok
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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UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 07-06

Paper No: __

KIRK HAHN
14431 HOLT AVE
SANTA ANA CA 92705

COPY MAILED

JUL 1 0 2006

OFFICE OF PETITIONS

In re Application of :
Yoshimura :
Application No.: 10/523,120 :
Filing Date: 24 January, 2005 :
Attorney Docket No. ASA-007 :

DECISION

This is a decision on the petition filed on 3 May, 2006, to revive under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

For the reasons set forth below the petition under 37 C.F.R. §1.137(b) is **DISMISSED without prejudice**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(b)."

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record reflects that:

- from the limited record–at this writing only a minimal Image File Wrapper (IFW) is available and a file has been ordered from the Repository but not received–it appears that Petitioner failed to reply timely and properly to a fees requirement (the Notice of Missing Parts), and while the mail date and reply due dates also are unclear, by 18 June, 2005, the file had been declared abandoned;

- the instant petition, filed on 3 May, 2006, goes through an extensive narrative, but provides no documents in support of the allegations–Petitioner is reminded that all practice before the Office is in writing (see: under 37 C.F.R. §1.2[1]) and each matter must be in a separate paper (see: under 37 C.F.R. §1.4[2]);

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[1] 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.

[2] The regulations at 37 C.F.R. §1.4 provide:

§1.4 Nature of correspondence and signature requirements.
(a)Correspondence with the Patent and Trademark Office comprises:
(1)Correspondence relating to services and facilities of the Office,such as general inquiries,
requests for publications supplied by the Office, orders for printed copies of patents or trademark registrations,orders for copies of records,transmission of assignments for recording,and the like,and
(2)Correspondence in and relating to a particular application or other proceeding in the Office.
See particularly the rules relating to the filing,processing,or other proceedings of national applications in subpart B,§§ 1.31 to 1.378;;of international appli-cations in subpart C,§§1.401 to 1.499;of *ex parte* reexaminations of patents in subpart D,§§ 1..501 to 1.570;of interferences in subpart E,§§ 1.601 to 1.690;of extension of patent term in subpart F, §§1.710 to 1.785;of *inter partes* reexaminations of patents in subpart H,§§ 1..902 to 1.997;and of trademark applications §§ 2..11 to 2.189.
(b)Since each file must be complete in itself,a separate copy of every paper to be filed in a patent or trademark application,patent file,trademark registration file,or other proceeding must be furnished for each file to which the paper pertains,even though the contents of the papers filed in two or more files may be identical.The filing of duplicate copies of correspondence in the file of an application,patent,trademark registration file,or other proceeding should be avoided,except in situations in which the Office requires the filing of duplicate copies.The Office may dispose of duplicate copies of correspondence in the file of an application,patent,trademark registration
file,or other proceeding.
(c)Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office,each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects.
(d)(1)Each piece of correspondence,except as provided in paragraphs (e)and (f)of this section, filed in an application,patent file,trademark registration file,or other proceeding in the Office which requires a person's signature, must:
(i)Be an original,that is,have an original signature personally signed in permanent ink by that
person;or
(ii)Be a direct or indirect copy,such as a photocopy or facsimile transmission (§ 1.6((d)),of an
original.In the event that a copy of the original is filed,the original should be retained as evidence of authenticity.If a question of authenticity arises,the Office may require submission of the original;or
(iii)Where an electronically transmitted trademark filing is permitted,the person who signs
the filing must either
(A)Place a symbol comprised of numbers and/or letters between two forward slash marks
in the signature block on the electronic submission;
and print,sign and date in permanent ink,and maintain a paper copy of the electronic submission; or
(B)Sign the verified statement using some other form of electronic signature specified by
the Commissioner.
(2)The presentation to the Office (whether by signing,filing,submitting,or later advocating)of
any paper by a party,whether a practitioner or non-practitioner,constitutes a certification under
§10.18(b)of this chapter.Violations of §10.18(b)(2) of this chapter by a party,whether a practitioner or non-practitioner,may result in the imposition of sanctions under § 10.18((c)of this chapter.Any practitioner violating § 10.18(b)may also be subject to disciplinary action.See

- 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.[3]

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§§10.18(d) and 10.23(c)(15).
(e)Correspondence requiring person 's signature and relating to registration practice before the
Patent and Trademark Office in patent cases,enrollment and disciplinary investigations,or disciplinary proceedings must be submitted with an original signature personally signed in permanent ink by that person.
(f)When a document that is required by statuteto be certified must be filed,a copy,including a photocopy or facsimile transmission,of the certification is not acceptable.
(g)An applicant who has not made of record a registered attorney or agent may be required to state whether assistance was received in the preparation or prosecution of the patent application,for which any compensation or consideration was given or charged, and if so,to disclose the name or names of the person or persons providing such assistance.Assistance
includes the preparation for the applicant of the specification and amendments or other papers to be filed in the Patent and Trademark Office,as well as other assistance in such matters,but does not include merely making drawings by draftsmen or stenographic services in typing papers.
[24 FR 10332,Dec.22,1959;43 FR 20461,May 11, 1978;para.(a),48 FR 2707, Jan. 20, 1983, effective Feb. 27,1983; para. (a), 49 FR 48416, Dec.12, 1984, effective Feb. 11, 1985; para. (a)(2), 53 FR 47807, Nov. 28, 1988, effective Jan. 1, 1989; paras. (d)-(f) added, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; para.(d) revised & para. (g) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; paras. (a)(2) and (d)(1) revised, 64 FR 48900, Sept. 8, 1999, effective Oct. 30, 1999; paras. (b) and (c) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; para. (a)(2) revised, 65 FR 76756, Dec. 7, 2000, effective Feb. 5, 2001; para. (d)(1)(iii)(A) amended, 67 FR 79520, Dec. 30, 2002, effective Dec. 30, 2002]

[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;

Moreover, Petitioner is directed to the commentary set forth at MPEP §711.03(c), and reminded that frequent monitoring of one's applications on Private PAIR can inform one's case management. Timely action in a matter is required under the rules–e.g., 37 C.F.R. §1.181.

And it is noted that Petitioner may wish to plead the matter alternatively as a request to withdraw the holding of abandonment to be considered under 37 C.F.R. §1.181.

STATUTES, REGULATIONS AND ANALYSIS

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

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

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]

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(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.
(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[4] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

[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).

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
Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, statement/showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee

It appears that Petitioner has not satisfied the "reply" and "statement/showing" requirements of the regulation.

CONCLUSION

The petition as considered under 37 C.F.R. §1.137(b) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[10]

By mail: Commissioner for Patents[11]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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[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] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The number (571) 273-8300 is be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[11] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 09-06

Paper No: 8

KIRK HAHN
14431 HOLT AVE
SANTA ANA CA 92705

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OFFICE OF PETITIONS

In re Application of :
Yoshimura :
Application No.: 10/523,120 :
Filing Date: 24 January, 2005 :
Attorney Docket No. ASA-007 :

DECISION

This is a decision on the petition (renewed) filed on 28 August, 2006, to revive under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

For the reasons set forth below the and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181 is **GRANTED**; and the petition under 37 C.F.R. §1.137(b) is **DISMISSED as moot**.

BACKGROUND

The record reflects that:

- when the original petition of 3 May, 2006, the paper file was unavailable, could not be located, and only the petition was available in the image file wrapper (IFW)–because the facts set forth in the 3 May petition appeared incomplete, the petition was dismissed on 10 July, 2006, and Petitioner was requested to file more complete details with regard to the matter;

- Petitioner has done so and it appears that there was an issue with the processing of Petitioner's credit card information when the application was filed, and, rather than

Notice Petitioner as to fees due with a deadline for payment, the Office it appears mailed a Notice of Abandonment on 20 June, 2005;

- in continued communications with the Office, Petitioner's submissions were considered as a request to withdraw the holding of abandonment, which was granted on 28 July, 2005, and Petitioner was informed that basic filing fees previously charged to his credit card in the interim had been credited back to that account;

- nonetheless, the Office did not remove the abandonment flag from the application and Petitioner again sought to have the application revived, which took the form of the 3 May, 2006, petition;

- Office records evidence that the basic filing fees totaling $1,000.00 were timely paid.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

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

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 —

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, 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

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(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]

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

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

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Withdrawal of the
Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8]

The commentary at MPEP §711.03(c)[9] provides further guidance to the Petitioner, and the regulations 37 C.F.R. §1.181 require that relief be sought within two (2) months of the act

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[7] 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.

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

[9] 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.

* * *

complained of.

Petitioner appears to have satisfied the showing and timeliness requirements described above.

Allegations as to
Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, statement/showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee

It appears that this matter is moot.

CONCLUSION

Because it appears that Petitioner has satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **granted**, and the 20 June, 2006, Notice of Abandonment is **vacated**; the petition under 37 C.F.R. §1.137(b) is **dismissed as moot** and the petition fee waived.

The application is released to PCT Operations for processing as necessary consistent with this decision 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[10]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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[10] 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.

07 DEC 2006

#9

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KIRK HAHN
14431 HOLT AVE
SANTA ANA, CA 92705

In re Application of	:	
YOSHIMURA, Takashi et al.	:	
Application No.: 10/523,120	:	
PCT No.: PCT/JP04/02756	:	
Int. Filing Date: 04 March 2004	:	DECISION
Priority Date: 17 March 2003	:	
Attorney Docket No.: CR00561P	:	
For: STATION	:	

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

BACKGROUND

On 04 March 2004, applicants filed international application PCT/JP04/02756, claiming a priority date of 17 March 2003. A copy of the international application was transmitted to the Office by the International Bureau on 30 September 2004. The deadline for payment of the basic national fee was 17 September 2005.

On 24 January 2005, applicants submitted a transmittal letter for entry into the national phase in the United States, accompanied by a credit card form for payment of the basic national fee.

On 20 June 2005, the Office mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application went abandoned for failure to pay the basic national fee by thirty months. It further indicated that the credit card had been declined.

On 24 June 2005, applicants submitted petition to withdraw the holding of abandonment, including a credit card payment form by facsimile.

On 28 July 2005, the Office mailed Decision On Petition Under 37 CFR 1.181 withdrawing the holding of abandonment as the deadline for payment of the basic national fee had not yet passed and indicating that the basic national fee cannot be paid via facsimile. The fees charged from the 24 June 2005 credit card form were refunded.

On 03 May 2006, applicants filed Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b), accompanied by a statement in support of the petition.

On 10 July 2006, the Office mailed Decision, dismissing applicants' petition without prejudice for failure to satisfy the reply and statement requirements of 37 CFR 1.137(b).

On 28 August 2006, applicants filed a renewed petition under 37 CFR 1.137(b).

On 18 September 2006, the Office mailed Decision, granting applicants' petition under 37 CFR 1.181 and dismissing applicants' petition under 37 CFR 1.137(b) as moot.

DISCUSSION

The Decisions mailed 10 July 2006 and 18 September 2006 are vacated.

Applicants' 24 January 2005 submission for entry into the national phase included a credit card form for payment of the basic national fee. The fees were processed, but credit card was declined. As such, the indication that the fees were paid was backed out of the system. Further, applicants' indication that additional fees could be charged to the credit card was doubly unhelpful. First, the credit card was declined. Second, the Office is only allowed to process credit card authorizations for a specific amount. A blanket authorization is not permitted.

Applicants' 24 June 2005 submission was not treated as a petition to revive, as applicants indicate in their 03 May 2006 petition, but as a petition to withdraw the holding of abandonment. The holding was improper, as the time period for payment of the basic national fee had not yet run. In that decision, applicants were specifically advised that the basic national fee had **NOT** been paid, as the credit card form for payment of the basic national fee had been faxed to the Office. Under 37 CFR 1.8(a)(2)(i)(F), the basic national fee cannot be supplied by facsimile. The fees charged based on the faxed credit card form were refunded.

Applicants claim they were simply resubmitting what was earlier provided to the Office. However, applicants state in their facsimile that it is a "new" credit card authorization and as earlier stated, the original authorization was declined. The Office does not reprocess a credit card form once the credit card has been declined. If there is an error in the processing of the initial credit card authorization, a showing that it should not have been declined can be furnished.

On 03 May 2006, applicants filed a petition to revive under 37 CFR 1.137(b). It included the PTO form including the required statement and was accompanied by the payment of the required fees.

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) the required reply, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995). Pursuant to 37 CFR 1.137(b)(3), additional information may be required where there is a question whether the delay was unintentional.

Items (1), (2), (3) and (4) have been satisfied. Applicants have made the necessary statement that the entire delay was unintentional. Applicants paid the petition fee and basic national fee. A terminal disclaimer is not required as the application was filed on or after 08 June 1995.

Further, the declaration submitted 24 January 2005 lists the third named inventor as "Syozo Tamaki," but he is listed as "Shozo Tamaki"on the international application. The Office does not have a record of the recording of a change under PCT Rule 92*bis*. If this discrepancy is the result of a

typographical or transliteration error, it can be corrected by a statement under MPEP 201.03 stating either that it was a typographical or a transliteration error and specifying the correct name.

CONCLUSION

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

The Decisions mailed 10 July 2006 and 18 September 2006 are **VACATED**.

A statement under MPEP 201.03 or a declaration in compliance with 37 CFR 1.497(a)-(b) is required within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are available. Failure to timely reply will result in the abandonment of this application.

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

DATE 9-11-07 APPLICATION NUMBER 10/523,120

DOC CODE pet. Dec. OIPE DOC DATE 9-11-07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN 8 WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN 16 WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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11 SEP 2007

KIRK HAHN
14431 HOLT AVE
SANTA ANA, CA 92705

In re Application of	:	
YOSHIMURA, Takashi et al.	:	
Application No.: 10/523,120	:	
PCT No.: PCT/JP04/02756	:	
Int. Filing Date: 04 March 2004	:	DECISION
Priority Date: 17 March 2003	:	
Attorney Docket No.: CR00561P	:	
For: STATION	:	

This decision is in response to applicants' renewed submission to the United States Patent and Trademark Office on 29 January 2007.

Applicants indicate that while both spellings of the third named inventor's name are correct, that the inventor uses "Syozo Tamaki." Applicants' statement is sufficient. The declaration complies with 37 CFR 1.497(a)-(b).

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a date of 03 May 2006 under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4).

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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

VOLPE AND KOENIG, P.C.
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

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OFFICE OF PETITIONS

In re Application of	:	
Tomas Carlsson	:	
Application No. 10/523,151	:	DECISION ON PETITION
Filed: January 27, 2005	:	TO WITHDRAW
Attorney Docket No. ZNA-PT011	:	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 15, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Volpe and Koenig, PC has been revoked by the assignee of the patent application on February 27, 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: RICHARD G. A. BONE
FISH & RICHARDSON, PC
500 ARGUELLO STREET
SUITE 500
REDWOOD CITY, CA 94063-1526

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18 OCT 2007

Fitch Even Tabin & Flannery
120 South LaSalle Street
Suite 1600
Chicago IL 60603-3406

In re Application of BIRD et al.	
Application No.: 10/523,153	DECISION ON PETITION
PCT No.: PCT/AU03/00954	
Int. Filing: 29 July 2003	UNDER 37 CFR 1.47(a)
Priority Date: 29 July 2002	
Attorney Docket No.: 83950	
For: A BULK COMMUNICATIONS PROCESS USING MULTIPLE DELIVERY MEDIA	

This is a renewed decision on applicant's petition under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 01 May 2007, to accept the application without the signatures of joint inventors, Kevin Bryan Levine and Michael Robert Stewart. Applicant's request for a five month extension of time is granted.

BACKGROUND

On 02 October 2006, a decision dismissing the 26 July 2006 petition was mailed to applicant, indicating that Petitioner had not demonstrated that a *bona fide* attempt was made to present a copy of the application papers for U.S. application 10/523,153 (specification, including claims, drawings, and declaration) to the nonsigning inventors for their signature and both Mr. Stewart's and Mr. Levine's refusal to sign, either in writing or by telephone, these documents.

On 01 May 2007, applicant filed a renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(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).

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

With respect to Item (2) above, the statements of facts by Carl David Harrap and Iain

Bartram were presented concerning the 37 CFR 1.47(a) applicant's attempt to obtain the signatures of nonsigning inventors Kevin Bryan Levine and Michael Robert Stewart.

Mr. Harrap relates his attempt to present the application papers to Mr. Levine. Correspondence including a complete set of application papers was sent to and signed for by Mr. Levine on 28 July 2006. Mr. Harrap also indicates that he placed numerous phone calls to Mr. Levine, leaving a message for a return call. These messages went without reply by Mr. Levine. This is sufficient evidence to conclude that Mr. Levine refuses to sign the application papers.

With regard to inventor Stewart's signature, Mr. Bartram's declaration indicates that a colleague of Mr. Stewart, Alex Omilian has contacted Mr. Stewart and relates that Mr. Stewart does not want to have any communication from ConnXion. This does not relieve Petitioner from attempting to contact Mr. Stewart, giving him an opportunity to sign the application papers.

As indicated in the MPEP Section 409.03(d), where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in the statement of facts. It is important that the statement contain facts as opposed to conclusions.

The 37 CFR 1.47(a) applicant has not yet demonstrated that Mr. Stewart was presented with a copy of all of the national stage application papers (specification, including claims and drawings, oath or declaration) for this application and refuses to sign. Mr. Bartram indicates that Mr. Stewart no longer resides in Sydney, Australia but has moved to London. Mr. Bartram does not detail any attempts to search the Internet for a current address for Mr. Stewart. Mr. Bartram indicates he purchased an electoral role and noted that 20 names were listed. He presented the list to Mr. Omilian; Mr. Omilian indicated that none of the addresses belonged to Mr. Stewart. By Mr. Bartram's own admission, the use of an electoral role would produce a result only if Mr. Stewart was registered to vote, which may not be the case. Moreover, a first hand statement from Mr. Omilian was not provided, to show that Mr. Omilian himself made an attempt to present the application papers to Mr. Stewart, which Mr. Stewart refused.

Here, diligent efforts to locate the nonsigning inventor using an Internet search were not pursued and documented to obtain Mr. Stewart's current address, current email address and/or current employer. In the petition filed on 26 July 2006, Mr. Harrap indicated that he attempted to find Mr. Stewart's current address at www.whitepages.com.au for a listing on Foss Street. No such attempt to find the nonsigning inventor in Great Britain was conducted after learning that Mr. Stewart was in London. Nor was an attempt made to reach the nonsigning inventor by telephone. A request from the Postal Service for Mr. Stewart's forwarding address was not made. Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a "diligent effort" was made. Petitioner's statement of facts under 37 CFR 1.47(a) does not indicate that any internet search for Mr. Stewart's new address was made. Since no further attempts to locate the nonsigning inventor were documented, it can not be concluded that "a diligent effort" was made to locate the non-signing inventor.

The action taken by petitioner is not sufficient to prove that "a diligent effort" was made to contact the nonsigning inventor Michael Robert Stewart. Under these circumstances, it cannot be concluded that then nonsigning inventors are unavailable to sign the application. Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

In sum, Petitioner has satisfied Items (1), (3) and (4) above. However, Petitioner has not satisfied Item (2) by demonstrating: (1) a *bona fide* attempt was made to present a copy of the application papers for U.S. application 10/523,153 (specification, including claims, drawings, and declaration) to the nonsigning inventor Stewart for his signature and that Mr. Stewart refused to sign, either in writing or by telephone, these documents. Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

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

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

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

Cynthia M. Kratz

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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Fitch Even Tabin & Flannery
120 South LaSalle Street
Suite 1600
Chicago IL 60603-3406

In re Application of BIRD et al. Application No.: 10/523,153 PCT No.: PCT/AU03/00954 Int. Filing: 29 July 2003 Priority Date: 29 July 2002 Attorney Docket No.: 83950 For: A BULK COMMUNICATIONS PROCESS USING MULTIPLE DELIVERY MEDIA	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a renewed decision on applicant's petition under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 01 May 2007, to accept the application without the signature of joint inventor Michael Robert Stewart. Applicant's request for a three month extension of time is granted.

BACKGROUND

The underlying facts of this case have been presented in earlier decisions. In response to the decision mailed on 18 October 2007, Petitioner filed a renewed petition under 37 CFR 1.47(a) for the remaining nonsigning inventor Stewart, along with the declarations of Carl David Harrap, John McCormack and David Colvin and the accompanying exhibits.

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).

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

With respect to Item (2) above, the statements of facts by Carl David Harrap, John McCormack and David Colvin were presented concerning the 37 CFR 1.47(a) applicant's attempt to obtain the signature of nonsigning inventor Michael Robert Stewart.

In their first hand statement of facts, Messrs. Colvin, McCormack and Harrap detail the attempts they individually made to locate the nonsigning inventor Michael Stewart without

success.

Copies of documentary evidence (internet searches and attached notes) were provided to support a finding that the nonsigning inventor could not be found or reached. An attempt to find the nonsigning inventor in Great Britain was conducted after learning that Mr. Stewart was in London. A request from the Postal Service for Mr. Stewart's forwarding address was made and denied. Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a "diligent effort" was made. Petitioner's statement of facts under 37 CFR 1.47(a) indicates that internet searches for Mr. Stewart's new address were made. Diligent efforts to locate the nonsigning inventor using an Internet search were pursued and documented to obtain Mr. Stewart's current address and were unsuccessful.

The action taken by petitioner is sufficient to prove that "a diligent effort" was made to contact the nonsigning inventor Michael Robert Stewart. Under these circumstances, it can be concluded that then nonsigning inventor is unavailable to sign the application. Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

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

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(a) application using the declaration filed 06 October 2005. The application has an international filing date of 29 July 2002 under 35 U.S.C. 363, and a date of 06 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 Office
Office of PCT Legal Administration

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

28 FEB 2006

#8

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Fitch Even Tabin & Flannery
120 South LaSalle Street
Suite 1600
Chicago IL 60603-3406

In re Application of BIRD et al. Application No.: 10/523,153 PCT No.: PCT/AU03/00954 Int. Filing: 29 July 2003 Priority Date: 29 July 2002 Attorney Docket No.: 83950 For: A BULK COMMUNICATIONS PROCESS USING MULTIPLE DELIVERY MEDIA	DECISION ON PETITION UNDER 37 CFR 1.47(a) and 37 CFR 1.182

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 06 October 2005, to accept the application without the signatures of joint inventors, Kevin Bryan Levine and Michael Robert Stewart. Applicant's request for a three month extension of time is granted.

BACKGROUND

On 27 January 2005, 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. The transmittal letter was directed to PCT/US03/00954; however, applicant submitted a copy of international application PCT/AU03/00954. The submission was treated as a national stage application of PCT/US03/00954 and assigned U.S. application number 10/523,153.

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 06 October 2005, applicant filed the instant petition along with a declaration directed to PCT/AU03/00954, 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 Kevin Bryan Levine and Michael Robert Stewart, alleging that the inventors refuse to sign the application.

DISCUSSION

At the outset, it is noted that on 27 January 2005, applicant submitted a transmittal letter requesting a filing under 35 U.S.C. 371 (Form PTO-1390) directed to PCT/US03/00954. However, applicant supplied a copy of international application PCT/AU03/00954. Pursuant to

37 CFR 1.182 and applicant's authorization to charge any necessary fees, the PCT application number on the transmittal letter and papers filed on 27 January 2005 will be corrected to PCT/AU03/00954, and be treated as the national stage application of PCT/AU03/00954, assigned U.S. application number 10/523,153. Applicant's deposit account will be charged the requisite $400 petition fee.

Petition under 37 CFR 1.47(a)

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(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 applicant's deposit account the requisite petition fee of $200, satisfying Item (1). Item (3) is satisfied because the last known addresses of non-signing inventors were provided. With regard to item (4), the declaration executed by the available joint inventors on their behalf and on behalf of the non-signing inventors was submitted and satisfies this requirement of 37 CFR 1.47(a).

Inventors' Refusal to Sign

With respect to Item (2) above, statements of facts by Frank Anthony Favretto, Chairman of the Board of Trustees of Trade Wind Communications Limited and by Neville Zammit, Secretary of Trade Wind Communications Limited regarding the inventors' refusal to sign the application were presented. Mr. Favretto states that he met with Michael Robert Stewart on 1 June 2005 to "pursue the execution of the US declaration and the execution of an assignment for the purposes of the US application." (¶11-12) Mr. Favretto states that "Mr. Stewart declined to execute the US declaration or assignment." (¶13) Mr. Favretto makes no indication that Mr. Stewart was presented with a copy of the patent application along with declaration.

Likewise, with respect to Mr. Levine's refusal to join the application, Neville Zammit states in his declaration that he "called Mr. Levine on 20 May 2005 and asked him to sign the US declaration and an assignment for the purposes of the US application" (¶4). Mr. Levine responded that "he did not want to execute the US declaration or any assignment" but that he "would think it over and get back" to Mr. Zammit. (¶5) Mr. Zammit called Mr. Levine on May 24, 25 and 26, 2005 leaving a message each time and sent a follow-up email to obtain Mr. Levine's response.(¶6) On 06 June 2005, Mr. Levine left a voice message indicating that he believed "he was owed money by the company and wanted to be pay something if he signed". Mr. Zammit states that he confirmed that no money is owed to Mr. Levine and that Trade Wind Communications is not aware of any claim by Mr. Levine that it owes money to him. (¶7) Mr. Zammit makes no indication that he conveyed this information regarding the payment of any money to Mr. Levine, nor does Mr. Zammit indicate that Mr. Levine was presented with a complete copy of the application papers.

Petitioner has not provided evidence that a complete copy of the application papers, including specification, claims and drawings and declaration, were provided to Mr. Stewart or Mr. Levine. What is required is that both Mr. Stewart and Mr. Levine be presented with a copy of all of the national stage application papers (specification, including claims and drawings, oath or declaration) for this application. *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. See Section 409.03(d) of the Manual of Patent Examining

Procedure (MPEP), Proof of Unavailability or Refusal. [1]

In sum, Petitioner has satisfied Items (1), (3) and (4) above. However, Petitioner has not satisfied Item (2) by demonstrating: (1) a *bona fide* attempt was made to present a copy of the application papers for U.S. application 10/523,153 (specification, including claims, drawings, and declaration) to the nonsigning inventors for their signature and both Mr. Stewart's and Mr. Levine's refusal to sign, either in writing or by telephone, these documents. Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

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

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

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

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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[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 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.

Office of PCT Legal Administration

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

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

02 OCT 2006

Fitch Even Tabin & Flannery
120 South LaSalle Street
Suite 1600
Chicago IL 60603-3406

In re Application of BIRD et al.	:
Application No.: 10/523,153	: DECISION ON PETITION
PCT No.: PCT/AU03/00954	:
Int. Filing: 29 July 2003	: UNDER 37 CFR 1.47(a)
Priority Date: 29 July 2002	:
Attorney Docket No.: 83950	:
For: A BULK COMMUNICATIONS PROCESS	:
USING MULTIPLE DELIVERY MEDIA	:

This is a decision on applicant's petition under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 26 July 2006, to accept the application without the signatures of joint inventors, Kevin Bryan Levine and Michael Robert Stewart. Applicant's request for a three month extension of time is granted.

BACKGROUND

On 27 January 2005, 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. The transmittal letter was directed to PCT/US03/00954; however, applicant submitted a copy of international application PCT/AU03/00954. The submission was treated as a national stage application of PCT/US03/00954 and assigned U.S. application number 10/523,153. Thereafter, USPTO made a correction under 37 CFR 1.182 to application number and treated the submission as a national stage application of PCT/AU03/00954, assigned U.S. application number 10/523,153.

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 06 October 2005, applicant filed the instant petition along with a declaration directed to PCT/AU03/00954, 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 Kevin Bryan Levine and Michael Robert Stewart, alleging that the inventors refuse to sign the application.

On 28 February 2006, a decision dismissing applicant's petition under 37 CFR 1.47(a) was mailed indicating that Petitioner had not demonstrated that (1) a *bona fide* attempt was made to present a complete copy of the application papers for U.S. application 10/523,153 (specification, including claims, drawings, and declaration) to the nonsigning inventors for their signature and (2) both Mr. Stewart's and Mr. Levine's refusal to sign, either in writing or by telephone, these documents.

On 26 July 2006, applicant filed a renewed petition under 37 CFR 1.47(a).

DISCUSSION

Petition under 37 CFR 1.47(a)

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(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).

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

Inventors' Refusal to Sign

With respect to Item (2) above[1], Petitioner provided the statement of Carl David Harrap, a registered Australian and New Zealand patent attorney for ConnXion, an Australian company with a proprietary interest in the application. Mr. Harrap indicates that he requested the last known addresses for both Messrs. Levine and Stewart from the ConnXion's Chief Financial Office. Apparently no attempt was made to contact their last employer for their last known addresses. On 5 July 2006, Mr. Harrap sent letters addressed to Michael Stewart and Kevin Levine with a "copy of the patent specification of the PCT application as published" and a copy of the declaration. Mr. Harrap states that the correspondence was sent via registered post with Australia Post. The Australia Post was not successful in the delivery to either address. The Post Final Notice for each addressee was attached to the statement.

The correspondence delivery address for Mr. Stewart appeared as "7 Foss Street, Forest Lodge" and for Mr. Levine, "36A Roe Street, Bondi". It is noted that the published international application provides somewhat different addresses: Mr. Levine's address as "North Bondi"; and for Mr. Stewart's address as "Glebe". No explanation of this inconsistency is provided and an explanation is required.

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[1]Petitioner previously provided statements of fact by Frank Anthony Favretto, Chairman of the Board of Trustees of Trade Wind Communications Limited and by Neville Zammit, Secretary of Trade Wind Communications Limited regarding the inventors' refusal to sign the application. Neither inventor was presented with a copy of the patent application along with declaration. Petitioner did not submit any further statements from Messrs. Favretto or Zammit with his renewed petition.

It is unclear from the Australian Post delivery notices, when and how many attempts were made to deliver the correspondence. No information was provided by the Australia Post service regarding whether the addressees still reside at the above address, whether they no longer live at that address and have moved and if a forwarding address was available. It may be that the attempts were made during the day when the nonsigning inventors were at work or while the inventors were on vacation. The fact that a nonsigning inventor is hospitalized, 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. *See* MPEP 409.03(d). A single attempt to deliver correspondence does not amount to a diligent effort to reach an inventor.

Mr. Harrap also attempted to locate the inventors using the online Australian telephone database. This is an acceptable tool to locate inventors. However, Mr. Harrap limited his attempt to "Foss Street" for Mr. Stewart and to "Roe Street" for Mr. Levine. If, in fact, the delivery addresses for the inventors are no longer valid, attempts to locate the nonsigning inventors in this limited way would not likely produce a successful result.

What is required is that both Mr. Stewart and Mr. Levine 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. [2] Where an 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. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instruction, that support a finding

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[2] 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 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.

that the nonsigning inventor could not be found or reached should be made part of the statement.

In sum, Petitioner has not satisfied Item (2). Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

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

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

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

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

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

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Fitch Even Tabin & Flannery
120 South LaSalle Street
Suite 1600
Chicago IL 60603-3406

In re Application of BIRD et al.	
Application No.: 10/523,153	DECISION ON PETITION
PCT No.: PCT/AU03/00954	
Int. Filing: 29 July 2003	UNDER 37 CFR 1.47(a)
Priority Date: 29 July 2002	
Attorney Docket No.: 83950	
For: A BULK COMMUNICATIONS PROCESS USING MULTIPLE DELIVERY MEDIA	

This is a renewed decision on applicant's petition under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 01 May 2007, to accept the application without the signatures of joint inventors, Kevin Bryan Levine and Michael Robert Stewart. Applicant's request for a five month extension of time is granted.

BACKGROUND

On 02 October 2006, a decision dismissing the 26 July 2006 petition was mailed to applicant, indicating that Petitioner had not demonstrated that a *bona fide* attempt was made to present a copy of the application papers for U.S. application 10/523,153 (specification, including claims, drawings, and declaration) to the nonsigning inventors for their signature and both Mr. Stewart's and Mr. Levine's refusal to sign, either in writing or by telephone, these documents.

On 01 May 2007, applicant filed a renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(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).

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

With respect to Item (2) above, the statements of facts by Carl David Harrap and Iain

Bartram were presented concerning the 37 CFR 1.47(a) applicant's attempt to obtain the signatures of nonsigning inventors Kevin Bryan Levine and Michael Robert Stewart.

Mr. Harrap relates his attempt to present the application papers to Mr. Levine. Correspondence including a complete set of application papers was sent to and signed for by Mr. Levine on 28 July 2006. Mr. Harrap also indicates that he placed numerous phone calls to Mr. Levine, leaving a message for a return call. These messages went without reply by Mr. Levine. This is sufficient evidence to conclude that Mr. Levine refuses to sign the application papers.

With regard to inventor Stewart's signature, Mr. Bartram's declaration indicates that a colleague of Mr. Stewart, Alex Omilian has contacted Mr. Stewart and relates that Mr. Stewart does not want to have any communication from ConnXion. This does not relieve Petitioner from attempting to contact Mr. Stewart, giving him an opportunity to sign the application papers.

As indicated in the MPEP Section 409.03(d), where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in the statement of facts. It is important that the statement contain facts as opposed to conclusions.

The 37 CFR 1.47(a) applicant has not yet demonstrated that Mr. Stewart was presented with a copy of all of the national stage application papers (specification, including claims and drawings, oath or declaration) for this application and refuses to sign. Mr. Bartram indicates that Mr. Stewart no longer resides in Sydney, Australia but has moved to London. Mr. Bartram does not detail any attempts to search the Internet for a current address for Mr. Stewart. Mr. Bartram indicates he purchased an electoral role and noted that 20 names were listed. He presented the list to Mr. Omilian; Mr. Omilian indicated that none of the addresses belonged to Mr. Stewart. By Mr. Bartram's own admission, the use of an electoral role would produce a result only if Mr. Stewart was registered to vote, which may not be the case. Moreover, a first hand statement from Mr. Omilian was not provided, to show that Mr. Omilian himself made an attempt to present the application papers to Mr. Stewart, which Mr. Stewart refused.

Here, diligent efforts to locate the nonsigning inventor using an Internet search were not pursued and documented to obtain Mr. Stewart's current address, current email address and/or current employer. In the petition filed on 26 July 2006, Mr. Harrap indicated that he attempted to find Mr. Stewart's current address at www.whitepages.com.au for a listing on Foss Street. No such attempt to find the nonsigning inventor in Great Britain was conducted after learning that Mr. Stewart was in London. Nor was an attempt made to reach the nonsigning inventor by telephone. A request from the Postal Service for Mr. Stewart's forwarding address was not made. Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a "diligent effort" was made. Petitioner's statement of facts under 37 CFR 1.47(a) does not indicate that any internet search for Mr. Stewart's new address was made. Since no further attempts to locate the nonsigning inventor were documented, it can not be concluded that "a diligent effort" was made to locate the non-signing inventor.

The action taken by petitioner is not sufficient to prove that "a diligent effort" was made to contact the nonsigning inventor Michael Robert Stewart. Under these circumstances, it cannot be concluded that then nonsigning inventors are unavailable to sign the application. Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

In sum, Petitioner has satisfied Items (1), (3) and (4) above. However, Petitioner has not satisfied Item (2) by demonstrating: (1) a *bona fide* attempt was made to present a copy of the application papers for U.S. application 10/523,153 (specification, including claims, drawings, and declaration) to the nonsigning inventor Stewart for his signature and that Mr. Stewart refused to sign, either in writing or by telephone, these documents. Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

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

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

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

Cynthia M. Kratz

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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Fitch Even Tabin & Flannery
120 South LaSalle Street
Suite 1600
Chicago IL 60603-3406

In re Application of BIRD et al. Application No.: 10/523,153 PCT No.: PCT/AU03/00954 Int. Filing: 29 July 2003 Priority Date: 29 July 2002 Attorney Docket No.: 83950 For: A BULK COMMUNICATIONS PROCESS USING MULTIPLE DELIVERY MEDIA	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a renewed decision on applicant's petition under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 01 May 2007, to accept the application without the signature of joint inventor Michael Robert Stewart. Applicant's request for a three month extension of time is granted.

BACKGROUND

The underlying facts of this case have been presented in earlier decisions. In response to the decision mailed on 18 October 2007, Petitioner filed a renewed petition under 37 CFR 1.47(a) for the remaining nonsigning inventor Stewart, along with the declarations of Carl David Harrap, John McCormack and David Colvin and the accompanying exhibits.

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).

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

With respect to Item (2) above, the statements of facts by Carl David Harrap, John McCormack and David Colvin were presented concerning the 37 CFR 1.47(a) applicant's attempt to obtain the signature of nonsigning inventor Michael Robert Stewart.

In their first hand statement of facts, Messrs. Colvin, McCormack and Harrap detail the attempts they individually made to locate the nonsigning inventor Michael Stewart without

success.

Copies of documentary evidence (internet searches and attached notes) were provided to support a finding that the nonsigning inventor could not be found or reached. An attempt to find the nonsigning inventor in Great Britain was conducted after learning that Mr. Stewart was in London. A request from the Postal Service for Mr. Stewart's forwarding address was made and denied. Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a "diligent effort" was made. Petitioner's statement of facts under 37 CFR 1.47(a) indicates that internet searches for Mr. Stewart's new address were made. Diligent efforts to locate the nonsigning inventor using an Internet search were pursued and documented to obtain Mr. Stewart's current address and were unsuccessful.

The action taken by petitioner is sufficient to prove that "a diligent effort" was made to contact the nonsigning inventor Michael Robert Stewart. Under these circumstances, it can be concluded that then nonsigning inventor is unavailable to sign the application. Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

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

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(a) application using the declaration filed 06 October 2005. The application has an international filing date of 29 July 2002 under 35 U.S.C. 363, and a date of 06 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 Office
Office of PCT Legal Administration

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

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Alexandria, VA 22313-1450
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01 MAY 2008

MICHAEL ROBERT STEWART
7 FOSS STREET
GLEBE, NSW 2037 AUSTRALIA

In re Application of BIRD et al. Application No.: 10/523,153 PCT No.: PCT/AU03/00954 Int. Filing: 29 July 2003 Priority Date: 29 July 2002 Attorney Docket No.: 83950 For: A BULK COMMUNICATIONS PROCESS USING MULTIPLE DELIVERY MEDIA	DECISION ON PETITION UNDER 37 CFR 1.47(a)

Dear Mr. Stewart:

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

Fitch Even Tabin & Flannery
120 South LaSalle Street
Suite 1600
Chicago IL 60603-3406

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Alexandria, Virginia 22313-1450
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ANDRUS, SCEALES, STARKE & SAWALL, LLP
100 EAST WISCONSIN AVENUE, SUITE 1100
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: Graeme Alexander	: DECISION ON REQUEST FOR
Patent Number	: 7652090	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/523,164	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/29/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **776** 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

21 NOV 2005

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GERALD J. STANTON
HARRINGTON & SMITH, LLP
4 RESEARCH DRIVE
SHELTON, CT 06484-6212

In re Application of Borran et al.	:
Application No.: 10/523,167	:
PCT Application No.: PCT/IB2003/002088	: DECISION ON PETITION
Int. Filing Date: 29 May 2003	: UNDER 37 CFR 1.137(b)
Priority Date: 1 July 2002	:
Attorney Docket No.: 873.0115.U1(WO)	:
For: METHOD AND APPARATUS TO	:
ESTABLISH CONSTELLATIONS FOR	:
IMPERFECT CHANNEL STATE INFORMATION	
AT RECEIVER	

Applicants' PETITION FOR REVIVIAL UNDER 37 CFR 1.137(b), filed in the United States Patent and Trademark Office (PTO) on 27 January 2005, is **GRANTED**.

BACKGROUND

On 29 May 2003, applicant filed international application PCT/IB2003/002088. The international application claims the priority date of 1 July 2002 and designates the United States. The deadline for payment of the basic national fee into the United States National Stage was thirty months from the priority date, that is 1 January 2005. Applicant failed to pay the basic national fee and the application became abandoned at midnight 1 January 2005.

On 27 January 2005, applicant filed the instant petition for revival accompanied by, *inter alia*, a transmittal letter requesting entry into the national phase under 35 U.S.C. 371, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), a copy of the international application, a copy of the international preliminary examination report, a copy of the international search report, an information disclosure statement, and the petition fee of $1500.00.

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).

The submission of the transmittal letter requesting entry into the national phase satisfies 37 CFR 1.137(b)(1). The payment of the petition fee satisfies the requirement under 37 CFR 1.137(b)(2). The applicants' statement in the petition that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional satisfies the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required because the application was filed on or after 08 June 1995.

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.

CONCLUSION

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

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing in accordance with this decision.

Gary L. Weleh
PCT Legal Administration Detailee
Telephone: 571-272-6095
Facsimile: 571-273-0459

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

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Paper No.

KING & SPALDING
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036-4003

COPY MAILED

MAR 17 2009

OFFICE OF PETITIONS

In re Application of :
Losada et al. :
Application No. 10/523,172 : ON APPLICATION FOR
Filed: September 1, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. 13566.105013 :

This is in response to the PETITION FOR CORRECTION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) filed February 19, 2009. Applicants request that the patent term adjustment of three hundred twenty-nine (329) days be corrected to add the USPTO delay under Rule 703(b).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date[1], 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.

[1] or within 3 years of the date the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application.

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 will be 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
Senior Petitions Attorney
Office of Petitions

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Paper No.

KING & SPALDING
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036-4003

MAILED

MAR 11 2010

OFFICE OF PETITIONS

In re Patent No. 7,521,478	:	DECISION ON REQUEST
Losada et al.	:	FOR
Issue Date: April 21, 2009	:	RECONSIDERATION OF
Application No. 10/523,172	:	PATENT TERM ADJUSTMENT
Filed: September 1, 2005	:	and
Atty Docket No. 13566.105013	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 20, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred sixty-one (561) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by **seven hundred seventy-five (775)** days.

The "B" delay period is 446 days, not 232 days. Patentee calculated this period based on the date this application fulfilled the requirements of 35 U.S.C. 371. However, in an international application, this period is based on the failure of the Office to issue a patent within three years after the national stage commenced under 35 U.S.C. 371(b) or (f). See 1.702(b). Further, in this instance, the national stage commencement date is Monday, January 31, 2005. The priority date of this application is July 30, 2002. As the requirements for early commencement were not met, the national stage commenced in this application at the end of the thirty-month

period. As the expiration of the 30-month period pursuant to 35 U.S.C. 371(b) fell on a Saturday, the period expired on the subsequent business day. See PCT Rule 80.5. Accordingly, the commencement date is Monday, January 31, 2005. Thus, "B" delay is 446 days, counting the number of days beginning on February 1, 2008 and ending on April 21, 2009, the date of issuance. See 1.703(b). Therefore, the patent term adjustment is 775 (343 + 446 - 14) days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by seven hundred seventy-five **(775)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,521,478 B2

DATED : **April 21, 2009** **DRAFT**

INVENTOR(S) : Losada 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 329 days

Delete the phrase "by 329 days" and insert – by 775 days--

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06 MAR 2007

THOMSON LICENSING INC.
PATENT OPERATIONS
PO BOX 5312
PRINCETON NJ 08543-5312

In re Application of PINTOS et al. Application No.: 10/523,182 PCT No.: PCT/EP03/50325 Int. Filing Date: 21 July 2003 Priority Date: 30 July 2002 Attorney Docket No.: PF020098 For: BROADBAND ANTENNA AND PROCESSES FOR MANUFACTURING SUCH AN ANTENNA	:	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 23 October 2006 in the above-captioned application is hereby **GRANTED** as follows:

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

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

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

Anthony Smith

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.:20080307

DATE : March 07, 2008

TO SPE OF : ART UNIT 3747

SUBJECT : Request for Certificate of Correction on Patent No.: 7,246,577

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: /Stephen K. Cronin/ Art Unit 3747

04 NOV 2005

#5

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BACHMAN AND LAPOINTE PC
900 CHAPEL ST STE 1201
NEW HAVEN, CT 06510

In re Application of	:	
DELETH (Deceased)	:	DECISION ON
Application No.: 10/523,203	:	
PCT No.: PCT/DE03/02412	:	REQUEST
Int. Filing Date: 17 July 2003	:	
Priority Date: 31 July 2002	:	UNDER 37 CFR 1.42
Attorney Docket no.: 05-344	:	
For: METHODS FOR PROVIDING A	:	
CONTRACT PART	:	

This is a decision on applicant's submission under 37 CFR 1.42 filed in the United States Patent and Trademark Office (USPTO) on 08 August 2005.

BACKGROUND

On 27 January 2005, prior to the expiration of the thirty month period, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371 with, *inter alia*, the requisite basic national fee.

On 08 August 2005, a Notification of Missing Requirements (Form PCT/DO/EO905) 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 the same day, applicant also submitted a declaration signed by inventors Matthias Schweizer and Peter Vache and identifying Susanne Derleth as the legal representative of deceased inventor, Horst Derleth.

DISCUSSION

Applicant has provided a declaration executed by the inventors and by Susanne Derleth,

which identifies her as the legal representative of deceased inventor Horst Derleth. The declaration identifies the joint inventors and provides the citizenship, residency and mailing address for the joint inventors and for the deceased inventor and his legal representative.

Accordingly, it is appropriate, at this time, to accord the application status under 37 CFR 1.42.

CONCLUSION

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

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) date is **08 August 2005.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: 571-272-3286

#6

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24 JUL 2006

George E. Heibel
RANBAXY INC.
600 College Road East
Suite 2100
Princeton NJ 08540

In re Application of	:	
METHA, et al.	:	
PCT No.: PCT/IB02/02940	:	DECISION ON PETITION
Application No.: 10/523,207	:	
Int. Filing Date: 29 July 2002	:	UNDER 37 CFR 1.47(a)
Priority Date: 29 July 2002	:	
Atty. Docket No.: RLL-259US	:	
For: OXAZOLIDINONE DERIVATIVES AS	:	
ANTIMICROBIALS	:	

This decision is in response to applicant's "Petition to File When Inventor Cannot be Reached Under 37 CFR § 1.47" filed 01 March 2006 in the United States Patent and Trademark Office (USPTO). Applicant has authorized the charging of the $200.00 petition fee. In addition, this decision incorporates applicant's "Supplemental Petition File When Inventor Cannot be Reached Under 37 CFR § 1.47" filed on 02 March 2006.

BACKGROUND

On 29 July 2002, applicant filed international application PCT/IB02/02940. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 19 February 2004. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 29 January 2005.

On 27 January 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and an unsigned declaration of the inventors.

On 01 August 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 01 March 2006, applicant filed the present petition under 37 CFR 1.47(a) to accept

the filed declaration without the signature of joint inventor Ajay Singh Yadav accompanied by authorization to charge any fees. As such the response is being interpreted to include a petition for a five-month extension of time and payment of the appropriate extension of time fee. With the filing of the extension of time petition and payment of the extension of time fee the response is considered timely filed.

On 02 March 2006, applicant filed a supplemental petition which included a declaration executed by inventor Yadav.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. With the filing of the present petition and accompanying papers, applicant has satisfied all four items and it is appropriate to grant the petition under 37 CFR 1.47(a).

The petition filed 01 March 2006 satisfied items (1), (3) and (4) and thus was a proper and timely response to the Form PCT/DO/EO/905 mailed 01 September 2005. As noted above, applicant filed a declaration signed by inventor Yadav on 02 March 2006 and therefore the petition is dismissed as moot. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

CONCLUSION

For the reasons above, applicant's petition under 37 CFR 1.47(a) is **DISMISSED as moot**.

The application has an international filing date of 29 July 2002 under 35 U.S.C. 363, and will be given a date of **02 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

27 APR 2006

#5

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Buckley, Maschoff & Talwalkar, LLC
5 Elm Street
New Canaan, CT 06840

In re Application of	:	
TANIR et al.	:	
U.S. Application No. 10/523,222	:	
PCT No.: PCT/GB03/03355	:	
It. Filing Date: 01 August 2003	:	DECISION ON PETITION
Priority Date: 01 August 2002	:	
Attorney Docket No.: S18.001	:	
For: SPECTACLE KIT	:	

This decision is issued in response to "Petition to Accept Application with Missing Inventor" filed 20 January 2006, which is being treated as a Petition under 37 CFR 1.47(a) to accept the application without the signature of joint-inventor, Paul Davey Sinding. The $200 petition fee has been submitted.

BACKGROUND

On 01 August 2003, applicants filed international application PCT/GB03/03355 which claimed a priority date of 01 August 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, 01 February 2004.

On 31 January 2005, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and a copy of the international search report.

On 17 August 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 20 January 2006, applicants filed a petition under 37 CFR 1.47(a) and the requisite petition fee 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, (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 Paul Davey Sinding 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, Paul Davey Sinding. Petitioner states that Paul Davey Sinding is unavailable to join the application, however, no documentary evidence to support the attempt(s) was provided with the petition. Furthermore, it does not appear that petitioner has first hand knowledge of all the facts. 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.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Paul Davey Sinding under 37 CFR 1.47(a) at this time.

CONCLUSION

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

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

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

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

#7

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13 SEP 2006

Buckley, Maschoff & Talwalkar, LLC
5 Elm Street
New Canaan, CT 06840

In re Application of	:	
TANIR et al.	:	
U.S. Application No. 10/523,222	:	
PCT No.: PCT/GB03/03355	:	
It. Filing Date: 01 August 2003	:	DECISION ON PETITION
Priority Date: 01 August 2002	:	
Attorney Docket No.: S18.001	:	
For: SPECTACLE KIT	:	

This decision is issued in response to "Renewed Petition under 37 CFR 1.47(a) to Accept Application with Missing Signature" filed 30 June 2006 to accept the application without the signature of joint-inventor, Paul Davey Sinding.

BACKGROUND

On 01 August 2003, applicants filed international application PCT/GB03/03355 which claimed a priority date of 01 August 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, 01 February 2004.

On 31 January 2005, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and a copy of the international search report.

On 17 August 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 20 January 2006, applicants filed a petition under 37 CFR 1.47(a) and the requisite petition fee for a three-month extension of time. In a decision dated 27 April 2006, applicants' renewed petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 30 June 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, (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 Paul Davey Sinding 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, Paul Davey Sinding. The declaration of Erol Tanir states "that joint inventor Paul Sinding cannot be reached after diligent effort. . ." However, no documentary evidence to support Mr. Tanir's assertion has been provided with the petition. Further, the declaration fails to include evidence to determine the possible whereabouts of the missing inventor. In this case, a diligent effort may be a search of Internet and/or telephone directories to determine if Davey Sinding has a forwarding address and/or telephone number. Applicants are reminded that documentary evidence of the internet searches, certified mail return receipt, cover letter of instructions, telegrams, etc., should be supplied by a person having firsthand knowledge of the facts.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Paul Davey Sinding under 37 CFR 1.47(a) at this time.

CONCLUSION

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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#9

20 DEC 2006

Buckley, Maschoff & Talwalkar, LLC
5 Elm Street
New Canaan, CT 06840

In re Application of
TANIR et al.
U.S. Application No. 10/523,222
PCT No.: PCT/GB03/03355
Int. Filing Date: 01 August 2003
Priority Date: 01 August 2002
Attorney Docket No.: S18.001
For: SPECTACLE KIT

DECISION ON PETITION

This decision is issued in response to applicants' "Renewed Petition under 37 CFR 1.47(a) to Accept Application with Missing Signature" filed 14 December 2006 to accept the application without the signature of joint-inventor, Paul Davey Sinding.

BACKGROUND

On 01 August 2003, applicants filed international application PCT/GB03/03355 which claimed a priority date of 01 August 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, 01 February 2004.

On 31 January 2005, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and a copy of the international search report.

On 17 August 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 20 January 2006, applicants filed a petition under 37 CFR 1.47(a) and the requisite petition fee for a three-month extension of time. In a decision dated 27 April 2006, applicants' renewed petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 30 June 2006, applicants filed a renewed petition under 37 CFR 1.47(a). In a decision dated 13 September 2006, applicants' renewed petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 14 December 2006, applicants filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

A. Petition under 37 CFR 1.181

Applicants state in their present petition that a renewed petition under 37 CFR 1.47(a) was received by the USPTO on 16 November 2006. A review of the application file reveals that the renewed petition under 37 CFR 1.47(a) is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "Return Postcard" states, in part:

> "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by the title of invention; applicants' name; and docket number. The evidence submitted by applicants, consisting of a postcard receipt with a PCT/PTO mailroom date stamp of 16 November 2006 which itemizes all the papers filed on said date. The postcard receipt bearing the applicants' name, title of invention, and attorney docket number is sufficient to indicate that the above papers were received on 16 November 2006.

B. Petition under 37 CFR 1.47(a)

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17, (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) applicants on his or her own behalf and behalf of the nonsigning joint inventor.

A review of the papers filed 16 November 2006 reveals that petitioner has paid the requisite petition fee, provided sufficient proof that the non-signing inventor (Paul Davey Sinding) could not be reached, stated the last known address of the non-signing inventor (Paul Davey Sinding), and provided an acceptable declaration. Accordingly, all of the requirements of items (1), (2), (3), and (4) above have been satisfied.

CONCLUSION

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

The application will be given an international filing date of 01 August 2003 under 35 U.S.C. 363, and a date of 20 January 2006 under 35 U.S.C. 371(c).

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

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

Anthony Smith

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

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Alexandria, VA 22313-1450
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20 DEC 2006

Paul Davey Sinding
Unit 1 Oaksey
Poolse Keynes Cirencester Glos.
UK GL7 6EA

In re Application of
TANIR et al.
U.S. Application No. 10/523,222
PCT No.: PCT/GB03/03355
Int. Filing Date: 01 August 2003
Priority Date: 01 August 2002
Attorney Docket No.: S18.001
For: SPECTACLE KIT

Dear Paul Davey Sinding:

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:
Buckley, Maschoff & Talwalkar, LLC
5 Elm Street
New Canaan, CT 06840

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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	: Jonathan Hughes	: DECISION ON REQUEST FOR
Patent Number	: 7582444	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/523,229	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **916** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN VA 22102

COPY MAILED
JUL 27 2009
OFFICE OF PETITIONS

In re Application of	:	
STEPHEN BENJAMIN COURTNEY	:	
Application No. 10/523,246	:	DECISION ON
Filed: January 27, 2005	:	APPLICATION FOR
Attorney Docket No. 424662010100	:	PATENT TERM ADJUSTMENT

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 35 USC 154(b)(2)(A), filed June 26, 2009, which is properly treated under the provisions of 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand ninety-eight (1,098) days, not eight hundred one (801) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction partly on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR

1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

With respect to applicants' other basis for filing this paper, the application for patent term adjustment is **DISMISSED**.

On June 2, 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

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

(PTA) to date is 801 days. On June 26, 2009, applicants timely submitted the instant application for patent term adjustment before payment of the issue fee.

Applicants dispute the reduction of 15 days for the filing of an Information Disclosure Statement (IDS) on October 2, 2008. Specifically, applicants assert:

> [T]he PTO's reduction of the PTA by 15 days due to Applicant's alleged delay between September 17, 2008 (date of Applicant's response to the Office Action) and October 10, 2008 (date of an IDS) is improper. Applicant's response of September 17, 2008 was timely filed within three months of the mailing date of the Office Action, which is June 20, 2008. Therefore, Applicant's PTA should not be reduced under 35 USC 154(b)(2)(C)(ii).[2] The response is docketed out of order in the PTO patent term adjustment history appearing in PAIR, which may have caused the calculation error.

Request filed 06/26/09, p. 2.

The Office concurs with applicants that they filed a reply on September 17, 2008, within three months of the mailing of the non-final Office action on June 20, 2008, and therefore, are subject to reduction under 35 U.S.C. 154(b)(2)(C)(ii) and 37 CFR 1.704(b). The Office notes that a delay under 37 CFR 1.704(b) was not assessed against applicants. Rather, the basis for the 15 day reduction for the filing of the IDS on October 2, 2008, is pursuant to 37 CFR 1.704(c)(8), not 37 CFR 1.704(b).

It is undisputed that after filing the reply on September 17, 2008, applicants submitted a supplemental reply or other paper in the form of an IDS on October 2, 2008. The record does not support a conclusion that the examiner expressly requested the filing of the IDS. Further, a review of the IDS, filed October

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[2] 35 U.S.C. (b)(2)(C)(ii) states:

> With respect to adjustments to patent term made under the authority of paragraph (1)(B), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of 3 months that are taken to respond to a notice from the Office making any rejection, objection, argument, or other request, measuring such 3-month period from the date the notice was given or mailed to the applicant.

2, 2008, reveals that applicants did not include a proper statement under 37 CFR 1.704(d).[3] Thus, under the circumstances of this application, the submission of the IDS on October 2, 2008, is a proper basis for reduction of patent term adjustment pursuant to 37 CFR 1.704(c)(8).

37 CFR 1.704(c)(8) states:

> Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed[.]

In this instance, the period of adjustment was properly reduced by 15 days, counting the number of days beginning on the day after the date the initial reply was filed, September 18, 2008, and ending on the date that the IDS was filed, October 2, 2008. See 37 CFR 1.704(c)(8). Accordingly, the period of reduction of 15 days will remain.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance remains 801 days.

The Office will charge the Deposit Account for 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), as authorized.

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[3] 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.

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN VA 22102

MAILED

APR 20 2010

OFFICE OF PETITIONS

In re Patent No. 7,600,292	:	DECISION ON REQUEST FOR
Courtney	:	RECONSIDERATION OF
Issue Date: October 13, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 10/523,246	:	NOTICE OF INTENT TO ISSUE
Filed: January 27, 2005	:	CERTIFICATE OF CORRECTION
Atty Docket No. 424662010100	:	

This is a decision on the petition filed on November 18, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand four (1004) 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 **nine hundred eighty-three (983) days**.

In the present petition, patentee is correct that there is overlap between the A delay and B delay. However, patentee calculated the B delay and the overlapping period incorrectly. The B delay period is 393 days, not 427 days. Patentee calculated this period based on the date this application fulfilled the requirements of 35 U.S.C. 371. However, in an international application, this period is based on the failure of the Office to issue a patent within three years after the national stage commenced under 35 U.S.C. 371(b) or (f). See 1.702(b). The priority date of this application is August 9, 2002. As the requirements for early commencement were not met,

the national stage commenced in this application on February 9, 2005. Thus, B delay is 393 days, counting the number of days beginning on February 10, 2008 and ending on March 8, 2009, the day before the filing of the Request for Continued Examination. See 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.703(b). Furthermore, the A delay and B delay overlap by 132 days (not 145 days), counting the number of days beginning on February 10, 2008 and ending on June 20, 2008.

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 **nine hundred eighty-three (983) 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: 7,600,292 B2

DATED: Oct. 13, 2009 **DRAFT**

INVENTOR(S): Courtney

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 722 days

Delete the phrase "by 722 days" and insert – by 983 days--

Day : Tuesday
Date: 4/20/2010

PALM INTRANET

Time: 08:40:45

PTA Calculations for Application: 10/523246			
Application Filing Date:	01/27/2005	PTO Delay (PTO):	816
Issue Date of Patent:	10/13/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	94
Post-Issue Petitions:	0	Total PTA (days):	983
PTO Delay Adjustment:	261		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
92	04/20/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	261		
88.5	09/23/2009	PTA 36 MONTHS			
88	10/13/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
87	09/11/2009	EXPORT TO FINAL DATA CAPTURE			
86	09/10/2009	DISPATCH TO FDC			
85	09/09/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
84	09/02/2009	ISSUE FEE PAYMENT VERIFIED			
83	09/04/2009	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
82	09/04/2009	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
81	09/02/2009	ISSUE FEE PAYMENT RECEIVED			
80	06/18/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
79	07/29/2009	PUBS CASE REMAND TO TC			
78	07/27/2009	MAIL-PETITION DECISION - DISMISSED			
77	07/27/2009	PETITION DECISION - DISMISSED			
76	07/06/2009	FINISHED INITIAL DATA CAPTURE			
75	06/26/2009	PETITION ENTERED			
74	06/18/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		79	83
73	06/18/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
72	06/12/2009	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
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69	06/05/2009	EXPORT TO INITIAL DATA CAPTURE			
68	06/02/2009	MAIL NOTICE OF ALLOWANCE			
67	06/01/2009	ISSUE REVISION COMPLETED			
66	05/14/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
65	05/03/2009	DOCUMENT VERIFICATION			
64	05/03/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
63	05/03/2009	CASE DOCKETED TO EXAMINER IN GAU			
62	04/29/2009	NOTICE OF ALLOWABILITY			
61	03/23/2009	DATE FORWARDED TO EXAMINER			
60	03/09/2009	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
59	03/23/2009	DATE FORWARDED TO EXAMINER			
58	03/09/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
57	03/23/2009	DISPOSAL FOR A RCE / CPA / R129			
56	03/10/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
55	02/10/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
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53	12/24/2008	MAIL FINAL REJECTION (PTOL - 326)			
52	12/22/2008	FINAL REJECTION			
51	12/16/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
50	07/10/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
49	10/02/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
48	12/16/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
47	10/14/2008	PARALEGAL TD ACCEPTED			
46	09/17/2008	TERMINAL DISCLAIMER FILED			
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43	10/10/2008	DATE FORWARDED TO EXAMINER			
42	09/17/2008	RESPONSE AFTER NON-FINAL ACTION			

41	10/07/2008	CASE DOCKETED TO EXAMINER IN GAU			
40	10/02/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
39	07/10/2008	REFERENCE CAPTURE ON IDS			
38	07/10/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
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36	06/20/2008	MAIL NON-FINAL REJECTION	816		4
35	06/18/2008	NON-FINAL REJECTION			
34	01/27/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	05/19/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32	08/30/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	10/16/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	02/13/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27	05/06/2008	CASE DOCKETED TO EXAMINER IN GAU			
26	04/17/2008	CASE DOCKETED TO EXAMINER IN GAU			
25	02/13/2008	REFERENCE CAPTURE ON IDS			
24	02/13/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	02/13/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	10/16/2007	REFERENCE CAPTURE ON IDS			
21	10/16/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	10/17/2007	WITHDRAW FLAGGED FOR 5/25			
19	10/16/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	10/15/2007	FLAGGED FOR 5/25			
17	10/04/2007	CASE DOCKETED TO EXAMINER IN GAU			
16	08/30/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	08/30/2007	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
14	05/29/2007	CASE DOCKETED TO EXAMINER IN GAU			
13	05/19/2005	REFERENCE CAPTURE ON IDS			

12.7	05/19/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	05/19/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	01/27/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
10	01/27/2005	REFERENCE CAPTURE ON IDS			
9.7	01/27/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	01/27/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	01/27/2005	PRELIMINARY AMENDMENT			
7	07/20/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
6	07/20/2005	CASE DOCKETED TO EXAMINER IN GAU			
5	06/28/2005	CLEARED BY OIPE CSR			
4	01/27/2005	371 COMPLETION DATE			
3	06/03/2005	APPLICATION DISPATCHED FROM OIPE			
2	06/06/2005	NOTICE OF DO/EO ACCEPTANCE MAILED			
1	01/27/2005	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Juan Carlos A. Marquez
c/o Stites & Harbison PLLC
1199 North Fairfax Street
Suite 900
Alexandria, VA 22314-1437

Mail Date: 04/21/2010

Applicant	: Hiroshi Fukuda	: DECISION ON REQUEST FOR
Patent Number	: 7642145	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/523,247	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1146** 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 MAY 2006

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Wenderoth, Lind & Ponack, L.L.P.
2033 K Street, NW
Suite 800
Washington, D.C. 20006-1021

In re Application of		
MAEDA et al.	:	
Application No.: 10/523,262	:	
PCT No.: PCT/JP03/09970	:	
Int. Filing Date: 06 August 2003	:	DECISION
Priority Date: 06 August 2002	:	
Atty. Docket No.: 2005_0059A	:	
For: METHOD AND APPARATUS FOR MOUNTING	:	

This decision is issued in response to applicant's "Request for Corrected Notice of Acceptance" filed on 25 November 2005, which is being treated as a petition under 37 CFR 1.181.

BACKGROUND

On 27 January 2005, applicant filed a Transmittal Letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, *among others*, the requisite basic national fee; a copy of the international application; and an information disclosure statement.

In response to the Notification of Missing Requirements dated 19 August 2005, applicant filed an executed declaration of inventors on 25 August 2005.

On 17 November 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification of Acceptance of Application under 35 U.S.C. 371 AND 37 CFR 1.495" (Form PCT/DO/EO/903) which set forth the date of receipt 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements as 25 August 2005 and a 35 U.S.C. 371 completion date of 25 August 2005.

On 25 November 2005, applicant filed "Request for Corrected Filing Receipt and Notice of Acceptance."

DISCUSSION

Applicant requests a corrected filing date (or 371(c) date) from 25 August 2005 to 03 March 2005. The actual filing date of the present application is the international filing date, i.e., 06 August 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)

Applicant states in their present petition that a declaration and power of attorney was received at the United States Patent and Trademark Office on 03 March 2005. A review of the present application reveals that the declaration and power of attorney filed 03 March 2005 is not located therein. Section 503 of the Manual of Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

> "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

The accompanying copy of the post card receipt identifies the application by applicant, application number, and docket number. The receipt itemizes, inter alia, executed declaration; a PTO transmittal form; and a check in the amount of $130. The receipt is stamped "OIPE MAR 03, 2005" across its face and is sufficient to indicate that the combined declaration and power of attorney was in fact received in the Office on 03 March 2005. Therefore, the correction of the "FILING DATE" on the filing receipt to indicate a date of 03 March 2005 is proper since applicant completed the requirements set forth in 35 U.S.C. 371(c) on 03 March 2005. (See MPEP section 1893.03(b)).

CONCLUSION

Applicant's request under 37 CFR 1.181 for issuance of a corrected Notification of Acceptance and Official Filing Receipt is **GRANTED**.

The Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) mailed on 17 November 2005 is hereby **VACATED**.

The application has an international filing date of 06 August 2003 under 35 U.S.C. 363 and a date of 03 March 2005 under 35 U.S.C. 371(c).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision, that is, for mailing

of a NOTIFICATION OF ACCEPTANCE OF APPLICATION (Form PCT/DO/EO/903) which identifies a date of 03 March 2005 under 35 U.S.C. 371(c) and preparation and mailing of a corrected Filing Receipt in accordance with this decision, that is a filing receipt that identifies a filing date of 03 March 2005.

Thereafter, this application will be referred to its appropriate Art Unit.

Anthony Smith

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

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MAR 24 2010
OFFICE OF PETITIONS

CR MILES P.C.
405 MASON COURT, SUITE 119
FORT COLLINS 80524

In re Application of	:	
John L. SCHENK, et al	:	
Application No. 10/523,268	:	ON PETITION
Filed: July 7, 2005	:	
Attorney Docket No. XY-LOWPRESSURE-USNP	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 5, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 29, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is July 30, 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, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) the required statement of unintentional delay have been received.

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 $1110 extension of time fee submitted with the petition on January 5, 2010, was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box

1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

This application is being referred to Technology Center AU 1632 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.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: RYAN CHRISTENSEN
XY, INC.
22575 STATE HIGHWAY 6 SOUTH
NAVASOTA, TX 77868

07 MAR 2006

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Jordan & Hamburg LLP
122 East 42nd Street
Suite 4000
New York, NY 10168

In re Application of ZELLMER et al. Application No.: 10/523,282 PCT No.: PCT/EP03/14462 Int. Filing Date: 18 December 2003 Priority Date: 19 December 2002 Attorney Docket No.: F-8479 For: POCKELS CELL	: : : : : : :	DECISION ON REQUEST UNDER 37 CFR 1.497(d)

This decision is in response to applicants' "Request to Correct Inventorship under 37 CFR 1.497" filed 28 November 2005. The $130 petition fee under 37 CFR 1.17(h) has been charged to Deposit Account no. 10-1250, as authorized.

BACKGROUND

On 18 December 2003, applicants filed the above-captioned international application which claimed a priority date of 19 December 2002. The international application named: Holger Zellmer; Peter Riedel; and Thomas Fehn as applicant/inventors. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 19 June 2005.

On 03 February 2005, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, a basic national fee; a translation of the international application; and an Information Disclosure Statement.

On 26 July 2005, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 28 November 2005, applicants filed "Request to Correct Inventorship under 37 CFR 1.497" which included a declaration executed by: Stefan Balle; Sven Poggel; and Thomas Fehn.

On 24 January 2006, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a

two-month time limit in which to respond.[1]

DISCUSSION

In the instant case, the international application named Holger Zellmer; Peter Riedel; and Thomas Fehn as applicant/inventors. Applicants request to add Stefan Balle and Sven Poggel as applicant/inventors. Additionally, applicants request to delete Holger Zellmer and Peter Riedel as applicant/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; and (4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b). Applicants have satisfied items (2) and (3).

Regarding item (1), applicants have not provided a statement from Holger Zellmer and Peter Riedel which states that the error in inventorship occurred without deceptive intent.

Regarding item (4) above, the written consent of the assignee is not acceptable. Firstly, the "Written Consent of the Assignee" does not list the name of the individual signing on behalf of LINOS Photonics GmbH & CO. KG. Secondly, 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) (Form PTO/SB/96).

CONCLUSION

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

The Notification of Missing Requirements dated 26 January 2006 was mailed in error and is hereby **VACATED**.

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

---

[1]The Notification of Missing Requirements dated 26 January 2006 was mailed in error and is hereby vacated.

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

10 MAY 2006

#9

UNITED STATES PATENT AND TRADEMARK OFFICE

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Jordan & Hamburg LLP
122 East 42nd Street
Suite 4000
New York, NY 10168

In re Application of ZELLMER et al. Application No.: 10/523,282 PCT No.: PCT/EP03/14462 Int. Filing Date: 18 December 2003 Priority Date: 19 December 2002 Attorney Docket No.: F-8479 For: POCKELS CELL	DECISION ON REQUEST UNDER 37 CFR 1.497(d)

This decision is in response to applicants' "Supplemental Submission for Request to Correct Inventorship under 37 CFR 1.497" filed 13 April 2006.

BACKGROUND

On 18 December 2003, applicants filed the above-captioned international application which claimed a priority date of 19 December 2002. The international application named: Holger Zellmer; Peter Riedel; and Thomas Fehn as applicant/inventors. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 19 June 2005.

On 03 February 2005, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, a basic national fee; a translation of the international application; and an Information Disclosure Statement.

On 26 July 2005, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 28 November 2005, applicants filed "Request to Correct Inventorship under 37 CFR 1.497" which included a declaration executed by: Stefan Balle; Sven Poggel; and Thomas Fehn.

On 24 January 2006, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond. (The Notification of Missing Requirements dated 26 January 2006 was vacated in the Decision dated 07 March 2006.)

In a Decision on Request under 37 CFR 1.497(d) dated 07 March 2006, applicants' request under 37 CFR 1.497(d) was refused.

On 13 April 2006, applicants filed "Supplemental Submission for Request to Correct Inventorship under 37 CFR 1.497."

DISCUSSION

In the instant case, the international application named Holger Zellmer; Peter Riedel; and Thomas Fehn as applicant/inventors. Applicants request to add Stefan Balle and Sven Poggel as applicant/inventors. Additionally, applicants request to delete Holger Zellmer and Peter Riedel as applicant/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; and (4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

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

CONCLUSION

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

A review of the application papers reveals that applicants have completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application will be given an international application filing date of 18 December 2003 and a date of 28 November 2005 under 35 U.S.C. 371.

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

Anthony Smith

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

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OFFICE OF PETITIONS

MERCK
P O BOX 2000
RAHWAY NJ 07065-0907

In re Patent No. 7, 560,546
Issued: July 14, 2009
Application No. 10/523,285
Filed or 371(c) Date: February 3, 2005
Dkt. No.: 21202YP

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the petition filed on September 14, 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 616 days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.**

The "B" delay period is 215 days, not 222 days. Patentee calculated this period based on the date this application fulfilled the requirements of 35 U.S.C. 371. 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 August 9, 2002. The requirements for early commencement were not met; accordingly, national stage commenced in this application on February 9, 2005. See, 37 CFR 1.703(b). As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on February 10, 2008 and ends on September 11, 2008, the day before the RCE was filed, and not September 12, 2008, the day of filing of the RCE as calculated by patentees. See, 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 215 days not 222 days. The "A" delay period totals 538 days. The applicant delay period totals 186 days. As such, the correct patent term adjustment is 567 days, not 616 days.

Patentees contest the reduction of 79 days accorded in connection with the submission filed February 17, 2009. Patentees argue that the correct reduction in this regard is 78 days.

The reduction under 37 CFR 1.704(c)(10), which commenced February 17, 2009, the date that the submission was filed and ended May 6, 2009, the date that an Office reply was mailed in response thereto, totals 79 days.

Accordingly, the petition to accord a reduction of 78 days rather than 79 days in connection with the February 17, 2009 submission is DISMISSED.

Patentees further contest the reduction of 41 days in connection with the submission filed June 4, 2009.

The reduction under 37 CFR 1.704(c)(10), which commenced June 4, 2009, the date that the submission was filed and ended July 14, 2009, the date that the patent issued, totals 41 days.

Accordingly, the petition to restore the reduction of 41 days in connection with the June 4, 2009 submission is DISMISSED.

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. See 37 CFR 1.323(a)(4).

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

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 567 days.

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

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,560,546 B2

DATED : **July 14, 2009** **DRAFT**

INVENTOR(S) : Dinsmore 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 352 days

Delete the phrase "by 352 days" and insert – by 567 days--

29 AUG 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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Monsanto Company
c/o Gail Wuellner
800 North Lindbergh Blvd.
Mail Zone E2NA
St. Louis, MO 63167

In re Application of CAVATO, Tracey et al. Application No.: 10/523,290 PCT No.: PCT/US03/22860 Int. Filing Date: 23 July 2003 Priority Date: 29 July 2002 Docket No.: 38-21(52221)B For: CORN EVENT PV-ZMIR13 (MON863) AND COMPOSITIONS AND METHODS FOR DETECTION THEREOF	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicants' "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 03 February 2005 is **GRANTED**.

Applicants' statement that the delay was unintentional is construed to mean "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," as required by 37 CFR 1.137(b)(3). If this understanding is not correct, applicants must notify the office immediately. The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration has not yet been submitted.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision, including the mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the search fee, examination fee or 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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7-20-09

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Patent No. : 7,465,723 B2
Ser. No. : 10/523,291
Inventor(s) : Markus Schmutz
Issued : December 16, 2008
Title : USE OF CRBOXAMIDES FOR THE TREATMENT OF TINNITUS

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
40l Dulany Street
Alexandria, VA 22314

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

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

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 125

Montgomery, McCracken, Walker & Rhoads, LLP
123 South Broad Street, Avenue of the Arts
Philadelphia, PA 19109

ej

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MONTGOMERY, MCCRACKEN, WALKER & RHOADS, LLP
123 SOUTH BROAD STREET
AVENUE OF THE ARTS
PHILADELPHIA PA 19109

MAILED

JUN 0 2 2009

OFFICE OF PETITIONS

In re Patent No. 7,465,723	:	
Issue Date: December 16, 2008	:	
Application No. 10/523,291	:	DECISION ON PETITION
Filed: September 23, 2005	:	
Attorney Docket No. PN/4-32527A/607 US-PCT	:	

This is a decision on the petition, filed, February 25, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) 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 "Novartis AG." 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

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

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that Novartis AG 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.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

28 JUL 2005

43

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Christa Hildebrand
NORRIS, MCLAUGHLIN & MARCUS, P.A.
875 Third Avenue – 18th Floor
New York, NY 10022

In re Application of: PEIN, Andreas
U.S. Application No.: 10/523,294
Int'l Filing Date: 10 July 2003
Priority Date: 12 July 2002
Attorney's Docket No.: 102134-20
For: SURGICAL DEVICE FOR REMOVING TISSUE CELLS FROM A BIOLOGICAL STRUCTURE

DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 03 February 2005 in the above-captioned application is hereby **GRANTED** as follows:

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

Applicant has 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 United States of America.

The 03 February 2005 submission included a translation of the international application into English.

This application is being returned to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing 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, the surcharge for filing the oath or declaration later than thirty months after the priority date, and the processing fee for filing the English translation later than thirty months after the priority date.

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

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OFFICE OF PETITIONS

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

In re Patent No. 7,612,183	: DECISION ON REQUEST
Issued: November 3, 2009	: FOR RECONSIDERATION
Application No. 10/523,295	: OF PATENT TERM ADJUSTMENT
Filed: February 3, 2005	: AND
Attorney Docket No. PG4912	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM UNDER 37 CFR §1.705(d) filed on December 18, 2009, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 244 days to 515 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 five hundred fourteen (514) days is **GRANTED to the extent indicated herein**.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on February 3, 2008 and ends on December 2, 2008, the day before the RCE was filed, and the B delay considering the 33 days of overlap is 303 (not 304) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 514, not 515 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred fourteen (514)** days.

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

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,612,183 B2

DATED : November 3, 2009

INVENTOR(S) : Ellis 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 (244) days

Delete the phrase "by 244 days" and insert – by 514 days--

Day : Friday
Date: 3/26/2010

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Time: 15:16:38

PTA Calculations for Application: 10/523295			
Application Filing Date:	02/03/2005	PTO Delay (PTO):	475
Issue Date of Patent:	11/03/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	231
Post-Issue Petitions:	0	Total PTA (days):	514
PTO Delay Adjustment:	270		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
111	03/26/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	270		
105.5	10/14/2009	PTA 36 MONTHS			
105	11/03/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
104	09/22/2009	EXPORT TO FINAL DATA CAPTURE			
103	09/21/2009	DISPATCH TO FDC			
102	09/21/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
101	09/17/2009	ISSUE FEE PAYMENT VERIFIED			
100	09/17/2009	ISSUE FEE PAYMENT RECEIVED			
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98	08/28/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
97	08/26/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
96	07/13/2009	SEQUENCE FORWARDED TO PUBS ON TAPE			
95	06/19/2009	EXPORT TO INITIAL DATA CAPTURE			
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19	10/01/2007	MAIL NON-FINAL REJECTION			
18	09/26/2007	NON-FINAL REJECTION			
		INFORMATION DISCLOSURE STATEMENT			

17	02/03/2005	CONSIDERED			
16	07/17/2007	DATE FORWARDED TO EXAMINER			
15	07/13/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
14	06/19/2007	MAIL RESTRICTION REQUIREMENT	442		7
13	06/12/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
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1	02/03/2005	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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PTA Calculations for Application: 10/523295			
Application Filing Date:	02/03/2005	PTO Delay (PTO):	475
Issue Date of Patent:	11/03/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	231
Post-Issue Petitions:	0	Total PTA (days):	514
PTO Delay Adjustment:	270		

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EXPLANATION OF PTA CALCULATION

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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	: Jonathan Hughes	: DECISION ON REQUEST FOR
Patent Number	: 7582215	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/523,301	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/04/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **792** 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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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Ralf Henne	: DECISION ON REQUEST FOR
Patent Number	: 7589437	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/523,309	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/26/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **136** 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.

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

27 FEB 2007

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Morgan, Lewis & Bockius, LLP
2 Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306

In re Application of	:	
BEREZENKO et al.	:	
U.S. Application No. 10/523,312	:	
PCT No.: PCT/GB03/03199	:	
Int. Filing Date: 28 July 2003	:	DECISION ON REQUEST
Priority Date: 26 July 2002	:	
Attorney Docket No.: 62377-5002US	:	
For: NOVEL ALBUMINS	:	

This decision is issued in response to applicants' "Petition to Correct Inventorship under 37 CFR 1.497(d)" filed 25 October 2005. The $130 petition fee has been charged to counsel's deposit account.

BACKGROUND

On 28 July 2003, applicants filed international application no. PCT/GB03/03199 which claimed a priority date of 26 July 2002. The international application named Stephen Berezenko; Peter John Sader; Alan James Stewart; and Claudia Blindauer as applicants/inventors. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 26 January 2005.

On 26 January 2005, 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 25 August 2005, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. Furthermore, the Notification stated that a sequence listing in computer readable form had not been submitted as required by 37 CFR 1.821-1.825. The notification set a two-month time limit in which to respond.

On 25 October 2005, applicants filed a Petition to Correct Inventorship under 37 CFR 1.497(d); a sequence listing in computer readable form required by 37 CFR 1.821-1.825; and a declaration executed by: Stephen Berezenko; Peter John Sader; Alan James Stewart, Claudia Blindauer, and Kerry Emma Bunyan.

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). The present submission seeks to correct the inventorship so as to add inventor Kerry Emma Bunyan to the application. 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; 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.

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

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.

Anthony Smith

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

02/27/2007 SBASHEIK 00000003 500310 10523312
Sale Ref: 00000004 DA#: 500310 10523312
01 FC:1464 130.00 DA

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Orum & Roth
53 West Jackson Blvd
Suite 1616
Chicago IL 60604

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OFFICE OF PETITIONS

In re Application of
Gunter Shulze et al.
Application No. 10/523,314
Filed: February 1, 2005
Attorney Docket No. 13953

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 16, 2006.

The request is **APPROVED**.

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

The request was signed by Catherine L. Glemrich attorney/agent of record on behalf of herself.

Catherine L. Glemrich has been withdrawn as attorney or agent of record; all other attorneys remain of record.

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

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

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MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581415
MINNEAPOLIS MN 55458

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OFFICE OF PETITIONS

In re Application of
Morrison et al.
Application No. 10/523,315
International Filing Date: August 1, 2003
For: MODIFICATION OF PLANT METABOLISM
Attorney Docket No: 290.00530101
Pub. No.: US 2006/0111335 A1
Pub. Date: May 25, 2006

This is a decision on the request for correction of patent application publication under 37 CFR 1.221 (b), filed on July 25, 2006, for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the front page of the patent application publication mistakenly omits Taj Mohammad.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1] The instant request does not identify a material mistake in the publication made by the office.

The omission of Taj Mohammad as an inventor on the front page of the publication is an Office mistake, but it is not a material error under 37 CFR 1.221(b). The error does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The Declarations submitted by applicant on September 16, 2005 is improper because the Declaration does not complete copies of each Declaration. When multiple Declarations are submitted, each Declaration must contain a complete listing of all the inventors. See MPEP 201.03(II)(B).

---

[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).

On February 1, 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 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 (571) 272-7709 (voice).

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/27/2010

Applicant	: Hitoshi Kimura	: DECISION ON REQUEST FOR
Patent Number	: 7577972	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/523,332	: OF WYETH
Filed	: 07/27/2005	:
		:

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.

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OFFICE OF PETITIONS

In re Application of	:	
Mihai Adrian Tiberiu SANDULEANU	:	
Application No. 10/523,344	:	ON PETITION
Filed: February 1, 2005	:	
Attorney Docket No. NL02 0698 US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 9, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 14, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is February 15, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) the required statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future

correspondence regarding this application, the appropriate power of attorney document must be submitted

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

This application is being referred to Technology Center 2816 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 Page
Petitions Examiner
Office of Petitions

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First-Named Inventor: SANDULEANU	Docket No.: NL02 0698 US
Application No.: 10/523,344 Conf.: 5754	Art Unit: 2816
Date Filed: 02-01-2005	Examiner: HERNANDEZ, WILLIAM

Title: PHASE DETECTOR WITH SELECTION OF DIFFERENCES BETWEEN INPUT SIGNALS

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

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

Sir:

The above-identified application became abandoned for failure to file a timely and proper reply to a USPTO notice or action dated 07-25-2007.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires: (1) Petition fee; (2) Reply and/or issue fee; (3) Terminal disclaimer w/disclaimer fee (IF filed before 6/8/1995); and (4) Statement that the entire delay was unintentional.

1. PETITION FEE UNDER 37 CFR §1.17(m):

☐ Please charge the petition fee to Deposit Account 50-4019.

2. REPLY AND/OR FEE:

☒ The reply and/or fee to the above-noted Office Action in the form of RCE.
- ☐ has been filed previously on _____.
- ☒ is enclosed herewith.

☐ The issue fee
- ☐ has been paid previously on _____.
- ☐ is enclosed herewith.

3. TERMINAL DISCLAIMER WITH DISCLAIMER FEE:

☐ Since this application was filed after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer and the required disclaimer fee disclaiming the required period of time is enclosed herewith.

09/29/2008 GARIAS 00000001 504019 10523344

01 FC:1453 1540.00 DA
02 FC:1801 810.00 DA

4. STATEMENT:

☒ The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

Date: 1/25/08

Respectfully submitted,

By _____
Michael J. Ure, Reg. No. 33,089

Enclosures:
- ☐ Fee Payment
- ☒ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☐ Other: _____

CERTIFICATE OF MAILING or TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450," or being facsimile transmitted to the USPTO at (571) 273-8300, on the date indicated below.

(Date) _____ (Signature) _____
(Name) Michael J. Ure

REQUEST FOR CONTINUED EXAMINATION (RCE) TRANSMITTAL

Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application Number	10/523,344
Filing Date	02-01-2005
First Named Inventor	SANDULEANU
Group Art Unit	2816
Examiner Name	HERNANDEZ, WILLIAM
Attorney Docket Number	**NL02 0698 US**

This is a Request for Continued Examination (RCE) under 37 CFR §1.114 of the above-identified application. RCE practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application.

1. Submission required under 37 C.F.R. § 1.114 **Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).**

a. ☒ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
   i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously field on _____
   ii. ☐ Other _____

b. ☐ Enclosed:
   i. ☐ Amendment/Reply
   ii. ☐ Affidavit(s)Declaration(s)
   iii. ☐ Information Disclosure Statement (IDS)
   iv. ☐ Other _____ *(may not be a brief)*

2. Miscellaneous

a. ☐ Suspension of action on the above-identified application is requested under 37 C.F.R. §1.103(c) for a period of months. *(May not exceed 3 months; Fee required per 37 C.F.R. § 1.117(i))*

b. ☐ Other _____

3. Fees *The RCE fee under 37 CFR §1.17(e) is required by 37 CFR §1.114 when the RCE is filed.*

a. ☐ The Commissioner For Patents is hereby authorized to charge all required fees except the issue fee or credit any overpayments, to Deposit Account No. 50-4019.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQURIED

Name (Print Type)	Michael J. Ure, Reg. No. 33,089		
Signature		*Date*	

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this is being deposited with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. or facsimile transmitted to the U.S. Patent and Trademark Office tel# : (571) 273-8300 on the date below:

Name (Print Type)	Michael J. Ure		
Signature		*Date*	

Attorney Docket # Search

Bar Code # Search

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Application Number:	10/523,344
Filing or 371 (c) Date:	02-01-2005
Application Type:	Utility
Examiner Name:	HERNANDEZ, WILLIAM
Group Art Unit:	2816
Confirmation Number:	5754
Attorney Docket Number:	NL02 0698 US
Class / Subclass:	327/003
First Named Inventor:	Mihai Sanduleanu , Eindhoven, (NL)

Title of Invention: Phase detector with selection of differences between input signals

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Charge Authorization and Extension of Time Statement

The Commissioner is hereby requested and authorized pursuant to 37 CFR §1.136(a)(3), to treat any concurrent or future reply in this application requiring a petition for extension of time for its timely submission, as incorporating a petition for extension of time for the appropriate length of time. Please charge any additional fees which may now or in the future be required in this application, including extension of time fees, but excluding the issue fee unless explicitly requested to do so, and credit any overpayment, to Deposit Account No. 50-4019.

Respectfully submitted,

/John Rehberg/

John Rehberg, Reg. 29,207

Dated: 1/4/08

01 SEP 2005

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United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

Louis P. Herzberg
IBM Corporation
Intellectual Property Law Dept.
P.O. Box 218
Yorktown Heights, NY 10598

In re Application of SHIMIZU, et al. Application No.: 10/523,347 PCT No.: PCT/JP03/07093 Int. Filing Date: 04 June 2003 Priority Date: 06 June 2002 Atty. Docket No.: JP20020100US1 For: DIGITAL CONTENTS DISTRIBUTION SYSTEM: DIGITAL CONTENTS DISTRIBUTION METHOD, PROGRAM FOR EXECUTING, ETC.	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 28 January 2005 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National Fee. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

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

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

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Morrison & Foerster, LLP
1650 Tysons Boulevard
Suite 300
McLean, VA 22102

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OFFICE OF PETITIONS

In re Application of	:	
Agnes Chardonnens et al.	:	
Application No. 10/523,362	:	DECISION ON PETITION
Filed: February 7, 2005	:	TO WITHDRAW
Attorney Docket No. 532622010300	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 16, 2005.

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 Wayne C. Jaeschke, Jr. and all attorneys/agents of record has been revoked by the assignee of the patent application on September 26, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Connolly Bove Lodge & Hutz, LLP
P.O. Box 2207
Wilmington, DE 19899

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TECHNOLOGY CENTER 2100

William S. Francos
PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

In re Application of: BLACKWELL, R. J. et. al.
Application No. **10/523,380**
Filed: February 01, 2005
Docket No. GB 030054
Title: NETWORK ESTABLISHMENT AND MANAGEMENT PROTOCOL

DECISION ON PETITION
UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed November 28, 2008 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner for the requirement that Applicant provide either a terminal disclaimer or a traversal of a rejection for non-statutory double patenting, and specifically seek relief that their ***offer*** to file a terminal disclaimer when all other rejection and objections are negated ***be considered fully responsive*** to the current double patenting rejection.

The Applicant's counsel filed a petition to the Director under 37 CFR § 1.181 to seek relief from actions of the Examiner in relation to Notice of Non-responsive reply/amendment under 37 CFR 1.111 mailed December 08, 2008. The Amendment and Response document filed on October 27, 2008 was considered non-responsive by Examiner as failing to meet the requirement of 37 CFR 1.111 because it failed to respond to the double patenting rejection set forth in non-final office action mailed June 25, 2008.

Accordingly, the petition is **GRANTED.**

RULES AND REGULATIONS

MPEP §804.02 Avoiding a Double Patenting Rejection

A rejection based on a nonstatutory type of double patenting **can** be avoided by filing a terminal disclaimer in the application or proceeding in which the rejection is made. In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); In re Knohl, 386 F.2d 476, 155 USPQ 586 (CCPA 1967); and In re Griswold, 365 F.2d 834, 150 USPQ 804 (CCPA 1966). The use of a terminal disclaimer in overcoming a nonstatutory double patenting rejection is in the public interest because it encourages the disclosure of additional developments, the earlier filing of applications, and the earlier expiration of patents whereby the inventions covered become freely available to the public. In re Jentoft, 392 F.2d 633, 157 USPQ 363 (CCPA 1968); In re Eckel, 393 F.2d 848, 157 USPQ 415 (CCPA 1968); and In re Braithwaite, 379 F.2d 594, 154 USPQ 29 (CCPA 1967).

The filing of a terminal disclaimer to obviate a rejection based on nonstatutory double

patenting is not an admission of the propriety of the rejection. Quad Environmental Technologies Corp. v. Union Sanitary District, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991). The court indicated that the "filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection."

A terminal disclaimer filed to obviate a double patenting rejection is effective only with respect to the application identified in the disclaimer, unless by its terms it extends to continuing applications.

MPEP §804.02 (VI) TERMINAL DISCLAIMERS REQUIRED TO OVERCOME NONSTATUTORY DOUBLE PATENTING REJECTIONS IN APPLICATIONS FILED ON OR AFTER JUNE 8, 1995

There are at least two reasons for insisting upon a terminal disclaimer to overcome a nonstatutory double patenting rejection in a continuing application subject to a 20-year term under 35 U.S.C. 154(a) (2). First, 35 U.S.C. 154(b) includes provisions for patent term extension based upon prosecution delays during the application process. Thus, 35 U.S.C. 154 does not ensure that any patent issuing on a continuing utility or plant application filed on or after June 8, 1995 will necessarily expire 20 years from the earliest filing date for which a benefit is claimed under 35 U.S.C. 120, 121, or 365(c). Second, 37 CFR 1.321(c)(3) requires that a terminal disclaimer filed to obviate a nonstatutory double patenting rejection based on commonly owned conflicting claims include a provision that any patent granted on that application be enforceable only for and during the period that the patent is commonly owned with the application or patent which formed the basis for the rejection.

37 CFR 1.321(d) sets forth the requirements for a terminal disclaimer where the claimed invention resulted from activities undertaken within the scope of a joint research agreement. These requirements serve to avoid the potential for harassment of an accused infringer by multiple parties with patents covering the same patentable invention. See, e.g., In re Van Ornum, 686 F.2d 937, 944-48, 214 USPQ 761, 767-70 (CCPA 1982).

Not insisting upon a terminal disclaimer to overcome a nonstatutory double patenting rejection in an application subject to a 20-year term under 35 U.S.C. 154(a)(2) would result in the potential for the problem that 37 CFR 1.321(c)(3) was promulgated to avoid. Accordingly, a terminal disclaimer under 37 CFR 1.321 is required in an application to overcome a nonstatutory double patenting rejection, even if the application was filed on or after June 8, 1995 and claims the benefit under 35 U.S.C. 120, 121, or 365(c) of the filing date of the patent or application which forms the basis for the rejection.

MPEP §1501 (II) NONSTATUTORY DOUBLE PATENTING REJECTIONS:

A nonstatutory double patenting rejection of the obviousness-type applies to claims directed to the same inventive concept with different appearances or differing scope which are patentably indistinct from each other. Nonstatutory categories of double patenting rejections which are not the "same invention" type may be overcome by the submission of a terminal disclaimer. The purpose of a terminal disclaimer is to obviate a double patenting rejection by removing potential harm to the public by issuing a second patent.

OPINION

A review of the file, particularly, the requirements under § 1.111 Reply by applicant or patent owner to a non-final Office action. Applicant's response "replies" to every ground of objection and rejection in the prior Office action, as required.

The nonstatutory double patenting rejection based on judicially created doctrine grounded in public policy filed on non-final office action mailed 06/25/08, has **not** been overcome by the submission of a terminal disclaimer, as is hereby **sustained**.

Amendment and Response document filed on October 27, 2008 is considered responsive as meeting the requirement of 37 CFR § 1.111, thus the notice of non-responsive mailed December 08, 2008 is hereby **withdrawn**.

The terminal disclaimer will obviate the double patenting rejection upon filing by removing potential harm to the public by issuing a second patent.

Accordingly, the petition is **GRANTED.**

The application will be forwarded to the Examiner to withdraw Notice of non-responsive reply mailed December 08, 2008.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,380	02/01/2005	Robin J. Blackwell	GB 030054	3721

24737 7590 05/06/2009
PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER
JAKOVAC, RYAN J

ART UNIT	PAPER NUMBER
2445	

MAIL DATE	DELIVERY MODE
05/06/2009	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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United States Patent and Trademark Office
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NXP, B.V
NXP INTELLECTUAL PROPERTY DEPARTMENT
M/S41-SJ
1109 MACKAY DRIVE
SAN JOSE CA 95131

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MAY 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Karolien Madeleine Michel De Baere	:	
Application No. 10/523,383	:	DECISION ON PETITION
Filed: February 1, 2005	:	
Attorney Docket No. be 020017	:	

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

The petition is **DISMISSED**.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unintentional delay or to accept an unintentionally delayed payment of a fee for issuing a patent. In this instance, the fee required by law is $1540.00. If applicant can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated. See 37 CFR 1.27.

The petition in the above-identified application was not accompanied by payment of the required fee. No consideration on the merits can be given to the petition until the required fee is received.

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

29 SEP 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Norman F. Oblon
Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of BLUM, et al. Application No.: 10/523,417 PCT No.: PCT/EP03/08037 Int. Filing Date: 23 July 2003 Priority Date: 07 August 2002 Attorney Docket No.: 264738US0PCT For: PRODUCTION OF PAPER, BOARD AND CARDBOARD	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to applicant's "Request For Corrected Notice of Acceptance" filed 03 August 2005, requesting that the United States Patent and Trademark Office (USPTO) correct the 371(c) date for the above captioned application to 03 February 2005. The request is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 23 July 2003, applicant filed the international application, which claimed a priority date of 07 August 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 19 February 2004. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 07 February 2005.

On 03 February 2005, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee, an Information Disclosure Statement, a preliminary amendment and an executed combined declaration and power of attorney.

On 25 July 2005, applicant was mailed a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495" (Form PCT/DO/EO/903) indicating an date of completion of all 35 U.S.C. 371 requirements of 07 February 2005.

On 03 August 2005, applicant filed the petition considered herein.

DISCUSSION

Applicant has provided a legible copy of the receipt postcard which shows a USPTO date

stamp, "OIPE JC25 Patent & Trademark Office FEB 03 2005" and clearly identifies in part: "Combined Declaration, Petition & Power of Attorney" as well as listing the applicant, international application serial number, title and attorney docket number. The evidence is sufficient to establish that all of the 35 U.S.C. 371 requirements were received in the USPTO on 20 October 2003. In addition, a review of the filed transmittal letter finds that applicant checked box three of the form requesting express national examination procedures. As such, it is proper to **GRANT** applicant's petition at this time.

The application will be given an international filing date of 23 July 2003 under 35 U.S.C. 363 and a date of **03 February 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision, namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495" (Form PCT/DO/EO/903) and a corrected filing receipt indicating the correct 371 date as detailed above.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,419	02/01/2005	Pananchukunnath Manoj Kumar	RLL-277US	1848

7590 02/13/2008

RANBAXY INC.
600 COLLEGE ROAD EAST
SUITE 2100
PRINCETON, NJ 08540

EXAMINER
SILVERMAN, ERIC E

ART UNIT	PAPER NUMBER
1618	

MAIL DATE	DELIVERY MODE
02/13/2008	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☒ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

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

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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SAN FRANCISCO CA 94111-3834

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FEB 03 2009

OFFICE OF PETITIONS

In re Application of	:	
Burli et al.	:	
Application No. 10/523,422	:	ON APPLICATION FOR
Filed: October 6, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 020891-001411US	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION filed December 15, 2008. Applicant requests that the determination of patent term adjustment be corrected from three hundred forty-four (344) days to four hundred fourteen (414) 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, No. 07-1492 (D.D.C. September 30, 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).

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 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 Petitions Attorney Charlema Grant at (571) 272-3215.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Patent No. 7,498,349	
Burli et al.	
Issue Date: March 3, 2009	
Application No. 10/523,422	DECISION ON REQUEST FOR
Filed: October 6, 2005	RECONSIDERATION OF
Attorney Docket No. 020891-001411US	PATENT TERM ADJUSTMENT
Title: Biaryl Compounds Having Anti-Infective Activity	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed May 1, 2009.

The application for reconsideration of patent term adjustment is **DISMISSED**.

The above-identified application matured into U.S. Patent No. 7,498,349 on March 3, 2009. The patent issued with a patent term adjustment of 344 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 344 days to 492 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 148 days (Three Year Delay

under 37 CFR 1.703(b) *plus* a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a) of 404 days). The petition also reflects a reduction of patent term adjustment totaling 60 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 492 days (404+148=552 days for Office delays *less* 60 days for applicants' delay).

Patentees' petition does not dispute the adjustments under 37 CFR 1.702(a) totaling 404 days. Patentee's petition acknowledges the reductions for applicants' failure to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. These reductions total 60 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 because certain actions were not taken within specified time frames, the patent is entitled to an adjustment of 404 days pursuant to 37 CFR 1.702(a). It should be noted that the calculation of any over three year delay for a application filed pursuant to 35 USC 371 is calculated based upon the commencement date. In this instance the commencement date of the application is February 2, 2005. Thus, the application was pending three years and 395 days until the issuance of the patent on March 3, 2009.

At issue is whether patentees should accrue an additional 395 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 404 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 395 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 or commencement 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 or commencement 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 or commencement date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the

actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

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 or 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 during which the application commenced, February 2, 2005, to the date the patent issued on March 3, 2009. Prior to the issuance of the patent, 344 days of patent term adjustment were accorded for the Office failing to respond within specified time frames during the pendency of the application. The 404 days accorded pursuant to 37 CFR 1.702(a) overlap with the 395 days of Office delay under 37 CFR 1.702(b).

The application actually issued three years and 148 days after its filing date. The Office did not delay 404 days and then delay an additional 395 days. Accordingly, 344 days of patent term adjustment (not 404 days and 148 days) was properly entered because the period of delay of 395 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 404 days attributable to grounds specified in § 1.702(a). Entry of both periods is not warranted. Thus, 404 days, which includes the 395 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 by the Office.

Accordingly, at issuance, the Office properly entered an overall adjustment of 344 days of patent term adjustment for the Office taking in excess of three years to issue the patent.

---

[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).

In view thereof, no adjustment to the patent term will be made because the correct adjustment of 344 days is properly set forth in the Letters Patent (adjustments totalling 404 days less reductions totalling 60 days).

The Office acknowledges submission of the required $200.00 application fee. See, 37 CFR 1.18(e).

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

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration

I hereby certify that this correspondence is being filed via EFS-Web with the United States Patent and Trademark Office on May 1, 2009.

TOWNSEND and TOWNSEND and CREW LLP

By: Lukas K. Szymanski

PATENT
Docket No.: 020891-001411US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Customer No.: 20350
Roland W. BURLI	Confirmation No.: 1167
Patent No.: 7,498,349	Examiner: Nolan, Jason Michael
Issued: March 3, 2009	Art Unit: 1626
Application No.: 10/523,422	**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. § 1.705(d)**
Filed: October 6, 2005	
For: Biaryl Compounds Having Anti-Infective Activity	

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

Commissioner:

Pursuant to 37 C.F.R. § 1.705(d), Applicants respectfully request reconsideration of the patent term adjustment determination. This request is accompanied by the fee set forth in §1.18(e) and a statement of facts as required under 37 C.F.R. § 1.705(b)(2).

In view of the following it is respectfully requested that Applicants be granted a corrected patent term adjustment of **492 days**.

Statement of Facts as required under 37 C.F.R. § 1.705(b)(2)

The correct patent term adjustment is 492 days, not 344 days as stated on the Determination of Patent Term Adjustment under 35 U.S.C.§ 154(b) mailed on September 17, 2008 with the Notice of Allowance and listed on the front page of U.S. Patent No. 7,498,349.

The period of adjustment under § 1.702(a) is 404 days ("A delay").

The period of adjustment under § 1.702(b) is 148 days ("B delay").

The period adjustment under § 1.704(a) is 60 days ("applicant delay").

The period of adjustment under § 1.703(f) is 492 days.

The Relevant Dates as Specified in 37 C.F.R. §§ 1.703(a)-(e) and the Adjustment Specified in 37 C.F.R. § 1.703(f)

1. **§ 1.703(a)**

Applicants submit that the Office did correctly calculate the term adjustments to include the term adjustments that Applicants are entitled to under 37 CFR § 1.703(a)(1) as 404 days (*See* **Exhibit A**, attached hereto).

The relevant dates are shown below.

Filing Date	14-month Date	Date of 1st Office Action	Days over 14 months (§ 1.703(a)(1))
October 6, 2005	December 6, 2006	June 27, 2007	404 days

2. **§ 1.703(b)**

The Office failed to issue a patent within three years of the actual filing date of the above-referenced application. The period of adjustment under 37 C.F.R. § 1.702(b) begins on the day after the date that is three years from the filing date of the instant application, October 6, 2008, and ends on March 3, 2009, the day the above-identified U.S. Patent was issued.

Thus, the effective period of adjustment under 37 C.F.R. § 1.702(b) is **148 days** as shown in the table below.

Filing Date	3-year Date	Date Patent Issued	Days over 3 years through Issuance (§ 1.703(b)(1))
October 6, 2005	October 6, 2008	March 3, 2009	148 days

3. **§ 1.703(c)-(e)**

There are no relevant dates as specified under §§ 1.703(c)-(e)

4. Overlapping periods under § 1.703(a)-(e)

Applicants have calculated overlapping periods in accordance with *Wyeth v. Dudas* (88 U.S.P.Q.2d 1538, D.D.C. 2008). Periods of delay under 35 U.S.C. §154(b)(1)(A) and 35 U.S.C. §1.54(b)(1)(B) overlap only if they occur on the same calendar day or days (*see Wyeth*).

There are no overlapping periods under § 1.703(a)-(e).

5. § 1.703(f)

The period of adjustment under 37 C.F.R. § 1.702(f) is as follows:

Type "A" delay:	404 days
Type "B" delay:	148 days
"A" and "B" overlap:	0 days
Applicant delay:	60 days
Adjusted	492 days

Reduction of Period of Adjustment of Patent Term Under 37 C.F.R. §1.704

The Office did correctly calculate the period of adjustment under § 1.704(a) as **60 days** as indicated by the Patent Term Adjustment History (*see* **Exhibit A**).

Terminal disclaimer

The instant application is not subject to a terminal disclaimer.

Statement under 37 C.F.R. § 1.705(d)

The issue fee was paid on December 15, 2008 and the U.S. Patent issued on March 3, 2009. This petition is being filed within the two-month time frame set forth under 37 CFR §1.705(d).

Pursuant to 37 CFR §1.705(d), this request for reconsideration could not have been filed prior to or with the December 15, 2008 issue fee payment since Applicants and the U.S. Patent Office are unable to calculate the amount of patent term adjustment accrued under §1.702(b) until the time of issuance of the patent. Further, knowledge of the actual date the patent issues is required to calculate any additional patent term entitled to the Applicants under §1.703(b). Thus, Applicants could not have filed the instant Request for Reconsideration prior to the issuance of the U.S. Patent.

PATENT TERM ADJUSTMENT DETERMINATION

Pursuant to *Wyeth*, Applicants are entitled to **492 days** of patent term adjustment, *i.e.*, [552 days (A delay + B delay)] minus [60 days (applicant delay)].

Applicant attaches a copy of the Decision mailed on February 3, 2009 regarding the Request for Reconsideration of Patent Term Adjustment Determination filed December 15, 2008.

Based on the foregoing, Applicants respectfully request reconsideration of the patent term adjustment determination.

In accordance to the received decision dated February 3, 2009, Applicants believe that no additional fee is due since one was submitted on December 15, 2008. Please charge any necessary additional fees or credit any overpayments to our Deposit Order Account No. 20-1430.

Respectfully submitted,

Alexander R. Trimble
Reg. No. 52,301

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: (415) 576-0200
Fax: (415) 576-0300
ART:lks

61928413 v1

Date Calculator Result

From 10/06/2008 to 03/03/2009 is 148 days.

New calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

JUN 12 2008

OFFICE OF PETITIONS

In re Application of	:	
Kevin R. Boyle, et al.	:	
Application No. 10/523,429	:	ON PETITION
Filed: January 28, 2005	:	
Attorney Docket No. GB 020122	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 12, 2008, to revive the above-identified application.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Michael J. Ure appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition is **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.

This application became abandoned for failure to timely reply to the non-final Office action mailed July 3, 2006, which set a three month shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a), this application became abandoned on October 4, 2006. It is noted that, while applicant submitted an amendment on January 3, 2007, without an appropriate 3-month extension of time, a Notice of Non-Compliant Amendment was mailed on January 12, 2007. A Notice of Abandonment was subsequently mailed on May 30, 2007. In response, on February 12, 2008, the present petition was filed, along with a 3-month petition for extension of time.

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for

response has expired. Since, no extension of time fees are due on a petition for revival, petitioner is entitled to a refund of the $1,050 extension fees included with this petition.

Any request for refund must included a copy of this decision and be mailed to Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450 or faxed to the Customer Service Help Desk at (571) 273-6500.

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

The petition lacks the required reply. In this regard, no further response was filed to the outstanding Office action, other than an improper extension of time request, and the amendment filed January 3, 2007, is shown to be non-compliant. Accordingly, the petition fails to comply with item (1) above.

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

---

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

The centralized facsimile number is **(571) 273-8300**.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NXP INTELLECTUAL PROPERTY DEPARTMENT
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE, CA 95131

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OCT 09 2008

OFFICE OF PETITIONS

In re Application of
Kevin R. Boyle, et al.
Application No. 10/523,429
Filed: January 28, 2005
Attorney Docket No. GB 020122

ON PETITION

This is a decision in response to the renewed petition, filed July 25, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed July 3, 2006. On February 12, 2008 a petition under 37 CFR 1.137(b) was filed; however, the petition was dismissed by a decision mailed June 12, 2008. In response, on July 25, 2008, the present petition was filed.

The petition is not signed by an attorney or agent of record. However, in accordance with 37 CFR 1.34(a), the signature of Michael J. Ure appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

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

Since, no extension of time fees are due on a petition for revival, the $1,050 extension fees included with petition on February 18, 2008 are being refunded to counsel's deposit account as requested.

The application is being referred to Technology Center AU 2618 for appropriate action by the Examiner in the normal course of business on the reply received July 25 2008.

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

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NOV 06 2008

In re Application of	:	
Hubert Sjoerd Blaauw, et al.	:	
Application No. 10/523,431	:	ON PETITION
Filed: January 28, 2005	:	
Attorney Docket No. NL 020701	:	
	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 8, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action mailed June 15, 2007. A Notice of Abandonment was mailed on March 26, 2008. On August 8, 2008, the present petition was filed.

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 satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 3724 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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21 FEB 2006

OSHA LIANG L.L.P.
1221 MCKINNEY STREET
SUITE 2800
HOUSTON TX 77010

In re Application of	:	
LIU	:	DECISION
Application No.: 10/523,439	:	
PCT No.: PCT/FR03/02133	:	
Int. Filing Date: 09 July 2003	:	
Priority Date: 29 July 2002	:	
Attorney's Docket No.: 17170/008001	:	
For: ELECTROMAGNETIC RETARDER FOR A	:	
VEHICLE PROVIDED WITH A SPEED	:	
INCREASING UNIT	:	

This decision is in response to applicant's "REQUEST TO AFFORD FILING DATE UNDER 37 C.F.R. § 1.10" filed on 06 September 2005, which has been treated as a petition under 37 CFR 1.10(d).

BACKGROUND

On 09 July 2003, applicants filed international application PCT/FR03/02133, which designated the U.S. and claimed a priority date of 29 July 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 26 February 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 31 January 2005 (29 January 2005 being a Saturday).

On 29 January 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 09 August 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) and the surcharge under 37 CFR 1.492(e) for filing the oath or declaration later than thirty months from the earliest priority date were required. This NOTIFICATION set a two month extendable period for reply.

On 06 September 2005, applicant submitted a response which included, inter alia, a declaration of the inventor and the surcharge under 37 CFR 1.492(e).

On 06 September 2005, applicant also submitted the instant REQUEST TO AFFORD FILING DATE UNDER 37 C.F.R. § 1.10", which has been treated as a petition under 37 CFR 1.10(d).

DISCUSSION

A review of the application papers located in the application file reveals that they were stamped with a receipt date of 29 January 2005. The "Express Mail" label number EV535680024US is shown on "Certificate of Express Mailing Under 37 CFR 1.10" which itemizes the items being filed. The copy of the Customer Copy of the "Express Mail Post Office to Addressee" mailing label mailing label accompanying the petition contains the same "Express Mail" label number.

The copy of the Customer Copy of Express Mail mailing label #EV535680024US shows a "Date In" of "12905".

37 CFR 1.10(d) states:

> (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 the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

The petition provides a satisfactory showing under 37 CFR 1.10(d)(1) and (2).

As to item (3), applicant has not provided a satisfactory showing. Applicant has provided only the copy of the Customer Copy of the "Express Mail Post Office to Addressee" mailing label #EV535680024US which includes a date-in of 29 January 2005. The petition states that applicant filed the application with the USPS by Express Mail on 28 January 2005 and that "the clerk at the U.S. Post Office errantly hand wrote the date on the receipt as January 29, 2005." However, no evidence from the USPS has been provided nor has any evidence that came into being after deposit and within one business day of the deposit of the correspondence with the

USPS been provided, as required by 37 CFR 1.10(d)(3). Accordingly, it is inappropriate, on the present record, to accord the international application an international filing date of 28 January 2005.

The petition urges that the Certificate of Express Mailing, Fee Transmittal, Application Cover Sheet, and Credit Card Payment Form are all date January 28, 2005. However, these documents only show an intent to file on that date; they are not evidence that the papers were deposited on that date.

CONCLUSION

For the reasons set forth above, applicant's petition under 37 CFR 1.10(d) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS form the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(d)." No additional petition fee is required.

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

08 MAY 2006

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OSHA LIANG L.L.P.
1221 MCKINNEY STREET
SUITE 2800
HOUSTON TX 77010

In re Application of	:	
LIU	:	DECISION
Application No.: 10/523,439	:	
PCT No.: PCT/FR03/02133	:	
Int. Filing Date: 09 July 2003	:	
Priority Date: 29 July 2002	:	
Attorney's Docket No.: 17170/008001	:	
For: ELECTROMAGNETIC RETARDER FOR A	:	
VEHICLE PROVIDED WITH A SPEED	:	
INCREASING UNIT	:	

This decision is in response to applicant's "RENEWED PETITION UNDER 37 C.F.R. 1.10(d)" filed on 17 March 2006.

BACKGROUND

On 09 July 2003, applicants filed international application PCT/FR03/02133, which designated the U.S. and claimed a priority date of 29 July 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 26 February 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 31 January 2005 (29 January 2005 being a Saturday).

On 29 January 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 09 August 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) and the surcharge under 37 CFR 1.492(e) for filing the oath or declaration later than thirty months from the earliest priority date were required. This NOTIFICATION set a two month extendable period for reply.

On 06 September 2005, applicant submitted a response which included, inter alia, a declaration of the inventor and the surcharge under 37 CFR 1.492(e).

On 06 September 2005, applicant also submitted a "REQUEST TO AFFORD FILING DATE UNDER 37 C.F.R. § 1.10", which was treated as a petition under 37 CFR 1.10(d).

On 21 February 2006, a decision was mailed dismissing applicant's petition under 37 CFR 1.10(d) without prejudice for failure to provide evidence from the USPS or any evidence that came into being after deposit and within one business day of the deposit of the correspondence with the USPS, as required by 37 CFR 1.10(d)(3).

On 17 March 2006, applicant filed the instant "RENEWED PETITION UNDER 37 C.F.R. 1.10(d)" which was accompanied by, inter alia, the original Customer Copy of Express Mail mailing label #EV535680024US which bears a USPS date stampe of 28 January 2005 and a report from the U.S. Postal Service indicating acceptance of Express Mail mailing label #EV535680024US in Houston, Texas on 28 January 2005.

DISCUSSION

Petition Under 37 CFR 1.10(d)

37 CFR 1.10(d) states:

> (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 the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

As noted in the decision mailed 21 February 2006, a satisfactory showing under 37 CFR 1.10(d)(1) and (2) has been made.

A satisfactory showing under 37 CFR 1.10(d)(3) has now been made as well.

Declaration of Inventor

The declaration of the inventor filed 06 September 2005 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the reasons set forth above, applicant's petition under 37 CFR 1.10(d) requesting that the application papers and the basic national fee be accorded a receipt date of 28 January 2005 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 (1) changing the receipt date on the application papers presently stamped 29 January 2005 to **28 January 2005** and (2) the accordation of a 35 U.S.C. §§371(c)(1), (c)(2), and (c)(4) date of **06 September 2005**.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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COLEMAN SUDOL SAPONE, P.C.
714 COLORADO AVENUE
BRIDGE PORT CT 06605-1601

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FEB 12 2007

OFFICE OF PETITIONS

In re Application of	:	
Sergio Pianezzola et al	:	
Application No. 10/523,441	:	DECISION GRANTING PETITION
Filed: May 5, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. Z01-153	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 2, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of February 10, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 3617.

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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Haynes and Boone, LLP
901 Main Street, Suite 3100
Dallas, TX 75202

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AUG 27 2007

OFFICE OF PETITIONS

In re Application of

Robert Lance Cook
Application No. 10/523,443
Filed: January 31, 2005
Attorney Docket No. 25791.111.03

DECISION ON PETITION TO WITHDRAW FROM RECORD

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

Customer No. 27683 cannot be used to withdraw the attorneys of record. Customer number 62519 appointed them.

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: **King & Spalding, LLP**
Todd Mattingly
1100 Louisiana Street
Suite 4000
Houston, TX 77002

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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JUL 19 2010

OFFICE OF PETITIONS

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

In re Patent No. 7,582,296	:	DECISION ON REQUEST
Giles et al.	:	FOR
Issue Date: September 1, 2009	:	RECONSIDERATION OF
Application No. 10/523,444	:	PATENT TERM ADJUSTMENT
Filed: January 31, 2005	:	and
Atty Docket No. 50304/059001	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 2, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred and forty-five (545) 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 five hundred and thirty-one (531) days is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on February 1, 2008, and ends on October 5, 2008, the day before the RCE was filed, and is 248 (not 249) days. 'See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 779, not 780 days.

Patentees dispute the 13 day reduction to the patent term adjustment pursuant to 37 CFR 1.704(c)(10)for the filing of an Information Disclosure Statement on June 17, 2009.

In this instance, it is undisputed that patentees filed the IDS after the mailing of the notice of allowance. A review of the IDS filed on June 17, 2009, reveals that it did not include a

proper § 1.704(d) statement. Rather, it is noted that the Information Disclosure Statement includes a certification statement pursuant to 37 CFR 1.97(e)(1). Specifically, the certification statement states:

> that the item of information in this is a statement is a communication from a foreign patent office in a counterpart foreign application, dated May 22, 2009, which is not more than three months prior to the filing of the information disclosure statement.

Excerpt taken from Information Disclosure Statement, filed June 17, 2009, p. 1.

However, the statement required under 37 CFR 1.704(d) must state that:

> [E]ach 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.

The statement accompanying the IDS filed June 17, 2009, does not contain the language required by 37 CFR 1.704(d). Accordingly, pursuant to 37 CFR 1.704(c)(10), it is concluded that the period of reduction of 13 days is merited and will remain.

The Office responded to the IDS on June 22, 2009. Thus, the period of adjustment was properly reduced by the lesser period of 13 days, beginning on the date the IDS was filed, June 17, 2009, and ending on the mailing date of the Office action or notice in response to the IDS, June 22, 2009. Accordingly, the period of reduction of 13 days will remain.

Patentees' argument as to the reduction of the patent term adjustment of 47 days has been considered and is persuasive. A review of the application reveals that a reduction of the patent term adjustment of 47 days was entered for the filing of a "Reply to Notice of Allowance and Notice of Allowability", on June 17, 2009, after the mailing of the Notice of Allowance and Issue Fee Due was mailed on May 19, 2009. Such a paper is not

identified as one of the papers[1] the filing of which the Director has specifically deemed not be a "failure to engage in reasonable efforts" within the meaning of 37 CFR 1.704(c)(10)[2]. However, it is obvious that the "Reply to Notice of Allowance and Notice of Allowability" is a transmittal letter to accompany the issue fee payment made on June 17, 2009. This paper does not constitute a "failure to engage in reasonable efforts" to conclude prosecution within the meaning of 37 CFR 1.704(c)(10).

---

[1] It is noted that *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001)states, in pertinent part, that:

> … the Office is publishing this notice to provide guidance in interpreting the provisions of 37 CFR 1.704(c)(10) to clarify that submission of certain papers after a "Notice of Allowance," which do not cause substantial interference and delay in the patent issue process, are not considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application. The following are examples of such papers: (1) Issue Fee Transmittal (PTOL-85B), (2) Power of Attorney, (3) Power to Inspect, (4) Change of Address, (5) Change of Status (small/not small entity status), (6) a response to the examiner's reasons for allowance, and (7) letters related to government interests (e.g., those between NASA and the Office). Therefore, the submission of these papers after a Notice of Allowance will not be considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application and would not result in reduction of a patent term adjustment pursuant to 37 CFR 1.704(c)(10).

[2] 37 CFR 1.704(c)(10)provides that:

> (c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the periods of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the periods of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or other such paper; or
>
> (ii) Four months…

Thus, reduction to patent term adjustment of 47 days pursuant to 37 CFR 1.704(c)(10) was not warranted and will be removed.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The 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 **five hundred thirty-one (531)** days.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,582,296 B2

DATED : Sept. 1, 2009

INVENTOR(S) : Gilles 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 (236) days

Delete the phrase "by 236 days" and insert – by 531 days--

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

Mail Date: 04/21/2010

Applicant	: Noel Martin Young	: DECISION ON REQUEST FOR
Patent Number	: 7598354	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/523,459	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **344** 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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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/26/2010

Applicant	: Etienne Pays	: DECISION ON REQUEST FOR
Patent Number	: 7585511	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/523,466	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/13/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **886** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

22 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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Laleh Shayesteh
Exelixis, Inc.
Patent Dept.
170 Harbor Way
P.O. Box 511
South San Francisco, CA 94083-0511

In re Application of	:	
GENDREAU, et al.	:	
Application No.: 10/523,477	:	DECISION ON PETITION
PCT No.: PCT/US03/24560	:	
Int. Filing Date: 06 August 2003	:	UNDER 37 CFR 1.181
Priority Date: 07 August 2002	:	
Atty Docket No.: EX03-051C-US	:	
For: MAXS AS MODIFIERS OF THE AXIN	:	
PATHWAY AND METHODS OF USE	:	

This decision is in response to applicant's "Request For Corrected Filing Date" filed 31 October 2005. The request is being treated as a petition under 37 CFR 1.181. No petition fee is due.

Applicant indicates that the official filing receipt indicates a filing date of "31 March 2005." Applicant has included a copy of the stamped return postcard for the initial 35 U.S.C. 371 filing of 04 February 2005 and seeks this date as the filing date on the filing receipt.

Applicant is directed to the "Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495" mailed 04 August 2005. As shown on this document, the date appearing on the filing receipt as the "filing date" is the date on which the last of the 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) requirements has been received in the office. This has been properly indicated as 21 March 2005. The filing date of the application is the international filing date of the international application (Article 11(3) and 35 U.S.C. 363).

For the reasons indicated above, applicant's petition under 37 CFR 1.181 filed 31 October 2005 is **DISMISSED as moot**.

This application is being returned to Art Unit 1642 for continued examination of the application.

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

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EDWARDS, ANGELL PALMER & DODGE, LLP
P.O. BOX 55874
BOSTON, MA 02205

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NOV 1 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Ronald Rodriguez, et al.	:	
Application No. 10/523,498	:	ON PETITION
Filed: August 2, 2006	:	
Attorney Docket No. 59563(71699)	:	

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 **DISMISSED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed October 2, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 3, 2008.

It is initially pointed out that the petition is found to be filed by a patent practitioner acting in representative capacity; however, the petition does not set forth petitioner's signature or registration number.

37 CFR 1.34 states:

> "When a patent practitioner acting in a representative capacity appears in person or signs a paper in practice before the United States Patent and Trademark Office in a patent case, his or her personal appearance or signature shall constitute a representation to the United States Patent and Trademark Office that under the provisions of this subchapter and the law, he or she is authorized to represent the particular party on whose behalf he or she acts. In filing such a paper, the patent practitioner must set forth his or her registration number, his or her name and signature. Further proof of authority to act in a representative capacity may be required."

Further 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) (3).

The instant petition fails to contain the required statement of unintentional delay. 37 CFR 1.37(b) states that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (II)(C) and (D)).]

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

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

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

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

The centralized facsimile number is **(571) 273-8300.**

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

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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BOSTON, MA 02205

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MAR 13 2009

OFFICE OF PETITIONS

In re Application of :
Ronald Rodriguez, et al. :
Application No. 10/523,498 : ON PETITION
Filed: August 2, 2006 :
Attorney Docket No. 59563(71699) :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed February 3, 2009, to revive the above-identified application.

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 October 2, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). 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 January 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 a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

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

This application is being referred to Technology Center AU 1654 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

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801 GRAND AVENUE, SUITE 3200
DES MOINES, IOWA 50309-2721

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OFFICE OF PETITIONS

In re Application of	:	
Robert Ungemach et al	:	
Application No. 10/523,504	:	DECISION ON PETITION
Filed: June 6, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. P05841US00	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR §1.102(d), filed September 8, 2005, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

> (A) That there is an 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 inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3743 for action on the merits commensurate with this decision.

Amelia Au
Petitions Examiner
Office of Petitions

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT	:	UNGEMACH, Robert et al.
SERIAL NO	:	10/523,504
FILED	:	June 6, 2005
TITLE	:	IMRT REINFORCED THERMOPLASTIC PATIENT RESTRAINTS
Grp./A.U.	:	3743
Examiner	:	
Conf. No.	:	1298
Docket No.	:	P05841US00

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OFFICE OF PETITIONS

PETITION TO MAKE SPECIAL BECAUSE OF ACTUAL INFRINGEMENT
(37 C.F.R. § 1.102 and M.P.E.P. § 708.02)

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P.O. Box 1450
Alexandria, VA 22313-1450

Applicant hereby petitions to make this application special because of actual infringement.

The attached Declaration of David Van Gorp, CEO of the assignee of the above-identified invention, states the following:

1. There is an infringing device or product actually on the market.

CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is, on the date shown below, being:

MAILING
☐ deposited with the United States Postal Service with sufficient postage as First Class mail in an envelope addressed to the Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: 9/8/05

FACSIMILE
☑ transmitted by facsimile to the Patent and Trademark Office, Art Unit 3743 at Fax No. (571) 273-8300.

KIRK M. HARTUNG

11/09/2005 AKELLEY 00000005 260084 10523504
01 FC:1464 130.00 DA

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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

Mail Date: 04/21/2010

Applicant	: Ben Z Cohen	: DECISION ON REQUEST FOR
Patent Number	: 7635070	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/523,516	: 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 **979** 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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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

Mail Date: 05/18/2010

Applicant : Ben Z Cohen
Patent Number : 7635070
Issue Date : 12/22/2009
Application No: 10/523,516
Filed : 10/19/2005

: 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 **1089** 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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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510

Mail Date: 04/21/2010

Applicant	: Walter Decker	: DECISION ON REQUEST FOR
Patent Number	: 7589608	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/523,545	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/04/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **779** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

22 AUG 2005

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H T Than Law Group
Waterfront Center
1010 Wisconsin Avenue N W
Suite 560
Washington DC 20007

In re Application of CHAPPUIS Serial No.: 10/523,583 PCT No.: PCT/EP02/11420 Int. Filing Date: 11 October 2002 Priority Date: 30 July 2002 Attorney's Docket No.: MTL-006 For: IDENTIFICATION OF A USER OF A MOBILE TERMINAL AND GENERATION OF AN ACTION AUTHORIZATION	DECISION ON PETITION UNDER 37 CFR 1.10(d)

This decision is in response to applicant's "PETITION TO BE ACCORDED DATE OF EXPRESS MAIL DEPOSIT PURSUANT TO 37 CFR 1.10(d)", filed 03 August 2005, to accord a filing date of 28 January 2005 to the above-identified application papers. No petition fee is required..

BACKGROUND

On 11 October 2002, applicant filed international application No. PCT/EP02/11420, which claimed a priority date of 30 July 2002 and which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 04 March 2004.

The deadline for payment of the basic national fee was to expire 30 months from the priority date, or at midnight 30 January 2005.

On 27 January 2005, applicant filed, via Express Mail, a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee. The United States Designated/Elected Office (DO/EO/US) accorded a filing date of 01 February 2005 to the transmittal letter.

On 07 July 2005, the United States Designated/Elected Office mailed a Notification of Acceptance of Application under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (FORM PCT/DO/EO/903) which indicated a 35 U.S.C. 371 date of 23 June 2005.

On 03 August 2005, applicant filed the present petition, which included a copy of the online Customer Receipt of the "Express Mail" mailing label #EO907275415US and a copy of the USPS Track & Confirm Shipment Detail for this Express Mail number.

DISCUSSION

The Express Mail label #EO907275415US was addressed to the "Commissioner for Patents, Mail Stop Patent Application, PO Box 1450, Alexandria, VA 22313-1450". The label does not bear a USPS barrel date stamp; the entry in the "Date In" box on the Express Mail Customer Copy is blank. However, the USPS Track & Confirm Shipment Detail indicates that Express Mail package number was accepted on 27 January 2005, 6:00 pm, Washington, DC 20066.

This is sufficient evidence to establish with reasonable certainty that the national stage papers were deposited with the United States Postal Service as an "Express Mail" Mailing on 27 January 2005. Specifically, the "Express Mail" label number ("# EO907275415US") is the same number that appears on the Transmittal Letter, which is found in the application file. The indication of the "Express Mail" label number appearing on the Transmittal Letter ties the "Express Mail" label and the Transmittal Letter together such that it is clear that the national stage papers were deposited on 27 January 2005.

CONCLUSION

Applicant's petition requesting that the national stage papers be accorded a receipt date of 27 January 2005 is **GRANTED**.

The Notification of Acceptance (FORM PCT/DO/EO/903) mailed on 07 July 2005 and the filing receipt issued in this case is correct and remains in effect.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: 571-272-3286

#4

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03 AUG 2006

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

In re Application of ANDREOLETTI et al.	
Application No.: 10/523,593	
PCT No.: PCT/EP03/08926	DECISION ON PETITION
Int. Filing: 12 August 2003	
Priority Date: 14 August 2002	UNDER 37 CFR 1.47(a)
Attorney Docket No.:620-359	
For: HETEROPOLYMERIC COMPOUND COMPRISING A SCAFFOLD, AN ADJUVANT AND AN ANTIGEN AND IT USE	

This is a decision on applicant's petition under 37 CFR 1.47(a) filed in the United States Patent and Trademark Office (USPTO) on 27 February 2006, in response to a Notification of Missing Requirements. Applicant requests a four month extension of time, which is granted.

BACKGROUND

On 04 February 2005, within thirty months of the priority date, applicant filed a transmittal letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee.

On 26 August 2005, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) & (b), and the surcharge for filing the oath or declaration after the thirty month period, was required.

On 27 February 2006, applicant filed a petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4). The petition requested the acceptance of the application without the signatures of inventors Pierre Andreoletti, Michel Julien and Emmanuel Risse. Applicant alleges that the inventors refuse to sign the application. The petition included the requisite petition fee, declarations signed by the joint inventors Laurence Dumon, Fergal Hill, Jean Marchand on their behalf and on behalf of nonsigning joint inventors and a statement of facts under 37 CFR 1.47(a).

DISCUSSION

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

Item (1) is satisfied with the payment of the $200 petition fee. Item (3) is satisfied because the last known addresses for non-signing inventors were provided. With regard to Item (4), the declaration was executed by the available joint inventors on their behalf and on behalf of the non-signing inventors. Item (4) is satisfied.

With respect to item (2), joint inventor Fegal Hill's statement reflects the efforts he made or that were made by another on his behalf.

As stated in MPEP § 409.03(d), 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. With regard to contacting each nonsigning inventor, Mr. Hill states that he forwarded "or had forwarded on my behalf" a copy of the declaration and the above identified application. His statement does not clearly indicate what first hand knowledge he possesses. A statement by the person who made efforts on Mr. Hill's behalf was not provided and is required. 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 should be submitted.

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. *See* MPEP Section 409.03(d).

With regard to inventor Andreoletti, the papers allegedly were received on 17 October 2005. Petitioner states that the papers were signed for. However, Petitioner has not provided the evidence that a copy of the application papers including the declaration were *delivered to and received by Mr. Andreoletti*. Such evidence is needed to prove that Mr. Andreoletti received the papers and refuses to sign.

With regard to inventors Julien and Risse, the papers were returned to sender unopened.

The papers in both cases were marked indicating that the nonsigning inventor "did not live at the indicated address". No forwarding address was provided.

Section 409.03(d) states, in pertinent part: where inability to find or reach a nonsigning inventor "*after diligent effort*" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. The fact that a nonsigning inventor is temporarily unavailable (on vacation or out of town) to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47.

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

Petitioner has not provided evidence of any diligent efforts made to locate the whereabouts of the nonsigning inventors Julien and Risse. A returned mailing does not demonstrate Messrs. Julien and Risse's refusal to sign the application. Since they are no longer available at their last known address, details regarding the diligent efforts to contact Messrs. Julien and Risse using Internet searches, telephone, e-mail or contacting the last known employment or the joint inventors regarding their whereabouts should be provided in a statement by a person having first hand knowledge of such search. This statement should demonstrate the diligent efforts undertaken to show the nonsigning inventors' unavailability. Petitioner has not provided sufficient evidence to conclude that Messrs. Andreoletti, Julien and Risse refuse or are unavailable to sign the application and thus, item (2) has not been met.

Petitioner has not satisfied Item (2) above and thus, the requirements of 37 CFR 1.47(a) are not satisfied at this time. Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

For the above reasons, 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, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

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

11 JAN 2007

#8

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901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of ANDREOLETTI et al.	
Application No.: 10/523,593	
PCT No.: PCT/EP03/08926	DECISION ON
Int. Filing: 12 August 2003	
Priority Date: 14 August 2002	RENEWED PETITION
Attorney Docket No.:620-359	
For: HETEROPOLYMERIC COMPOUND COMPRISING A SCAFFOLD, AN ADJUVANT AND AN ANTIGEN AND IT USE	UNDER 37 CFR 1.47(a)

This is a decision on applicant's renewed petition under 37 CFR 1.47(a) filed in the United States Patent and Trademark Office (USPTO) on 02 November 2006 (and refiled via facsimile on 10 January 2007), in response to a Notification of Missing Requirements. Petitioner requests a one month extension of time from the Notification of Missing Requirements, which is granted.

BACKGROUND

On 26 August 2005, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) & (b), and the surcharge for filing the oath or declaration after the thirty month period, was required.

On 27 February 2006, applicant filed a petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4). The petition requested the acceptance of the application without the signatures of inventors Pierre Andreoletti, Michel Julien and Emmanuel Risse. Applicant alleges that the inventors refuse to sign the application. The petition included the requisite petition fee, declarations signed by the joint inventors Laurence Dumon, Fergal Hill, Jean Marchand on their behalf and on behalf of nonsigning joint inventors and a statement of facts under 37 CFR 1.47(a).

On 03 August 2006, a decision dismissing the petition was mailed to applicant. On 02 November 2006, applicant filed a renewed petition under 37 CFR 1.47(a), along with a

declaration executed by the previously non-signing inventor.

On 10 January 2007, Petitioner filed a copy of the renewed petition under 37 CFR 1.47(a) along with a USPTO date-stamped itemized postcard receipt.

DISCUSSION

A review of the USPTO date-stamped, itemized postcard receipt indicates that a renewed petition under 37 CFR 1.47(a) along with declarations (6 pages) and the request for extension of time were deposited, in the USPTO on 02 November 2006. The evidence submitted is sufficient to establish that these declarations were received in the USPTO on 02 November 2006. Accordingly, it is appropriate to accept the copies of the declarations as a replacement for the missing original declarations with a deposit date of 02 November 2006.

A review of the declarations reveals that the declarations identify and are executed by each of the previously nonsigning inventors, and state the residency, citizenship and mailing address of each inventor. Thus, the declarations are acceptable and the requirements of 37 CFR 1.497(a) and (b).

The renewed petition under 37 CFR 1.47(a) is considered moot as a declarations executed by the previously unavailable inventors has now been submitted and are acceptable under 37 CFR 1.497(a) and (b).

CONCLUSION

For the above reasons, the renewed petition under 37 CFR 1.47(a) is considered **MOOT**. The declarations executed by the joint inventors and submitted on 02 November 2006 is in compliance with 37 CFR 1.497(a) and (b) and are acceptable.

This application is being forwarded to United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **02 November 2006.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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CIBA CORPORATION/PATENT DEPARTMENT
540 WHITE PLAINS ROAD
P.O. BOX 2005
TARRYTOWN, NY 10591

COPY MAILED

MAY 2 1 2008

OFFICE OF PETITIONS

In re Application of :
MADER, et al. :
Application No. 10/523,615 :
Filed: February 1, 2005 :
Attorney Docket No. **PP/1-22728/A/PCT** :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

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

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 3, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 4, 2006.

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

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1020 extension of time fee submitted with the petition on September 5, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

The application file is being referred to Technology Center Art Unit 2614 for consideration of the amendment filed January 19, 2007.

Brian W. Brown
Petitions Examiner
Office of Petitions

CASE PP/1-22728/A/PCT

CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Andrea De Cerchis — Type or print name | Signature | 1/16/07 — Date

OIPE JAN 18 2007 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF
DIETMAR MÄDER ET AL.
APPLICATION NO: 10/523,615
FILED: FEBRUARY 1, 2005
FOR: BETA-NUCLEATING, LIGHT STABILIZING AGENTS FOR POLYPROPYLENE

Group Art Unit: 1754
Examiner: Connie P. Johnson

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

PETITION FOR EXTENSION OF TIME

Sir:

The Office Action of July 3, 2006, has a shortened statutory time set to expire on October 3, 2006. A **Three**-month extension is hereby requested pursuant to 37 CFR § 1.136(a).

Please charge Deposit Account No. 03-1935 in the amount of **$1,020.00** for payment of the extension fee. Two additional copies of this paper are here enclosed. The Commissioner is hereby authorized to charge any additional fees under 37 CFR § 1.17 which may be required, or credit any overpayment, to Account No. 03-1935.

01/22/2007 MBELETE1 00000017 031935 10523615
01 FC:1253 1020.00 DA
Adjustment date: 05/21/2008 CKHLOK
01/22/2007 MBELETE1 00000017 031935 10523615
01 FC:1253 1020.00 CR

Respectfully submitted,

Joseph C. Suhadolnik
Agent for Applicants
Reg. No. 56,880

Ciba Specialty Chemicals Corporation
Patent Department
540 White Plains Road
P.O. Box 2005
Tarrytown, NY 10591-9005
Tel. (914) 785-2973
Fax (914) 785-7102

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

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 05/19/08

2 Serial/Patent # 10/523,615

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
X	Extension of Time 1253	XT/	01/19/07	$ 1,020.00
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 1,020.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 0 3 -- 1 9 3 5

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Extension was filed subsequent to the maximum extendable period for reply.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Monica A. Graves TITLE: Paralegal Specialist

SIGNATURE: MaGraves PHONE: (571) 272-7253

OFFICE: Office of Petitions

****

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APPROVED: CRHOK DATE: 5/21/08

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

Office of Finance
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FORM PTO 1577
(01/90)

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1500 K STREET, N.W.
SUITE 1100
WASHINGTON, DC 20005-1209

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JAN 07 2009

In re Application of Yujin Zheng, et al. Application No. 10/523,634 Filed: January 6, 2006 Attorney Docket No. 46884-5355 (210813)	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed October 14, 2008.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before September 29, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed June 27, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on September 28, 2008. On October 14, 2008, the present petition was filed. A Notice of Abandonment was subsequently mailed on October 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 the $1,510 issue fee and $300 publication fee; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

25 APR 2006

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901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of	:	
GARNIER et al.	:	
Application No.: 10/523,639	:	DECISION
PCT No.: PCT/EP03/08928	:	
Int. Filing Date: 12 August 2003	:	
Priority Date: 14 August 2002	:	
Attorney Docket No.: 620-360	:	
For: PRODUCTION OF MULTIMERIC FUSION	:	
PROTEINS USING A C4BP SCAFFOLD	:	

This is a decision on applicants' "RULE 47 PETITION", which has properly been treated as a petition under 37 CFR 1.47(a), filed 21 February 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 12 August 2003, applicants filed international application PCT/EP03/08928, which designated the United States and claimed a priority date of 14 August 2002. A copy of the international application was communicated from the International Bureau to the USPTO on 11 March 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 14 February 2005.

On 04 February 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date.

On 18 July 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 21 February 2006, applicants filed the instant petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, a petition/fee for a five-month extension of time, and a statement of Fergal Hill in support of the 37 CFR 1.47(a) petition.

DISCUSSION

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

As to item (1), the petition fee of $200 has been charged to Deposit Account 14-1140.

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

Item (2) has not been met. The declaration of Fergal Hill has been considered. It is alleged that the non-signing inventors Laurence Garnier and Michel Julien cannot be found. MPEP 409.03(d)I states in part:

> 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.

Here, no documentary evidence has been provided. Nor have any steps taken to locate the whereabouts of the non-signing inventor been stated.

CONCLUSION

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

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

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

Daniel Stemmer
Legal Examiner

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

28 NOV 2006

#12

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901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of	:	
GARNIER et al.	:	
Application No.: 10/523,639	:	DECISION
PCT No.: PCT/EP03/08928	:	
Int. Filing Date: 12 August 2003	:	
Priority Date: 14 August 2002	:	
Attorney Docket No.: BJS-620-360	:	
For: PRODUCTION OF MULTIMERIC FUSION	:	
PROTEINS USING A C4BP SCAFFOLD	:	

This is a decision on applicants' "RENEWED PETITION UNDER 37 CFR 1.47(a)" filed 25 October 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 12 August 2003, applicants filed international application PCT/EP03/08928, which designated the United States and claimed a priority date of 14 August 2002. A copy of the international application was communicated from the International Bureau to the USPTO on 11 March 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 14 February 2005.

On 04 February 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date.

On 18 July 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 21 February 2006, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, a petition/fee for a five-month extension of time, and a statement of Fergal Hill in support of the 37 CFR 1.47(a) petition.

On 25 April 2006, a decision was mailed dismissing applicants' petition under 37 CFR

1.47(a) for failure to provide factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort.

On 25 October 2006, applicants filed the instant "RENEWED PETITION UNDER 37 CFR 1.47(a)" which was accompanied, *inter alia*, by a declaration of inventors executed by previously non-signing inventors Laurence Garnier and Michel Julien.

DISCUSSION

Since a 37 CFR 1.497 declaration has been executed by all the joint inventors, the petition for status under 37 CFR 1.47(a) is moot. The application need not be returned to the Office of PCT Legal Affairs for any further consideration of the status under 37 CFR 1.47 and no such status should be indicated on this application file.

The declaration of inventors filed 25 October 2006 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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SAN JOSE, CA 95131

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AUG 14 2007

OFFICE OF PETITIONS

In re Application of	:	
WANG	:	
Application No.: 10/523,667	:	DECISION ON PETITION
Filing Date: August 5, 2003	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: CH 020025	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 18, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

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

This application is being referred to the Office of Publications.

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

Bryan Lin

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

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BLACKSTONE & MARR, LTD.
105 WEST ADAMS STREET
SUITE 3600
CHICAGO, IL 60603

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OFFICE OF PETITIONS

In re Application of :
Neil Hugh Forsyth Speed, et al. :
Application No. 10/523,672 : DECISION ON PETITION
Filed: February 1, 2005 :
Attorney Docket No. 2205/42430/2-PCT-US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 14, 2010, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 1, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 2, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, 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 the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3637 for appropriate action by the Examiner in the normal course of business on the reply received January 14, 2010.

April M. Wise
Petitions Examiner
Office of Petitions

14 JUL 2005

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www.uspto.gov

Marshall M. Curtis
WHITHAM, CURTIS & CHRISTOFFERSON, PC
11491 SUNSET HILLS ROAD
SUITE #340
RESTON, VA 20190

In re Application of JOHAN et al. Application No.: 10/523,703 PCT Application No.: PCT/AU03/00921 Int. Filing Date: 21 July 2003 Priority Date Claimed: 29 July 2002 Attorney Docket No.: 08270005AA For: A TELEMETRY SYSTEM	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicants' "Petition For Revival Under 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office on 07 February 2005 is **GRANTED**.

BACKGROUND

On 21 July 2003, applicants filed international application PCT/AU03/00921. The international application claims a priority date of 29 July 2002 and designates the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 05 February 2004. The deadline for paying the basic national fee in the United States is thirty months from the priority date, that is 29 January 2005. The application became abandoned at midnight 29 January 2005 for failure to pay the national basic fee.

On 07 February 2005, applicants filed the instant petition for revival accompanied by, *inter alia*, a transmittal letter for entry into the US national stage under 35 U.S.C. 371, 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 $1,500.

DISCUSSION

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

Applicant's statement in the petition that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirements of 37 CFR 1.137(b)(3). The submission of the national fee and the copy of the international application satisfies 37 CFR 1.137(b)(1). The payment of the petition fee satisfies the requirement under 37 CFR 1.137(b)(2). A terminal disclaimer is not required because the application was filed on or after 08 June 1995. Therefore, the requirements for a grantable petition under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

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

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

The application has an international filing date of 21 July 2003 under 35 U.S.C. 363 and a date of 07 February 2005 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.

Helen Kwok
PCT Legal Administration Detailee
Telephone: 571-272-6095
Facsimile: 571-273-0459

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

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14 NOV 2006

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

In re Application of: SPERI, Michelangelo U.S. Application No.: 10/523,704 PCT No.: PCT/EP2003/008699 International Filing Date: 05 August 2003 Priority Date: 07 August 2002 Attorney's Docket No.: 2005_0050A For: CONTROL DEVICE WITH INTERCHANGEABLE ELECTRONIC CARD FOR ROLLING ELEMENTS ...	DECISION ON PETITION UNDER 37 CFR 1.47(b)

This decision is issued in response to the "Petition Under 37 CFR 1.47(b)" filed 27 September 2006. Applicant has submitted $130 as the petition fee.

BACKGROUND

On 05 August 2003, applicant filed international application PCT/EP2003/008699. The application claimed a priority date of 07 August 2002, and it designated the United States. The international application as filed included a "Declaration of Inventorship" under PCT Rule 4.17(iv) executed by the sole inventor.

On 19 February 2004, 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., 07 February 2005.

On 07 February 2005, 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 24 October 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Acceptance (Form PCT/DO/EO/903) indicating that the requirements of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) were satisfied as of 07 February 2005.

On 27 September 2006, petitioner filed the petition under 37 CFR 1.47(b) considered herein, seeking acceptance of the application without the signature of the sole inventor.

DISCUSSION

37 CFR 1.47(b) applies in cases "where all of the inventors refuse to execute an application for patent, or cannot be reached after diligent effort." In the present case, the international application was filed with a "Declaration of Inventorship" under PCT Rule 4.17(iv) that was executed by the sole inventor. This declaration executes the present application and satisfies the declaration requirement for the U.S. national stage (see 37 CFR 1.497(a)). Because an acceptable declaration executed by the sole inventor has already been filed herein, the petition under 37 CFR 1.47(b) seeking acceptance of the application without the signature of the sole inventor is moot. In addition, no surcharge for late filing of the declaration is required.

Applicant will be refunded the $130 petition fee and $65 surcharge payment included with the present petition.

CONCLUSION

The petition under 37 CFR 1.47(b) is **DISMISSED AS MOOT**.

Deposit Account No. 23-0975 will be credited with a refund of the $130 petition fee and $65 surcharge filed herein.

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

United States Patent and Trademark Office

3 1 MAR 2008

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EXELIXIS, Inc.
P.O. Box 511, 170 Harbor Way
South San Francisco, CA 94083-0511

In re Application of :
Tai et al. :
Application No.: 10/523,706 :
PCT No.: PCT/US03/24561 :
Int. Filing Date: 06 August 2003: DECISION
Priority Date: 07 August 2002 :
Attorney Docket No.: MBHB05-981-G (EX03-059C-PC) :
For: PSMCs As Modifiers Of The RB :
Pathway And Methods Of Use :

This is a decision on the renewed submission under 37 CFR 1.497(d) filed on 02 April 2007.

DISCUSSION

In a decision mailed on 12 February 2007, the declaration of the inventors filed on 20 November 2006 was not accepted, without prejudice, because

> In response, applicants have filed a new executed declaration. However, inspection of this declaration reveals that the name "OLLMAN" appearing thereon differs from the name "OLLMANN" listed in the published international application, and the record appears to include no explanation of this discrepancy (e.g., whether it arose from a mere typographical error). It is also noted that the declaration includes an un-initialed alteration to Kim Lickteig's mailing address (such that it is unclear whether the address was added before or after she signed the declaration). In view of the discrepancy noted above, it would not be appropriate to accept the declaration filed on 20 November 2006 at this time.

Applicants have submitted a declaration document in which the alterations to the information pertaining to inventors Ollmann and Licktieg has been initialed. However, these changes clearly were initialed after the declaration was signed. Attention is drawn to 37 CFR 1.52(c)(1) and MPEP 605.04(a).

CONCLUSION

The request under 37 CFR 1.497(d) is **DISMISSED**, without prejudice.

Applicants are required to submit a complete oath or declaration in compliance with 37 CFR 1.497(a) and (b) 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. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.497(d)." No additional processing fee is required.

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

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

14 JUN 2006
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#8

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In re Application of	:	
Tai et al.	:	
Application No.: 10/523,706	:	
PCT No.: PCT/US03/24561	:	
Int. Filing Date: 06 August 2003	:	DECISION
Priority Date: 07 August 2002	:	
Attorney Docket No.: MBHB05-981-G (EX03-059C-PC)	:	
For: PSMCs As Modifiers Of The RB	:	
Pathway And Methods Of Use	:	

This is a decision on the correspondence filed on 28 November 2005, which is being treated as a request to correct inventorship under 37 CFR 1.497(d).

BACKGROUND

This international application was filed on 06 August 2003 and claimed a priority date of 07 August 2002. 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 07 February 2005. On 04 February 2005, applicants filed *inter alia* the basic national fee.

On 21 March 2005, a signed declaration was filed.

On 28 April 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

The declaration of the inventors filed on 21 March 2005 lists a joint inventor, Kim Lickteig, who was not nominated in the published international application, nor is an appropriate Form PCT/IB/306 present in the application file. Counsel requests "Correction of Inventorship to add Kim Lickteig as an inventor of the instant application." Though counsel requests treatment under 37 CFR 1.48(a), this request is being treated under 37 CFR 1.497(d). A declaration filed under 37 CFR 1.497 (d) must be by the actual inventor or inventors as required under 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47. The declaration must be accompanied by (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part, (2) the processing fee set forth in 37 CFR 1.17; and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (*See* 37 CFR 3.73(b)). *See* Section 201.03 of the Manual of Patent Examining Procedure (M.P.E.P.).

Regarding requirement (1), applicants have provided an appropriate statement by Kim Lickteig.

Regarding requirement (2), the required processing fee was paid on 28 November 2005.

Regarding requirement (3), the "Consent of Assignee" document included among the instant correspondence is signed on behalf of Exelixis, Inc. By Pamela A. Simonton, who states that she is "Senior Vice President, Patents and Licensing of Exelixis, Inc.," and that she has "the authority to act on behalf of the assignee, Exelixis, Inc., in the specific matter of consent to correct inventorship of the instant application." The "Consent of Assignee" further states that "Exelixis, Inc. consents to the addition of Kim

Lickteig as an inventor of the instant application." Applicants have also provided a copy of an Assignment document executed in favor of Exelixis, Inc. By Albert K. Tai, Chunyan Song, Michael Martin Ollmann, Lucile A. Gillett, Joanne I. Adamkewicz and Kim Lickteig. However, applicants have neither requested that this assignment be recorded nor indicated the reel and frame number where this assignment has been recorded already. Also, insofar as the assignment copy presented appears to have been assembled from individual sheets of one or more separate documents (that is, applicants have not presented complete copies of the document or documents as actually signed), it is not clear whether inventors Adamkewicz and Lickteig signed a complete copy or copies of the document. Therefore, it would not be appropriate to conclude that requirement (3), and the requirements of 37 CFR 3.73(b), have been satisfied, based on the totality of the evidence of record.

Inspection of the declaration filed on 21 March 2005 reveals that it also appears to have been assembled by aggregating individual sheets signed by each of the inventors into a single document. Since counsel has not provided copies of the complete declaration documents signed by each inventor, it is not clear that each inventor had the benefit of signing a complete copy of the declaration document. Therefore, it would not be appropriate to grant the requested relief at this time.

CONCLUSION

The request under 37 CFR 1.497(d) 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. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.497(d)". No additional processing fee is required.

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

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

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

#10

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P.O. Box 511, 170 Harbor Way
South San Francisco, CA 94083-0511

28 SEP 2006

In re Application of	:	
Tai et al.	:	
Application No.: 10/523,706	:	
PCT No.: PCT/US03/24561	:	
Int. Filing Date: 06 August 2003	:	DECISION
Priority Date: 07 August 2002	:	
Attorney Docket No.: MBHB05-981-G (EX03-059C-PC)	:	
For: PSMCs As Modifiers Of The RB	:	
Pathway And Methods Of Use	:	

This is a decision on the correspondence filed on 08 August 2006, which is being treated as a renewed request to correct inventorship under 37 CFR 1.497(d).

DISCUSSION

In a decision mailed on 14 June 2006, the declaration of the inventors filed on 21 March 2005 was treated under 37 CFR 1.497(d), in view of the correspondence filed on 28 November 2005. The declaration was not accepted, without prejudice, because

> Regarding requirement (3), the "Consent of Assignee" document included among the instant correspondence is signed on behalf of Exelixis, Inc. by Pamela A. Simonton, who states that she is "Senior Vice President, Patents and Licensing of Exelixis, Inc.," and that she has "the authority to act on behalf of the assignee, Exelixis, Inc., in the specific matter of consent to correct inventorship of the instant application." The "Consent of Assignee" further states that "Exelixis, Inc. consents to the addition of Kim Lickteig as an inventor of the instant application." Applicants have also provided a copy of an Assignment document executed in favor of Exelixis, Inc. By Albert K. Tai, Chunyan Song, Michael Martin Ollmann, Lucile A. Gillett, Joanne I. Adamkewicz and Kim Lickteig. Also, insofar as the assignment copy presented appears to have been assembled from individual sheets of one or more separate documents (that is, applicants have not presented complete copies of the document or documents as actually signed), it is not clear whether inventors Adamkewicz and Lickteig signed a complete copy or copies of the document. Therefore, it would not be appropriate to conclude that requirement (3), and the requirements of 37 CFR 3.73(b), have been satisfied, based on the totality of the evidence of record.
>
> Inspection of the declaration filed on 21 March 2005 reveals that it also appears to have been assembled by aggregating individual sheets signed by each of the inventors into a single document. Since counsel has not provided copies of the complete declaration documents signed by each inventor, it is not clear that each inventor had the benefit of signing a complete copy of the declaration document. Therefore, it would not be appropriate to grant the requested relief at this time.

The instant renewed submission references the reel and frame where the assignment of this application is recorded in the USPTO; as such, requirement (3) *supra* has now been satisfied.

Regarding the declaration document filed on 21 March 2005, counsel argues that

Applicants respectfully submit that the declaration filed on March 21, 2005, complies with the requirements of 37 C.F.R. § 1.497(a), 37 C.F.R. § 1.66 and 37 C.F.R. § 1.68. It is the routine business practice of Exelixis, Inc., to provide each named inventor of a utility or design patent application with a complete copy of a declaration naming all of the inventors under 37 C.F.R. § 1.66. Based on the normal business practice of Exelixis, Inc., each named inventor in the above-referenced application reviewed all the of pages of the declaration listing each named inventor, as filed on March 21, prior to signing it. There is no requirement to submit to the U.S.P.T.O. all of the duplicative pages from every declaration sent to all of the inventors.

Counsel's suggestion that "composite" declarations are permissible is without merit. Counsel's attention is drawn to MPEP 201.03, which explains in part that

> **While each inventor need not execute the same declaration, each oath or declaration executed 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.**

Accordingly, the previously submitted composite declaration will not be accepted.

CONCLUSION

The request under 37 CFR 1.497(d) is **DISMISSED**, without prejudice.

Applicants are required to submit a complete oath or declaration in compliance with 37 CFR 1.497(a) and (b) 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. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.497(d)." No additional processing fee is required.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, 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
Office of PCT Legal Administration

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

#13

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P.O. Box 511, 170 Harbor Way
South San Francisco, CA 94083-0511

In re Application of
Tai et al.
Application No.: 10/523,706
PCT No.: PCT/US03/24561
Int. Filing Date: 06 August 2003:
Priority Date: 07 August 2002
Attorney Docket No.: MBHB05-981-G (EX03-059C-PC)
For: PSMCs As Modifiers Of The RB Pathway And Methods Of Use

DECISION

This is a decision on the renewed submission under 37 CFR 1.497(d) filed on 02 April 2007.

DISCUSSION

In a decision mailed on 12 February 2007, the declaration of the inventors filed on 20 November 2006 was not accepted, without prejudice, because

> In response, applicants have filed a new executed declaration. However, inspection of this declaration reveals that the name "OLLMAN" appearing thereon differs from the name "OLLMANN" listed in the published international application, and the record appears to include no explanation of this discrepancy (e.g., whether it arose from a mere typographical error). It is also noted that the declaration includes an un-initialed alteration to Kim Lickteig's mailing address (such that it is unclear whether the address was added before or after she signed the declaration). In view of the discrepancy noted above, it would not be appropriate to accept the declaration filed on 20 November 2006 at this time.

Applicants have submitted a declaration document in which the alterations to the information pertaining to inventors Ollmann and Licktieg has been initialed. However, these changes clearly were initialed after the declaration was signed. Attention is drawn to 37 CFR 1.52(c)(1) and MPEP 605.04(a).

CONCLUSION

The request under 37 CFR 1.497(d) is **DISMISSED**, without prejudice.

Applicants are required to submit a complete oath or declaration in compliance with 37 CFR 1.497(a) and (b) 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. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.497(d)." No additional processing fee is required.

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

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

12 FEB 2007

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South San Francisco, CA 94083-0511

In re Application of	:	
Tai et al.	:	
Application No.: 10/523,706	:	
PCT No.: PCT/US03/24561	:	
Int. Filing Date: 06 August 2003	:	DECISION
Priority Date: 07 August 2002	:	
Attorney Docket No.: MBHB05-981-G (EX03-059C-PC)	:	
For: PSMCs As Modifiers Of The RB	:	
Pathway And Methods Of Use	:	

This is a decision on the renewed submission under 37 CFR 1.497(d) filed on 20 November 2006.

DISCUSSION

In a decision mailed on 28 September 2006, the declaration of the inventors filed on 21 March 2005 was treated under 37 CFR 1.497(d), in view of the correspondence filed on 28 November 2005. The declaration was not accepted, without prejudice, because

> ... Counsel's attention is drawn to MPEP 201.03, which explains in part that
>
> **While each inventor need not execute the same declaration, each oath or declaration executed 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.**
>
> Accordingly, the previously submitted composite declaration will not be accepted.

In response, applicants have filed a new executed declaration. However, inspection of this declaration reveals that the name "OLLMAN" appearing thereon differs from the name "OLLMANN" listed in the published international application, and the record appears to include no explanation of this discrepancy (e.g., whether it arose from a mere typographical error). It is also noted that the declaration includes an un-initialed alteration to Kim Lickteig's mailing address (such that it is unclear whether the address was added before or after she signed the declaration). In view of the discrepancy noted above, it would not be appropriate to accept the declaration filed on 20 November 2006 at this time.

CONCLUSION

The request under 37 CFR 1.497(d) is **DISMISSED**, without prejudice.

Applicants are required to submit a complete oath or declaration in compliance with 37 CFR 1.497(a) and (b) 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. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.497(d)." No additional processing fee is required.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, 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

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In re Application of	:	
Tai et al.	:	
Application No.: 10/523,706	:	
PCT No.: PCT/US03/24561	:	
Int. Filing Date: 06 August 2003	:	DECISION
Priority Date: 07 August 2002	:	
Attorney Docket No.: MBHB05-981-G (EX03-059C-PC)	:	
For: PSMCs As Modifiers Of The RB	:	
Pathway And Methods Of Use	:	

This is a decision on the renewed submission under 37 CFR 1.497(d) filed on 31 July 2008.

DISCUSSION

In a decision mailed on 31 March 2008, the declaration of the inventors filed on 02 April 2007 was not accepted, without prejudice, because

> Applicants have submitted a declaration document in which the alterations to the information pertaining to inventors Ollmann and Licktieg has been initialed. However, these changes clearly were initialed after the declaration was signed. Attention is drawn to 37 CFR 1.52(c)(1) and MPEP 605.04(a).

In response, applicants have filed a declaration which overcomes the objections raised in the decision mailed on 31 March 2008. Therefore, since all of the requirements of 37 CFR 1.497(d) have been met, it would now be appropriate to grant the requested relief.

DECISION

The request under 37 CFR 1.497(d) is **GRANTED**, and the declaration filed on 31 July 2008 is **ACCEPTED** for purposes of compliance with 37 CFR 1.497(a) and (b).

This application is being forwarded to the Office of Patent Application Processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **31 July 2008.**

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

23 FEB 2006

#8

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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Arendt Fox PLLC
1050 Connecticut Avenue, N.W.
Suite 400
Washington, D.C. 20036

In re Application of DEL SOLDATO et al. U.S. Application No.: 10/523,722 PCT No.: PCT/EP03/08698 Int. Filing Date: 06 August 2003 Priority Date: 29 August 2002 Attorney Docket No.: 026220-00062 For: NEW PROCESS FOR PREPARING NITROOXYDERIVIATES OF NAPROXEN	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is in response to applicants' "Petition under 37 CFR 1.47(a)" filed 14 September 2005 to accept the application without the signature of joint-inventor, Piero Del Soldato.

BACKGROUND

On 06 August 2003, applicants filed international application PCT/EP03/08698 which claimed a priority date of 29 August 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 11 March 2004. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 01 March 2005.

On 07 January 2005, 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 preliminary amendment; and an information disclosure statement.

On 09 August 2005, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 14 September 2005, applicants filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17, (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) - (4) have been satisfied.

Regarding item (1), applicants have 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.: 01-2300.

A review of the present petition reveals that applicant has 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 Piero Del Soldato. The steps taken by Maria Teresa Noro are sufficient to show that the nonsigning inventor refuses 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**.

The application will be given an international filing date of 06 August 2003 under 35 U.S.C. 363, and a date of **14 September 2005** under 35 U.S.C. 371(c).

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

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

Anthony Smith

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

23 FEB 2006

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Piero Del Saldato
Via Enrico Toti 22
Monza, MI 20052
Italy

In re Application of
DEL SOLDATO et al.
U.S. Application No.: 10/523,722
PCT No.: PCT/EP03/08698
Int. Filing Date: 06 August 2003
Priority Date: 29 August 2002
Attorney Docket No.: 026220-00062
For: NEW PROCESS FOR PREPARING NITROOXYDERIVIATES OF NAPROXEN

Dear Mr. Del Soldato:

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:
Arendt Fox PLLC
1050 Connecticut Avenue, N.W.
Suite 400
Washington, D.C. 20036

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date	: 12/17/2008
Patent No.	: 7,421,245 B2
Inventor(s)	: Sato et al.
Issue Date	: September 2, 2008
Title	: **METHOD FOR PLAYBACK OF STORED OR BROADCAST CONTENT BASED ON PREDICTED LOCATION AND/OR ATTRIBUTES**
Doc./File No.	: **P26640**

Re: Certificate of Correction

Consideration has been given your request for a certificate of correction, for the above-identified patent under the provisions of Rule 1.322 and 1.323.

Respecting the alleged error(s) in your request, it is the practice to exclude words such as "A", "IMPROVED", "IMPROVEMENTS IN," "NEW", or "NOVEL" as the first word in the title of the invention. Therefore, no correction is in order here under Rule 1.322 or 1.323.

In view if the foregoing, your request is hereby denied.

Future correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Ernest C. White, *LIE* (703) 308-9390 x122
Mary F. Diggs, *Supervisor* (703) 308-9390 x125
Decisions & Certificates of Correction Branch

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

ecw

UNITED STATES PATENT AND TRADEMARK OFFICE

24 JAN 2007

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www.uspto.gov

Kevin Fortin
Philips Electronics North America Corporation
Intellectual Property & Standards
1109 McKay Drive, M/S/-41SJ
San Jose, CA 95131

In re Application of	:	
SHANNON, et al.	:	
Application No.: 10/523,727	:	
PCT No.: PCT/IB03/03352	:	DECISION ON PETITION
Int. Filing Date: 29 July 2003	:	
Priority Date: 07 August 2002	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: GB03 0105 US	:	
For: FIELD EFFECT TRANSISTOR	:	

The petition to revive under 37 CFR 1.137(b) filed 07 September 2006 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that applicant has now provided an executed declaration of the inventors. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States were satisfied with the filing of the executed declaration of the inventors and payment of the appropriate surcharge.

The application has an international filing date of 29 July 2003 under 35 U.S.C. 363 and will be given a date of **07 September 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

Adjustment date: 01/24/2007 SBASHEIR
09/12/2006 ATRAN1 00000096 141270 10523727
01 FC:1464 130.00 CR
01/25/2007 SBASHEIR 00000001 141270 10523727
Sale Ref: 00000001 DA#: 141270 10523727
01 FC:1617 130.00 DA
02 FC:1453 1500.00 DA

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

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& STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

In re Application of	:	
John M. SHANNON, et al	:	
Application No. 10/523,727	:	ON PETITION
Filed: September 7, 2006	:	
Attorney Docket No. GB03 0105 US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 12, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 28, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). An extension of time for one (1) month pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is September 29, 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, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) the required statement of unintentional delay have been received.

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 $1110 extension of time fee submitted with the petition on January 12, 2010, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's Deposit Account No. 14-1270.

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

This application is being referred to Technology Center AU 2815 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.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA, GA 30339-5994

Mail Date: 04/21/2010

Applicant	: Erwin Blomsma	: DECISION ON REQUEST FOR
Patent Number	: 7608222	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/523,732	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/29/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1007** 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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BASF Performance Products LLC
Patent Department
540 White Plains Road
P.O. Box 2005
Tarrytown, NY 10591

Mail Date: 04/20/2010

Applicant	: Gerardus De Keyzer	: DECISION ON REQUEST FOR
Patent Number	: 7582230	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/523,742	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/02/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **904** 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 APR 2005

#3

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C. James Bushman
Browning Bushman, P.C.
5718 Westheimer, Suite 1800
Houston, TX 77057-5771

In re Application of	:	
ALLIOT, et al.	:	
U.S. Application No.: 10/523,747	:	DECISION ON PETITION
Filing Date: 02 February 2005	:	
Attorney Docket No.: Stolt-51	:	UNDER 37 CFR 1.10
For: METHOD OF AND APPARATUS FOR	:	
INTERCONNECTING LINED PIPES	:	

This decision is in response to applicant's "Petition Under 37 CFR 1.10(d)" filed 31 March 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 01 August 2003, applicant filed international application PCT/EP03/09305. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 19 February 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 02 February 2005.

Applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the international application and a preliminary amendment. The USPTO assigned a filing date of 03 February 2005 based on the "Date-In" stamped by the United States Postal Service (USPS) on the Express Mail envelope.

On 31 March 2005, applicant filed the present petition under 37 CFR 1.10 (d) seeking a filing date of 02 February 2005.

DISCUSSION

In order to be granted, a petition under 37 CFR 1.10(d) must be:

1) 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 filed papers; and

3) The petition includes a showing to the satisfaction of the Director that the requested

filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day.

Applicant has satisfied all three items. Specifically as to item three, applicant has provided a declaration from Ms. Sheri Cooper avowing that she deposited the subject papers prior to the last scheduled pickup time of 1:00 pm. In addition, Ms. Cooper has stated that after depositing the mailing, she then entered this information on the firm's Express Mail log. A copy of the log has been provided. As such, it is proper to grant applicant's petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.10(d) 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 02 February 2005 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.

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

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DARBY & DARBY P.C.
P.O. BOX 770
CHURCH STREET STATION
NEW YORK NY 10008-0770

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OFFICE OF PETITIONS

In re Patent No. 7,361,203	:	
Issue Date: April 22, 2008	:	
Application No. 10/523,748	:	ON PETITION
Filed: February 3, 2005	:	
Attorney Docket No. 09864/0202080-US0	:	

This is a decision on the petition filed May 8, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

Karen Creasy
Petitions Examiner
Office of Petitions

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

30 AUG 2006

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DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK NY 10150-5257

In re Application of	:	
SUYAMA et al.	:	
Application No.: 10/523,749	:	
PCT No.: PCT/JP03/05362	:	DECISION
Int. Filing Date: 25 April 2003	:	
Priority Date: 12 August 2002	:	
Attorney's Docket No.: 06920/0202496-US0	:	
For: METHOD OF UPGRADING BIOMASS,	:	
UPGRADED BIOMASS, BIOMASS WATER SLURRY	:	
AND METHOD OF PRODUCING SAME, UPGRADED	:	
BIOMASS GAS, AND METHOD OF GASIFYING	:	
BIOMASS	:	

This decision is in response to applicants' "REQUEST FOR CORRECTED FILING RECEIPT" filed 08 February 2006, 13 March 2006, 01 May 2006, and 30 June 2006.

BACKGROUND

On 25 April 2003, applicants filed international application PCT/JP03/05362, which designated the United States and claimed a priority date of 12 August 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 26 February 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 14 February 2005 (12 February 2005 being a Sunday).

On 03 February 2005, 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 Application Data Sheet (ADS).

On 22 August 2005, applicants filed a declaration of inventors.

On 25 January 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495 (Form PCT/DO/EO/903) according the application a 35 U.S.C. 371 date of 22 August 2005.

On 08 February 2006, applicants filed a "REQUEST FOR CORRECTED FILING RECEIPT".

On 13 March 2006, applicants filed a second "REQUEST FOR CORRECTED FILING RECEIPT".

On 01 May 2006, applicants filed a third "REQUEST FOR CORRECTED FILING RECEIPT".

On 30 June 2006, applicants filed a fourth "REQUEST FOR CORRECTED FILING RECEIPT".

DISCUSSION

The first "REQUEST FOR CORRECTED FILING RECEIPT" requests a change in the title and a change in the address of the third and fifth inventors.

The second "REQUEST FOR CORRECTED FILING RECEIPT" requests the same changes as the first request.

The third "REQUEST FOR CORRECTED FILING RECEIPT" also requests the same changes as the first request.

The fourth "REQUEST FOR CORRECTED FILING RECEIPT" requests a change in the title, a change in the address (different from the correction requested in the first filing receipt) in the third, fifth, and sixth inventors, and a change in the foreign priority.

The change in the title and the change in the foreign priority have been made. As to the requested changes in the address of several of the inventors, attention is directed to MPEP § 601.05 which states in part:

> If an application is filed with an application data sheet improperly identifying the residence of one of the inventors, inventor B, and an executed 37 CFR 1.63 declaration setting forth the correct but different residence of inventor B, the Office will capture the residence of inventor B found in the application data sheet as the residence of B, and include that information in the filing receipt. If applicant desires correction of the residence, applicant should submit a supplemental application data sheet under 37 CFR 1.76(c), with the name of inventor B and the corrected residence for inventor B.

Accordingly, should submit a supplemental application data sheet under 37 CFR 1.76(c) for the requested changes in the address of the several inventors. See also 37 CFR 1.76(d)(4).

CONCLUSION

For the reasons set forth above, applicants' request for a corrected filing receipt is **GRANTED-IN-PART**.

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

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FOLEY & LARDNER LLP
111 HUNTINGTON AVENUE
26TH FLOOR
BOSTON, MA 02199-7610

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JUN 10 2010

OFFICE OF PETITIONS

In re Application of	:	
McIsaac et al.	:	DECISION ON PETITION
Application No. 10/523,760	:	TO WITHDRAW
Filed: January 30, 2006	:	FROM RECORD
Attorney Docket No. BCIL-0111US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 23, 2010.

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

A review of the file record indicates that on June 9, 2010 the power of attorney to Foley and Lardner LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Pierce Atwood LLP
160 Federal Street
10th Floor
Boston MA 02110

OIPE IAP72 APR 11 2006 PATENT & TRADEMARK OFFICE

IAP9 Rec'd PCT/PTO 11 APR 2006

#7

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

RENEWED PETITION UNDER 37 C.F.R.1.47(a) AND RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. § 371		Docket Number: 02885/92	
Application Number 10/523,763	Filing Date February 07, 2005	Examiner To be assigned	Art Unit To be assigned
Invention Title METHOD AND DEVICE FOR PROCESSING DATA		Inventor(s) Martin VORBACH et al.	

Address to:
Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

Date: 7 Apr 2006

Signature: Michelle Carniaux Reg No 36098

RECEIVED 5 MAY 2006 Legal Staff International Division

S I R:

1. In response to the Notification of Missing Requirements Under 35 U.S.C. § 371 mailed July 26, 2005, and the Decision mailed February 7, 2006 Applicants, Martin Vorbach and Frank May hereby renew their petition to the Commissioner under 37 C.F.R. §1.47(a), originally filed on November 18, 2005, to have the attached Declaration entered into the above-identified patent application in order to complete the filing requirements therefor. The Declaration was signed by inventors Martin Vorbach and Frank May on behalf of the non-signing co-inventor, Armin Nuckel, whose address at the time of mailing of the documents listed in the attached Declaration was:

   Drosselweg 4
   Neupotz
   D-76777 Germany

2. In support of the petition under 37 C.F.R. §1.47(a) Applicants submit herewith a Declaration by Michelle M. Carniaux, attorney of record in the above-identified application.

3. The Application and Declaration were presented to Mr. Armin Nuckel for signature via e-mail and overnight mail (DHL courier) and Applicant encloses herewith copies verifying same.

4. Also enclosed is a copy of the DHL receipt verifying delivery to Mr. Armin Nuckel on March 28, 2006.

5. Also attached is a translation into English of Mr. Armin Nuckel's refusal, via e-mail, to sign the documents sent to him (and the original in German). Accordingly, Applicants respectfully submit that the requirements of 37 C.F.R. §1.47(a) have been met and request that the present petition be granted by the Commissioner.

6. In response to the Notification of Missing Requirements Under 35 U.S.C. § 371, Applicants submitted on November 18, 2005 a translation of the application, as filed, into English and a copy of the Notification of Missing Requirements.

7. Applicants respectfully submit that no further extensions of time are required to respond to the Notification of Missing Requirements Under 35 U.S.C. § 371, mailed July 26, 2005, and the Decision mailed February 7, 2006 which a response period expiring on April 7, 2006.

8. The Commissioner is authorized to charge any additional fees and credit any overpayment in connection with this communication to the deposit account of **Kenyon & Kenyon LLP**, No. **11-0600**. A duplicate of this communication is enclosed herewith.

Respectfully submitted,

Dated: April 7, 2006 By: _____

Michelle M. Carniaux
Reg. No. 36,098

KENYON & KENYON
One Broadway
New York, New York 10004
Tel: (212) 425-7200
Fax: (212) 425-5288
CUSTOMER NO. 26646

25 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

In re Application of	:	
VORBACH et al.	:	
Application No.: 10/523,763	:	DECISION
PCT No.: PCT/EP03/08081	:	
Int. Filing Date: 23 July 2003	:	
Priority Date: 08 July 2002	:	
Attorney Docket No.: 02885/92	:	
For: METHOD AND DEVICE FOR PROCESSING	:	
DATA	:	

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed 11 April 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 07 February 2005, 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 July 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. The NOTIFICATION set a two-month extendable period for response.

On 22 November 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(h), a statement of facts by Christian Schattenmann, a copy e-mails sent to nonsigning joint inventor and a request for a two month extension of time.

On 07 February 2006, a decision dismissing the petition was mailed indicating that petitioner had not demonstrated that the nonsigning inventor refused to sign the application.

On 11 April 2006, applicant filed the instant renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(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.

Petitioner previously satisfied Items (1), (3) and (4). A complete review of the papers filed on 06 April 2006 reveals that petitioner provided sufficient proof that the non-signing inventor refuses to execute the application. Specifically, Petitioner submitted an email from Mr. Nuckel sent on 31 March 2006. An English translation of the email states, in pertinent part, " I can no longer provide any signatures in connection with PACT". This is sufficient evidence to conclude that Mr. Nuckel refuses to sign the application.

Thus, the requirements of 37 CFR 1.47(a) have been met and the petition is granted.

CONCLUSION

For the reasons set forth above, Petitioner has now satisfied the requirements of 37 CFR §1.47(a) and the petition with respect to Armin Nuckel 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 22 Novemmber 2005. The application has an international filing date of 23 July 2003 under 35 U.S.C. 363, and a date of 22 November 2005 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

The application is being returned to the United States Designed/Elected Office (DO/EO/US) for processing as the U.S. National Stage of the above-identified international application.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3286

25 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ARMIN NUCKEL
DROSSELWEG 4
NEUPOTZ
D-56777 GERMANY

In re Application of VORBACH et al. Application No.: 10/523,763 PCT No.: PCT/EP03/08081 Int. Filing Date: 23 July 2003 Priority Date: 08 July 2002 Attorney Docket No.: 02885/92 For: METHOD AND DEVICE FOR PROCESSING DATA	DECISION

Dear Mr. Nuckel:

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

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

Rec'd PCT/PTO 22 NOV 2005 #5

U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE			
PETITION UNDER 37 C.F.R.1.47(a) AND RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. § 371		Docket Number: **02885/92**	
Application Number **10/523,763**	Filing Date **February 07, 2005**	Examiner To be assigned	Art Unit To be assigned
Invention Title **METHOD AND DEVICE FOR PROCESSING DATA**		Inventor(s) **Martin VORBACH et al.**	

Address to:
Mail Stop PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

Date: 18 Nov 2005

Signature:

SIR:

1. In response to the Notification of Missing Requirements Under 35 U.S.C. § 371 mailed July 26, 2005, Applicants, Martin Vorbach and Frank May hereby petition the Commissioner under 37 C.F.R. §1.47(a) to have the attached Declaration entered into the above-identified patent application in order to complete the filing requirements therefor. The Declaration was signed by the inventors, Martin Vorbach and Frank May, on behalf of the non-signing co-inventor, Armin Nuckel, whose address at the time of mailing of the documents listed in the attached Declaration was:

11/28/2005 ATRAN1 00000054 110600 10523763
01 FC:1463 200.00 DA

Drosselweg 4
Neupotz
D-76777 Germany

2. In support of the petition under 37 C.F.R. §1.47(a) Applicants submit a Declaration by Christian SCHATTENMANN, employee of PACT XPP Technologies AG, assignee of the present application, showing the Application and Declaration were presented to Mr. Armin Nuckel for signature. Also attached is a translation (as well as the original) of the refusal, via e-mail, by Mr. Armin Nuckel to sign the documents sent to him. Accordingly, Applicants respectfully submit that the requirements of 37 C.F.R. §1.47(a) have been met and request that the present petition be granted by the Commissioner.

3. In response to the Notification of Missing Requirements Under 35 U.S.C. § 371, Applicants submit a translation of the application, as filed, into English. Applicants also submit a copy of the Notification of Missing Requirements.

#5

4. Applicants also submit a Preliminary Amendment, Substitute Specification and Marked-Up Copy of the Substitute Specification. In accordance with 37 C.F.R. §1.125(b) the Substitute Specification contains no new matter. Applicants also submit a copy of the International Search Report from the underlying PCT application. Please note that the references listed in the Search Report were cited in the Information Disclosure Statement filed on February 07, 2005.

5. Applicants respectfully request a two-month extension of time to respond to the Notification of Missing Requirements Under 35 U.S.C. § 371, mailed July 26, 2005, for which a response period expiring on September 26, 2005 was set. The extended period expires on November 28, 2005 (the 26th is a Saturday).

6. The Commissioner is hereby authorized to charge payment of the following fees to the deposit account of **Kenyon & Kenyon, No. 11-0600**:

   1) 37 C.F.R. §1.17(g) petition fee of $200.00;

   2) 37 C.F.R. § 1.17(a)(2) extension fee of $225.00;

   3) 37 C.F.R. § 1.492(e) surcharge of $65.00; and

   4) 37 C.F.R. § 1.492(f) surcharge of $130.00.

7. On filing the above-identified application, Applicants paid sufficient fees for 69 total claims and 13 independent claims. With the Preliminary Amendment submitted herewith, Applicants' application continues to contain 69 claims, 10 of which are independent. Accordingly, no claims fees are believed due.

8. The Commissioner is also authorized to charge any additional fees and credit any overpayment in connection with this communication to the deposit account of **Kenyon & Kenyon**, No. **11-0600**. A duplicate of this communication is enclosed herewith.

11/28/2005 ATRAN1 00000054 110600 10523763

02 FC:2252 225.00 DA

11/28/2005 ATRAN1 00000054 110600 10523763

03 FC:2617 65.00 DA
04 FC:1618 130.00 DA

Respectfully submitted,

Dated: 18 Nov 2005

By: [signature]

Michelle M. Carniaux
Reg. No. 36,098

KENYON & KENYON

One Broadway
New York, New York 10004
Tel: (212) 425-7200
Fax: (212) 425-5288
CUSTOMER NO. 26646

Email from Armin Nueckel dated 10/12/2005

To: Christan Schattenmann

Subject: Signatures

Hello, Christan,

At the present state of affairs, a participation in preparing patents/expansions/renaming of inventors etc. .. is unfortunately no longer an option.

At the same time, however, I have no intention of becoming privy to the "business plans", or influence the business development, either directly or indirectly (although as company shareholder I would most likely be allowed to do so).

I have expressed this repeatedly. To put it simply, for me, PACT is ancient history and, "Thank God", it's over!!!

This notwithstanding, I wish my ex-colleagues all the best!

Regards,
Armin

Email from Christian Schattenmann dated 10/11/2005

To: Armin Nueckel

Subject: New Email Address

Hello, Armin,
Were you able to clarify the question of the signatures? I would be grateful for an answer. You may also phone me under 089-35344100.

Regards,

Christian

Email from Christan Schattenmann dated 9/23/2005

To: Armin Nueckel

Re: New Email Address

Hello Armin,

Thank you for your email with the second email address. As discussed yesterday, I would like to explain in more detail why and for what purpose PACT requires your signature in patent matters.

For the PACT U.S. patent 2885/92, which is the U.S. filing of the EU application PACT 33, we currently require the assignment of the rights to the invention to the company for the U.S. authorities as well. You were mentioned as co-inventor in PACT 33 and have already signed the corresponding assignments. As always, the U.S. Patent Office requires an additional signature which will have to be submitted only at the time of filing.

You had inquired how many such signatures would still be required in the future. I wish I could give you a specific number, but it is impossible to estimate since it depends on whether we actually file for a specific patent in the U.S. and whether and how often we have to divide a patent for reasons related to patent law. Unfortunately, each filing or division requires one signature per co-inventor.

We, too, would prefer to handle the process differently, but the rigid U.S. rules require us to follow this

complicated procedure. If we are unable to submit your signature by 09/26/2005, we have to pay a penalty which would constitute an unnecessary burden to PACT's finances.

Therefore, please provide us with said signature. In case of further questions, I can be reached under 089-35344100. Thank you very much for your cooperation and your understanding of my situation as somebody who is attempting to keep PACT's finances in order.

Regards,
Christian

Email from Armin Nueckel dated 9/22/2005
To: Christan Schattenmann
Re: New Email Address

Hello, Christian,
Enclosed is my email address.
It is to be hoped that t-online will soon be up and running again!
Regards,
Armin

Piel, Helga

From: Hardy, Josephine
Sent: Wednesday, October 19, 2005 11:41 AM
To: Piel, Helga
Cc: Carniaux, Michelle
Subject: FW: Client/Matter: 2885.92

Attachments: FW: Unterschriften

FW: Unterschriften

Dear Helga,
Will you please translate or arrange to have translated the following email communication between our client and an inventor? The client matter is 2885/92. We will need this translation at your earliest convenience.

Thanks,
Josephine Hardy

-----Original Message-----
From: Melanie Seidel [mailto:Melanie.Seidel@pactxpp.com]
Sent: Wednesday, October 19, 2005 11:13 AM
To: Hardy, Josephine
Cc: Carniaux, Michelle; chrsitian.schattenmann@pactxpp.com; 'Martin Vorbach'
Subject: RE: Client/Matter: 2885.92

Dear Josephine,

Please be advised that Armin Nückel has informed us that he is no longer willing to sign any patent matters for PACT. I have attached a copy of the email sent by Armin to Christian Schattenmann, in which he confirms this. Unfortunately the email is in German - but states that he no longer wishes to be involved in any patent matters now, or in the future.

As you know, Kenyon has taken an extension of time for Matter 2885.92 (as we hadn´t received a signature from Armin Nückel). Please could you inform us how we are to go about this matter?

Thanks!
Best regards,
Melanie

-----Original Message-----
From: Melanie Seidel [mailto:Melanie.Seidel@pactxpp.com]
Sent: Montag, 26. September 2005 13:26
To: 'Hardy, Josephine'
Cc: 'Carniaux, Michelle'
Subject: FW: Client/Matter: 2885.92

Dear Josephine,

Please be so kind as to take an extension of time for Matter 2885.92. I will inform you first thing should Armin respond.

Thanks and best regards,
Melanie

-----Original Message-----
From: Christian Schattenmann [mailto:Christian.Schattenmann@pactxpp.com]

Sent: Montag, 26. September 2005 10:59
To: 'Melanie Seidel'; cs@pactxpp.com; mv@pactxpp.com
Subject: RE: Client/Matter: 2885.92

Thanks, Melanie. I think we will need the extension as Armin won't respond until today.
Best regards, Christian

-----Original Message-----
From: Melanie Seidel [mailto:Melanie.Seidel@pactxpp.com]
Sent: Montag, 26. September 2005 10:11
To: cs@pactxpp.com; mv@pactxpp.com
Subject: FW: Client/Matter: 2885.92

Christian, Martin,

Please let me know whether you have gotten any response from Armin regarding Matter 92. I promised Josephine that I would give feedback today - an extension of time until October 26 will cost $60,00. Let me know whether we should instruct for an extension of time.

Regards,
Melanie

-----Original Message-----
From: Hardy, Josephine [mailto:JHardy@kenyon.com]
Sent: Freitag, 23. September 2005 17:35
To: Melanie Seidel
Cc: Carniaux, Michelle
Subject: RE: Client/Matter: 2885.92

Dear Melanie:
Thank you very much for your message with the update on the status of this case.
An extension of time until October 26 will cost just $60.00.

Best,
Josephine

-----Original Message-----
From: Melanie Seidel [mailto:Melanie.Seidel@pactxpp.com]
Sent: Friday, September 23, 2005 11:31 AM
To: Hardy, Josephine
Subject: Client/Matter: 2885.92

Dear Josephine,

Thank you for your fax dated September 8, 2005 and the "Reminder" fax dated September 15, 2005. Sorry for the late response, but Martin was on vacation, and I wanted to clear this matter with him before getting back to you. We have contacted Armin Nückel again, and have asked him to sign the relevant documents. We are hoping that he will do so, and if so, by Monday, September 26, 2005. I will contact you on Monday to inform whether he has signed or not. If he has signed, I will forward the relevant documents per fax to you on September 26, and then in original via post.

Sorry for the delay, but we are trying our best to get a response from Armin Nückel. Please give us time until Monday.

Please could you inform me what it would cost to take an extension of time?

Thanks for your understanding, and have a pleasant weekend!

Best regards,
Melanie

Melanie Seidel
PACT XPP Technologies AG
Web: http://www.pactxpp.com
Muthmannstr. 1
80939 Munich, Germany
Phone +49 89 - 353 44 - 113
Fax +49 89 - 353 44 - 199

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Piel, Helga

From: Christian Schattenmann [Christian.Schattenmann@pactxpp.com]
Sent: Wednesday, October 12, 2005 7:22 AM
To: 'Martin Vorbach'; 'Peter Weber'
Cc: ms@pactxpp.com
Subject: FW: Unterschriften

Dear all,
Armin Nueckel is not willing to cooperate with PACT anymore. We need to find another way with Kenyon to file patents without his signature.
Regards, Christian

-----Original Message-----
From: Nueckel, Armin [mailto:Armin.Nueckel@fme.fujitsu.com]
Sent: Mittwoch, 12. Oktober 2005 10:25
To: Christian Schattenmann
Subject: Unterschriften

Hallo Christian,

in der momentanen Situation ist eine Beteiligung an Patenterstellungen/Erweiterungen/Erfinderumbenennungen etc... leider nicht mehr möglich.

Ich plane andererseits auch nicht, weder direkt noch indirekt, Einblick in die „Geschäftspläne" oder Einfluss auf die Geschäftsentwicklung zu nehmen (obwohl ich als Aktionär der Firma das vermutlich dürfte).

Ich habe das wiederholt zum Ausdruck gebracht. PACT ist für mich schlicht und ergreifend lange her und „gott sei dank" vorbei!!!

Nichts desto trotz wünsche ich meinen Ex-Kollegen alles Gute!

Besten Gruss

Armin

From: Christian Schattenmann [mailto:Christian.Schattenmann@pactxpp.com]
Sent: Tuesday, October 11, 2005 12:21 PM
To: 'Nueckel, Armin'
Cc: Armin Nückel
Subject: RE: Neue email Adresse

Hallo Armin,
konntest Du die Frage nach den Unterschriften klären? Ich wäre Dir für eine Antwort dankbar. Du kannst mich gerne auch telefonisch unter 089 – 35344100 erreichen.
Viele Grüße
Christian

> -----Original Message-----
> **From:** Christian Schattenmann [mailto:Christian.Schattenmann@pactxpp.com]
> **Sent:** Freitag, 23. September 2005 17:31
> **To:** 'Nueckel, Armin'
> **Cc:** Armin Nückel (armin.nueckel@t-online.de)
> **Subject:** RE: Neue email Adresse

Hallo Armin,

vielen Dank für Deine Email mit der zweiten Emailadresse. Wie gestern besprochen möchte ich etwas detaillierter erläutern, weshalb und wofür die PACT Deine Unterschrift in Patentsachen benötigt.

Für das PACT US Patent 2885/92, welches die US-Einreichung der EU Anmeldung PACT 33 ist, benötigen wir nun auch für die US-Behörden die Abtretung der Erfinderrechte an die Firma. Du warst bei PACT 33 als Mit-Erfinder genannt und hast hierfür die entsprechenden Abtretungen bereits unterzeichnet. Wie immer benötigt das US Patentamt eine zusätzliche Unterschrift, die erst bei Einreichung vorzulegen ist.

Du hattest gefragt, wie viele derartige Unterschriften in Zukunft noch geleistet werden müssen. Gerne würde ich Dir eine konkrete Zahl nennen, allerdings ist dies nicht abschätzbar, da es davon abhängt, ob wir ein bestimmtes Patent tatsächlich in den USA einreichen bzw. ob und wie oft wir ein Patent aus patentrechtlichen Gründen aufteilen müssen. In den USA ist leider pro Einreichung bzw. Teilung eine Unterschrift pro Mit-Erfinder erforderlich.

Wir würden das Verfahren auch gerne anders handhaben, sind aber durch die starren US Regeln an dieses komplizierte Vorgehen gebunden. Wenn wir Deine Unterschrift bis zum 26.09.2005 nicht vorlegen können, so müssen wir Strafgebühren bezahlen, die die finanzielle Lage der PACT unnötig belasten würden.

Ich bitte Dich daher, die betreffende Unterschrift zu leisten. Bei Rückfragen bin ich jederzeit unter 089-35344100 erreichbar. Vielen Dank für Deine Kooperation und Dein Verständnis für meine Situation als jemand, der versucht, die PACT Finanzen zusammenzuhalten.

Viele Grüße,
Christian

-----Original Message-----
From: Nueckel, Armin [mailto:Armin.Nueckel@fme.fujitsu.com]
Sent: Donnerstag, 22. September 2005 17:23
To: christian.schattenmann@pactxpp.com
Subject: Neue email Adresse

Hallo Christian,

anbei meine email Adresse.
t-online geht hoffentlich auch bald wieder!

MfG

Armin

Dr. Armin Nueckel
Senior Application Engineer
Fujitsu Microelectronics Europe
Tel. : +49(0)6103690482
Fax. : +49(0)6103690122
mobile : 01738667251
E-Mail : armin.nueckel@fme.fujitsu.com

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#6

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

07 FEB 2006

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

In re Application of	:	
VORBACH et al.	:	
Application No.: 10/523,763	:	DECISION
PCT No.: PCT/EP03/08081	:	
Int. Filing Date: 23 July 2003	:	
Priority Date: 08 July 2002	:	
Attorney Docket No.: 02885/92	:	
For: METHOD AND DEVICE FOR PROCESSING	:	
DATA	:	

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 22 November 2005 in the United States Patent and Trademark Office (USPTO). Petitioner's request for a two month extension of time is granted.

BACKGROUND

On 07 February 2005, 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 July 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. The NOTIFICATION set a two-month extendable period for response.

On 22 November 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(h), a statement of facts by Christian Schattenmann, a copy e-mails sent to nonsigning joint inventor and a request for a two month extension of time.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(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.

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 by providing the non-signing inventor's last known address.

With regard to Item (2), Petitioner submitted the Declaration of Christian Schattenmann, employee of assignee PACT XPP Technologies, AG. Mr. Schmattenmann indicates that he "mailed a copy of the present application and an unsigned declaration to Mr. Armin Nuckel" at his home address. Mr. Schmattenmann further states that "Mr. Nuckel received my letter, the application, and the declaration. Mr. Nuckel refuses to sign the declaration". Ms. Schattenmann indicates that the email confirms Mr. Nuckel's receipt and refusal. However, a copy of the letter mailed revealing the date of the mailing and the enclosures (specification, claims, drawings, if any, and the oath or declaration) was not provided. Nor was the evidence of delivery of the mailing. As for Mr. Nuckel's receipt and refusal to sign the above referenced application, it is not clear from the email that Mr. Nuckel received a copy of the complete application referred to as U.S. 10/523,763 as the email does not refer to either the PCT international application (PCT/EP03/08081) or the U.S. application.

As set forth in MPEP § 409.03(d), in pertinent 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).

Proof that a bona fide attempt was made to present a copy of the application papers (specification, claims, drawings and oath or declaration) to the nonsigning inventor for signature is required. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. In the instant case, Mr. Schattenmann does not provide such documentary evidence in support of his statement. Petitioner has not yet established a refusal to sign.

Item (4) has been satisfied. The declaration filed 22 November 2005 is in compliance

with 37 CFR 1.497(a)-(b).

Items (2) is 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

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Martin Vorbach	: DECISION ON REQUEST FOR
Patent Number	: 7657861	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/523,763	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **941** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,764	08/02/2005	Martin Vorbach	2885/93	7557

26646 7590 12/04/2008
KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

EXAMINER
THAI, TUAN V

ART UNIT	PAPER NUMBER
2185	

MAIL DATE	DELIVERY MODE
12/04/2008	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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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

In re Application of: VORBACH et al
Application No. 10/523,764
Filed: February 2, 2005
For: Data Processing Method and Device

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision, on the petition filed on December 2, 2008, under 37 CFR 1.181, requesting withdrawal of the Holding of Abandonment.

This application is held abandoned for failure to file a timely response to the Restriction Requirement mailed on May 1, 2008. A Notice of Abandonment was mailed October 31, 2008.

However, a review of the file record indicates that a proper response to the Restriction Requirement was filed by Applicants on October 30, 2008.

Accordingly, the Petition is GRANTED.

The holding of Abandonment is hereby withdrawn. The Office regrets any inconvenience caused by this error.

The application file is being forwarded to the Examiner of Record for further action.

Any inquiry concerning this decision should be directed to Mano Padmanabhan whose telephone number is (571) 272-4210.

Mano Padmanabhan
WQAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

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

Mail Date: 04/20/2010

Applicant	: Masashi Hirosawa	: DECISION ON REQUEST FOR
Patent Number	: 7623733	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/523,770	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1326** 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 SEP 2005

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BACON & THOMAS, PLLC
625 Slaters Lane, Fourth Floor
Alexandria, VA 22314

In re Application of	:	
SEGAR, Andrea *et al*	:	
Application No.: 10/523,785	:	
PCT No.: PCT/EP02/10717	:	
Int. Filing Date: 25 September 2002	:	**DECISION**
Priority Date: 27 September 2001	:	
Attorney Docket No.: SEGE3004/FJD	:	
For: METHOD FOR OPERATING A FIELD DEVICE USING A BROWSER	:	

Applicants' "Petition to Revive Abandoned Application Under 37 C.F.R. § 1.137(b)" filed with the national stage papers on 09 February 2005 is hereby **GRANTED** as follows:

The basic national fee and petition fee have been paid. Applicants' statement in the petition has been interpreted as meaning "[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." If this interpretation is incorrect, applicants should notify this office. A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration was filed in the international application pursuant to PCT Rule 4.17(iv). This declaration is in compliance with 37 CFR 1.497(a) and (b).

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 25 September 2002, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 09 February 2005.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,785	01/10/2006	Andrea Seger	SEGE3004//FJD	5731

7590 06/01/2010

Bacon & Thomas
4th Floor
625 Slaters Lane
Alexandria, VA 22314-1176

EXAMINER
SONG, DAEHO D

ART UNIT	PAPER NUMBER
2175	

MAIL DATE	DELIVERY MODE
06/01/2010	PAPER

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

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

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MAY 28 2010

Technology Center 2100

BACON & THOMAS
4TH Floor
625 Slaters Lane
Alexandria VA 22314

In re Application of:
SEGER, Andrea et al.
Application No. 10/523,785
Filed: February 9, 2005
For: METHOD FOR OPERTING A FIELD DEVICE USING A BROWSER

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed April 22, 2010 to withdraw the finality of the Office action mailed January 22, 2010.

The petition is **GRANTED**.

BACKGROUND

"6) On November 2, 2009, applicants filed a further RCE and as RESPONSE by which claim 10 was amended to include the subject matter of claim 13 and to further amend claim 10 to define over the Forney et al. reference.

"7) On January 22, 2010 the examiner issued a first Office Action in the further REC application, finally rejecting claims 10, 12 and 14-18, and to reject claim 10 under 35 USC 112, second paragraph as indefinite."

RULES AND PROCEDURES

MPEP § 706.07(b) states in part that:

> The claims of an application for which a request for continued examination (RCE) has been filed may be finally rejected in the action immediately subsequent to the filing of the RCE (with a submission and fee under 37 CFR 1.114) where all the claims in the application after the entry of the submission under 37 CFR 1.114 (A) are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114, and (B) would have been properly finally rejected on the grounds and art of

record in the next Office action if they had been entered in the application prior to the filing of the RCE under 37 CFR 1.114.

DECISION

In the Amendment filed November 2, 2009, claim 10 was substantially amended prompting the examiner to establish a new grounds of rejection in the Office action mailed January 22, 2010, the action immediately subsequent to the filing of the RCE. Specifically, the new grounds of rejection of claim 10 was under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The new grounds of rejection and at least the newly added limitation "in accordance with a change in the XML file or the XSL file" demonstrate that claims 10 can not be "drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR § 1.114, [nor] (B) would have been properly finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to the filing of the RCE under 37 CFR § 1.114." Therefore, the first action finality of the Office action mailed January 22, 2010 does not meet the conditions set forth in MPEP § 706.07(b).

Therefore, the petition is **GRANTED**, and the finality of the Office action mailed January 22, 2010 has been withdrawn.

Furthermore, the Amendment filed April 22, 2010 will be treated as a reply filed under 37 C.F.R. § 1.111(b), and entered as a matter of right. The examiner of record will continue examination based on the entry of this amendment.

Any inquiry regarding this decision should be directed to Eddie C. Lee at (571) 272-1732.

Wendy Garber
Director, Technology Center 2100

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ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

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JUN 16 2008

OFFICE OF PETITIONS

In re Application of	:
Lee, et al.	: DECISION ON APPLICATION
Application No. 10/523,804	: FOR PATENT TERM ADJUSTMENT
Filed: February 9, 2005	:
Atty. Dkt. No.: 1751-373	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT 37 CFR § 1.705(b)," filed January 22, 2008.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED**.

The Determination of Patent Term Adjustment mailed November 20, 2007 indicated a PTA to date of 143 days. The instant application for PTA was timely filed. Applicants argue that the application is entitled to an additional adjustment of 67 days in connection with the mailing of the non-final Office action on May 8, 2007.

The correct PTA at the time of the allowance is 210 days.

Applicants do not contest the adjustment of 176 days or the reduction of 33 days. Instead, applicants argue that the application is entitled to an additional adjustment of 67 days in connection with the mailing of the non-final Office action on May 8, 2007.

Applicants arguments have been carefully reviewed and found convincing. A review of the record reveals that a the Office neglected to assess an adjustment of 67 days in accordance with 37 CFR 1.702(a)(2). The adjustment commenced March 3, 2007, the day after the date that is four months after the date that applicants' reply was filed, and ended May 8, 2007, the date that the non-final Office action was mailed. See, 37 CFR 1.703(a)(2).

In view thereof, at the time of allowance, the application is entitled to an adjustment of 210 days (Office delays totaling 243 days less applicants delays totaling 33 days).

The required PTA application fee of $200.00 has been charged to applicant's deposit account as authorized.

Applicants are further advised that the patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

The application file is being forwarded to the Office of Patent Publications for issuance of a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery A Fries

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

Enclosure: Adjusted PAIR Calculation

Day : Thursday
Date: 6/12/2008

PALM INTRANET

Time: 11:04:35

PTA Calculations for Application: 10/523804			
Application Filing Date:	02/09/2005	PTO Delay (PTO):	176
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	33
Post-Issue Petitions:	0	Total PTA (days):	210
PTO Delay Adjustment:	67		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
44	06/12/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	67		
33	11/20/2007	MAIL NOTICE OF ALLOWANCE			
32	11/20/2007	MAIL EXAMINER'S AMENDMENT			
31	10/26/2007	ISSUE REVISION COMPLETED			
30	10/26/2007	DOCUMENT VERIFICATION			
29	10/26/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
28	10/19/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
27	10/22/2007	EXAMINER'S AMENDMENT COMMUNICATION			
26	10/22/2007	NOTICE OF ALLOWABILITY			
25	10/05/2007	CASE DOCKETED TO EXAMINER IN GAU			
24	09/21/2007	DATE FORWARDED TO EXAMINER			
23	09/10/2007	RESPONSE AFTER NON-FINAL ACTION		33	19
22	09/10/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
21	05/10/2007	ELECTRONIC REVIEW			
20	05/09/2007	EMAIL NOTIFICATION			
19	05/08/2007	MAIL NON-FINAL REJECTION			
18	05/03/2007	NON-FINAL REJECTION			
17	02/09/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
16	11/02/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
15.7	11/02/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	11/02/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

14	10/02/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT	176		-1
13	09/28/2006	MISCELLANEOUS ACTION WITH SSP			
12	09/14/2006	CASE DOCKETED TO EXAMINER IN GAU			
11	10/03/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
10	02/09/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
9.7	02/09/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	02/09/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	02/09/2005	PRELIMINARY AMENDMENT			
7	10/03/2005	CASE DOCKETED TO EXAMINER IN GAU			
6	09/29/2005	CLEARED BY OIPE CSR			
5	09/21/2005	CLEARED BY OIPE CSR			
4	02/09/2005	371 COMPLETION DATE			
3	09/14/2005	APPLICATION DISPATCHED FROM OIPE			
2	09/15/2005	NOTICE OF DO/EO ACCEPTANCE MAILED			
1	02/09/2005	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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1425 K STREET, N.W.
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WASHINGTON DC 20005

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JAN 14 2009

In re Patent No. 7,399,459	:	
Issued: July 15, 2008	:	
Application No. 10/523,804	:	PATENT TERM ADJUSTMENT
Filed: February 9, 2005	:	
Dkt. No.: 1751-373	:	

This is a decision on the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed July 15, 2008. This matter is being treated as a request for reconsideration of the decision on application for patent term adjustment under 37 CFR 1.705(b), filed January 22, 2008 and dismissed June 16, 2008.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is GRANTED.

The above-identified application matured into U.S. Patent No. 7,399,459 on July 15, 2008. The instant request for reconsideration was timely filed. The patent issued with a PTA of 116 days. Patentee argues that the adjustment was improperly reduced 120 days in connection with the filing of the application for patent term adjustment on January 22, 2008.

Patentee's arguments have been carefully considered and found convincing.

The correct adjustment at the time of issuance is 236 days.

The application is entitled to an overall adjustment of 269 days.[1]

The adjustment is reduced a total of 33 days.[2]

The adjustment was improperly reduced 120 days in connection with the submission of the application for patent term adjustment on January 22, 2008. Submission of an application for

[1] The adjustments are as follows: 176 days under 37 CFR 1.702(a)(1); 67 days under 37 CFR 1.702(a)(2); and, 26 days under 37 CFR 1.702(a)(4).
[2] The reduction of 33 days falls under 37 CFR 1.704(b).

patent term adjustment is not grounds for reduction in patent term. *See*, 37 CFR 1.704(e).

Accordingly, at the time of issuance, the application was entitled to a patent term adjustment of 236 days.

The required PTA application fee of $200.00 was previously submitted January 22, 2008.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 236 days.

Telephone inquiries specific to this matter may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery A. Fries

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

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,399,459 B2
DATED	:	July 15, 2008
INVENTOR(S)	:	Lee, 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 116 days

Delete the phrase "by 116 days" and insert – by 236 days--

Day : Tuesday
Date: 1/13/2009

PALM INTRANET

Time: 09:01:01

PTA Calculations for Application: 10/523804			
Application Filing Date:	02/09/2005	PTO Delay (PTO):	202
Issue Date of Patent:	07/15/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	153
Post-Issue Petitions:	0	Total PTA (days):	236
PTO Delay Adjustment:	187		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
56	01/13/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	120		
50.5	06/25/2008	PTA 36 MONTHS			
50	07/15/2008	PATENT ISSUE DATE USED IN PTA CALCULATION	26		40
49	06/19/2008	EXPORT TO FINAL DATA CAPTURE			
48	06/18/2008	DISPATCH TO FDC			
47	06/18/2008	EMAIL NOTIFICATION			
46	06/16/2008	MAIL-RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
45	06/13/2008	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
45	06/13/2008	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
44	06/12/2008	ADJUSTMENT OF PTA CALCULATION BY PTO			
44	06/12/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	67		
43	01/22/2008	MISCELLANEOUS INCOMING LETTER		120	
42	03/04/2008	FINISHED INITIAL DATA CAPTURE			
41	03/04/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
40	02/19/2008	ISSUE FEE PAYMENT VERIFIED			
39	02/19/2008	ISSUE FEE PAYMENT RECEIVED			
38	01/22/2008	PETITION ENTERED			
36	11/21/2007	ELECTRONIC REVIEW			
33	11/20/2007	MAIL NOTICE OF ALLOWANCE			
32	11/20/2007	MAIL EXAMINER'S AMENDMENT			

31	10/26/2007	ISSUE REVISION COMPLETED			
30	10/26/2007	DOCUMENT VERIFICATION			
29	10/26/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
28	10/19/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
27	10/22/2007	EXAMINER'S AMENDMENT COMMUNICATION			
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22	09/10/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
21	05/10/2007	ELECTRONIC REVIEW			
20	05/09/2007	EMAIL NOTIFICATION			
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13	09/28/2006	MISCELLANEOUS ACTION WITH SSP			
12	09/14/2006	CASE DOCKETED TO EXAMINER IN GAU			
11	10/03/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
10	02/09/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
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9	02/09/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	02/09/2005	PRELIMINARY AMENDMENT			
7	10/03/2005	CASE DOCKETED TO EXAMINER IN GAU			
6	09/29/2005	CLEARED BY OIPE CSR			

5	09/21/2005	CLEARED BY OIPE CSR			
4	02/09/2005	371 COMPLETION DATE			
3	09/14/2005	APPLICATION DISPATCHED FROM OIPE			
2	09/15/2005	NOTICE OF DO/EO ACCEPTANCE MAILED			
1	02/09/2005	INITIAL EXAM TEAM NN			

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,813	08/10/2005	Werner Zimmerman	101619.55842US	4204

23911 7590 11/28/2007
CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

EXAMINER
DUNLAP, JONATHAN M

ART UNIT	PAPER NUMBER
2855	

MAIL DATE	DELIVERY MODE
11/28/2007	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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. ZIMMERMAN ET AL.
Appl. No.: 10/523,813
Filed: August 10, 2005

DECISION DENYING PETITION
37 CFR 1.181

NOV 28 2007

This is a decision on the petition filed 8/28/07 to withdraw finality under 37 CFR 1.181.

Applicant argues that the finality is premature since Applicant's amendment only placed dependent claim 4 into independent claim 1. Upon reviewing the office action mailed 8-22-07, Applicant's amendment to independent claim 1 not only added the features of claim 4, but also included a feature that was not previously claimed. The additional claiming of a "first inductor of the sensor" was a feature that was not previously claimed. It is also noted that Applicant argued that this newly claimed feature was not shown by the primary reference to Buchwald. Accordingly, the examiner was correct in applying new art and making his action Final as being necessitated by Applicant's amendment.

The petition is therefore denied.

Janice Falcone
Group Director
Technology Center 2800

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

26 AUG 2005

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OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

In re Application of	DECISION ON
HORHANN et al	
Application No.: 10/523,831	
PCT No.: PCT/AU03/00413	
Int. Filing Date: 07 April 2003	PETITION UNDER
Priority Date: 09 April 2002	
Attorney's Docket No.: 122720	
For: DIAGNOSTIC TESTS AND METHODS	37 CFR 1.137(b)

This decision is in response to applicants' "Petition To Revive Unintentionally Abandoned Application," filed on 08 February 2005.

BACKGROUND

On 07 April 2003, this international application was filed, claiming an earliest priority date of 09 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 09 October 2004. This international application became abandoned with respect to the United States at midnight on 09 October 2004 for failure to pay the required basic national fee.

On 08 February 2005, applicants filed the instant petition under 37 CFR 1.137(b) and Transmittal letter for entry into the national stage in the United States, which was accompanied by the basic national fee and the petition fee.

DISCUSSION

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

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

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

DECISION

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

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

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

#6

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24 JAN 2006

O'Shea, Getz & Kosakowski, P.C.
1500 Main Street, Suite 912
Springfield, MA 01115

In re Application of DONNELLY et al	:	
U.S. Application No.: 10/523,848	:	
PCT Application No.: PCT/GB03/03471	:	DECISION
Int. Filing Date: 07 August 2003	:	
Priority Date Claimed: 07 August 2002	:	
Attorney Docket No.: 5173-0010WOUS	:	
For: WATER TREATMENT APPARATUS	:	

This is in response to applicant's "Petition Under 37 C.F.R. 1.47(d)" filed 17 October 2005, which is being treated under 37 CFR 1.47(a).

BACKGROUND

On 07 August 2003, applicant filed international application PCT/GB03/03471, which claimed priority of an earlier United Kingdom application filed 07 August 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 19 February 2004. The thirty-month period for paying the basic national fee in the United States expired on 07 February 2005.

On 07 February 2005, 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 14 July 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 17 October 2005, applicant filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2)

factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

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

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

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

The petition states that joint inventor Vernon Donnelly refuses to sign the application papers. However, the petition does not adequately demonstrate that a bona fide attempt was made to present a complete copy of the application papers (including specification, claims, drawings, and oath/declaration) to Donnelly for signature. Rather, the presented evidence shows that Donnelly was provided with declaration and assignment forms only. Furthermore, the petition does not sufficiently illustrate that Donnelly refuses to sign. Specifically, the electronic mail message sent from Donnelly to Mike Scott merely indicates that a particular situation needed to be resolved before he would sign, not that Donnelly refuses to sign. No other documentary evidence of purported attempts to secure Donnelly's cooperation has been provided. Thus, it would not be reasonable to conclude at the present time that Donnelly refuses to join in the application.

With regard to item (3) above, applicant has provided the requisite petition fee.

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

CONCLUSION

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

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

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

24 MAR 2006

#6

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O'Shea, Getz & Kosakowski, P.C.
1500 Main Street, Suite 912
Springfield, MA 01115

In re Application of DONNELLY et al	:	
U.S. Application No.: 10/523,848	:	
PCT Application No.: PCT/GB03/03471	:	DECISION
Int. Filing Date: 07 August 2003	:	
Priority Date Claimed: 07 August 2002	:	
Attorney Docket No.: 5173-0010WOUS	:	
For: WATER TREATMENT APPARATUS	:	

This is in response to applicant's "Petition Under 37 C.F.R. 1.47(a)" filed 09 March 2006.

BACKGROUND

On 07 August 2003, applicant filed international application PCT/GB03/03471, which claimed priority of an earlier United Kingdom application filed 07 August 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 19 February 2004. The thirty-month period for paying the basic national fee in the United States expired on 07 February 2005.

On 07 February 2005, 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 14 July 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 17 October 2005, applicant filed a petition under 37 CFR 1.47(a).

On 24 January 2006, this Office mailed a decision dismissing the 17 October 2005 petition.

On 09 March 2006, applicant filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

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

Petitioner has previously satisfied items (1), (3), and (4) above.

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

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

The petition states that joint inventor Vernon Donnelly refuses to sign the application papers. The petition adequately demonstrates that a bona fide attempt was made to present a complete copy of the application papers (including specification, claims, drawings, and oath/declaration) to Donnelly for signature (see affidavit of Richard Getz). Furthermore, the petition sufficiently illustrates that Donnelly refuses to sign. Specifically, Donnelly failed to respond to a letter received at his address on 20 February 2006 within the time period stated therein. Thus, it would be reasonable to conclude at the present time that Donnelly refuses to join in the application.

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 07 August 2003 and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 17 October 2005.

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

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

24 MAR 2006

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Vernon Donnelly
54 Meadow Crescent
Saddlestone, Braddan
Isle of Man
IM2 1NL

In re Application of DONNELLY et al
U.S. Application No.: 10/523,848
PCT Application No.: PCT/GB03/03471
Int. Filing Date: 07 August 2003
Priority Date Claimed: 07 August 2002
For: WATER TREATMENT APPARATUS

Dear Vernon Donnelly:

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

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

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

O'Shea, Getz & Kosakowski, P.C.
1500 Main Street, Suite 912
Springfield, MA 01115
Attorney Docket No.: 5173-0010WOUS

10 MAR 2005

#7

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FRASER MARTIN BUCHANAN MILLER LLC
132C WEST SECOND STREET
PERRYSBURG, OH 43551-1401

In re Application of	:	
MAININ, Burkit et al.	:	
Application No.: 10/523,860	:	DECISION
PCT No.: PCT/KZ03/00005	:	
Int. Filing Date: 04 August 2003	:	ON PETITION UNDER
Priority Date: 19 August 2002	:	
Attorney Docket No.: 1-37640	:	37 CFR 1.181
For: DYNAMIC SEPARATOR	:	

This decision is in response to applicant's request for refund filed in the United States Patent and Trademark Office on 03 March 2005. It has been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 04 August 2003, applicant filed international application PCT/KZ03/00005, which claimed a priority date of 19 August 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 26 February 2004. The deadline for entry into the national stage in the United States was midnight on 19 February 2005.

On 07 February 2005, applicant filed a submission for entry into the national stage in the United States, accompanied by, *inter alia*, the U.S. Basic National Fee, the international search report and a declaration.

On 03 March 2005, applicant filed a petition under 37 CFR 1.181 for a refund.

DISCUSSION

Applicant supplied a copy of the international search report with the submission for entry into the national stage. The additional $50 will be refunded to applicant's deposit account, as requested.

However, a review of the declaration reveals non-initialed, non-dated alterations to the names of the attorneys, to the name of the law firm and to the correspondence address. 37 CFR 1.52(c)(1). The oath or declaration must be submitted as it was executed by the inventors. The declaration does not comply with 37 CFR 1.497(a)-(b). A new oath or declaration and the surcharge for late filing of the oath or declaration are required.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.181 is **GRANTED**.

An oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration must be filed within TWO (2) MONTHS 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.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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

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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

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OFFICE OF PETITIONS

In re Application of	:	
Martinus J. Warmerdam, et al.	:	
Application No. 10/523,881	:	DECISION ON PETITION
Filed: August 6, 2003	:	TO WITHDRAW
Attorney Docket No. 246152025000	:	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 who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The power of attorney filed on September 22, 2006 does not include the reel and frame number on the 3.73(b) statement.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: Martin Johannes Maria Warmerdam
Pauwhof 179
2289 BM Ruiswuk
The Netherlands

cc: MR. BRYAN H. DAVIDSON
NIXON & VANDERHYE, P.C.
901 NORTH GLEBE ROAD
11TH FLOOR
ARLINGTON, VA 22203-1808

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/523,881	02/07/2005	Martinus Johannes Maria Warmerdam	246152025000

CONFIRMATION NO. 4412

OC000000021319365

OC000000021319365

25225
MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

Date Mailed: 11/22/2006

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.

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

12 SEP 2005

#5

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MICHAEL BEST & FRIEDRICH, LLP
100 E WISCONSIN AVENUE
MILWAUKEE, WI 53202

In re Application of	:	
VERELST, Hubert, et al.	:	
Application No.: 10/523,910	:	DECISION
PCT No.: PCT/DE03/01031	:	
Int. Filing Date: 28 March 2003	:	ON PETITION UNDER
Priority Date: 04 April 2002	:	
Docket No.: 081276-1042-00	:	37 CFR 1.137(b)
For: WIPER LEVER ... TO MOTOR	:	
VEHICLES	:	

Applicants' "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 08 February 2005 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 fees for late filing of the oath or declaration and for late furnishing of the translation will be charged to deposit account no. 13-3080, as authorized. The application has a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of 08 February 2005.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: Hubert Verelst	: DECISION ON REQUEST FOR
Patent Number	: 7621016	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/523,910	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1213** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

Mail Date: 04/21/2010

Applicant	: Cecilia Lucia Clara Lelivelt	: DECISION ON REQUEST FOR
Patent Number	: 7645918	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/523,918	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **579** 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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ROBERTS MLOTKOWSKI SAFRAN & COLE, P.C.
Intellectual Property Department
P.O. Box 10064
MCLEAN VA 22102-8064

8/14/09

In re Application of: HERMANSEN, CARSTEN et al Serial No.: 10/523,924 Filed: Feb. 7, 2005 Docket: 742113-33 Title: DEVICE AND METHOD FOR THROUGH-CUTTING OF AN EXTRUDED ICE MASS	DECISION ON PETITION TO WITHDRAW DRAWING OBJECTION

This is a decision on the petition filed on August 4, 2009 seeking reversal of the drawing objection under 37 CFR 1.83(a). The petition is being considered pursuant to 37 CFR 1.181. No fee is required.

The petition is **DISMISSED**.

In the petition, the petitioner requests a review of the examiner's objection to the drawings under 37 CFR 1.83(a). The examiner objected to the drawing on the grounds that the claimed subject matter of claims 1-14 was not illustrated. Petitioner believes that the objection to the drawings is in error and requests review and relief therefrom.

The record shows that:

1) In a Non-Final Rejection on June 1, 2009, Examiner rejected claims 1-14, *inter alia*, under 35 U.S.C. 112, first paragraph, because the disclosure does not provide sufficient support for the invention as claimed in claims 1-14. In particular, the drive structure of the cutting device. For example, the specific structure to simultaneously drive the knives and to provide the knives with different stroke lengths is not sufficiently disclosed and thus the description does not clearly allow persons of ordinary skill in the art to recognize that the present inventors invented what is claimed. Figure 5 does not clearly illustrate the structure to perform the claimed functions. The examiner also held that the claimed drive components including the rotor means, the coupling means and the rotating drive means are not sufficiently disclosed. It is not clear as to how they interact with one another as well as how they act together to drive the knives. Therefore, the specification does not convey with reasonable clarity to those skilled in the art that, as of the filing date sought, applicant was in possession of the invention. The examiner further objected to the

drawings under 37 CFR § 1.83(a)[1] CFR 1.183a that the specific structure to simultaneously drive the knives and to provide the knives with different stroke lengths including the specific structure of the drive components including the rotor means, the coupling means and the rotating drive means must be shown or the feature(s) canceled from the claim(s).

2) In the petition, petitioner argues that the claimed features are derived from a text book relating to the filed of lever mechanisms, i.e., *MECHANISMS in Modern Engineering Design, Volume L" Lever Mechanisms* by Ivan I. Arobolevsky, D.Sc. (Eng.), Mir Publishers, Moscow, 1975. Therefore, this publication provides evidence of that which was well-known to those skilled in the art well prior to the present invention. Petitioner also argues that the claimed features are in fact shown in Figs. 3-5 to the extent required by 37 CFR 1.83(a).

Discussion and Analysis

A review of the record indicates that the drawing objection and claim rejection are directed to the same issues. In the rejection of claims 1-14 under 35 USC 112, first paragraph of the non-final Office action of June 1, 2009, the examiner stated that the applicant failed to comply with the written description requirement because the claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention (pages 3-4 of the Office action of June 1, 2009). The examiner also objected to the drawing that the claimed subject matters of claims are not illustrated by the original drawings. That is, the correctness of the examiner's drawing objection, resting on the lack of clarity of, the claimed specific structure "to simultaneously drive the knives and to provide the knives with different stroke lengths including the specific structure of the drive components including the rotor means, the coupling means and the rotating drive means" is dependent on the correctness of the examiner's 35 USC 112 first paragraph rejection of claims 1-14. It is the policy of the USPTO in appropriate circumstances to decline to rule on a petitionable issue, when, as here, that an issue is also determinative of a rejection, and as such, is appropriate for consideration on appeal to the BPAI. In this case, the issue in the objection and rejection, as here, additionally and necessarily requires the exercise of technical skill and legal judgment in order to evaluate the facts presented, the issue is properly decided on the merits, and is properly reviewed on appeal, not petition. Under the circumstances, it is believed that the issues presented under the claim rejections and drawing objection in the instant case require the same review by the BPAI. Thus, this issue is appealable and should not be decided by petition.

[1] § 1.83 Content of drawing. (a) The drawing in a nonprovisional application must show every feature of the invention specified in the claims. However, conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawing in the form of a graphical drawing symbol or a labeled representation (e.g., a labeled rectangular box). In addition, tables and sequence listings that are included in the specification are, except for applications filed under 35 U.S.C. 371, not permitted to be included in the drawings.

Conclusion

For the foregoing reasons, the relief requested by the petitioner will not be granted. Because there is both an objection to drawings under 37 CFR 1.83(a) and a rejection to claims under 35 USC 112, first paragraph, and both the correctness of the objection and the rejection depend on the same issue, the issue is an appealable one and will not be decided by petition.

The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3724 awaiting for the applicant's response to the non-final Office action of June 1, 2009. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-3468.

PETITION DISMISSED

Donald T. Hajec, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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14 JUN 2007

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

In re Application of
ARQUINT et al.
Serial No.: 10/523,933
PCT App. No.: PCT/DE03/02548
Int'l Filing Date: 29 July 2003
Priority Date: 08 August 2002
Attorney Docket No.: 32860-000850/US
For: RADICALLY CROSSLINKABLE HYDROGEL COMPRISING LINKER GROUPS

DECISION ON

RENEWED PETITION

UNDER 37 CFR 1.137(b)

This is a decision on applicants' "Renewed Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)", filed on 27 February 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 15 August 2005, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required. On 3 October 2005, applicants filed an executed declaration.

On 23 January 2006, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed regarding the declaration and indicating that the signature of inventor Gotz was missing and that inventor Nuss was not listed in the international application.

On 11 May 2006, applicant filed a petition to revive along with an explanation of the signature of the inventor. On 5 September 2006, a decision dismissing the petition was mailed.

On 27 February 2007, a renewed petition was filed along with petition under 37 CFR 1.182 to accept name change of inventor Hannelore GOTZ to Hannelore NUSS.

DISCUSSION

Petition under 37 CFR 1.182

A petition under 37 CFR 1.182 is required to accept the change in the name of the inventor along with a $400 petition fee. The petition fee will be charged to applicant's deposit account per his authorization.

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 submitted a certified copy of a marriage certificate of Hannelore Gotz regarding

her respective change of name to Hannelore NUSS. The petition under 37 CFR 1.182 is granted.

Petition under 37 CFR 1.137(b)

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".

Applicant previously satisfied Items (2) and (3). With regard to Item (1), the proper reply is a declaration or oath, in compliance with 37 CFR 1.497(a) and (b), executed by the inventors as listed on the international application. With the grant of applicant's petition under 37 CFR 1.182 above, Hannelore Nuss is recognized as an inventor.

However, the declaration submitted on 11 May 2006 and resubmitted on 27 February 2007 contained two identical sheets of page 3 signed by different inventors. The declaration is not properly executed. It appears that either the attorney pieced together two separate complete declarations or the inventors were presented with an incomplete declaration. Thus, the requirements of 37 CFR 1.497 have not been met. What is required is one declaration where all inventors have signed or two separate complete declarations executed in compliance with 37 CFR §1.497(a) & (b).

The requirements of 37 CFR 1.497(a) & (b) have not been met and the declaration is unacceptable. Item (1), a proper reply, has not been submitted and the petition to revive is dismissed at this time. The proper reply is one declaration where all inventors have signed or two separate complete declarations executed in compliance with 37 CFR §1.497(a) & (b).

CONCLUSION

For the reasons stated above, the petition to revive under 37 CFR 1.137(b) filed 27 February 2007 in the above-captioned application is **DISMISSED**.

The application remain abandoned. The proper reply is one declaration where all inventors have signed or two separate complete declarations executed in compliance with 37 CFR §1.497(a) & (b).

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

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

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

05 SEP 2006

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P.O. BOX 8910
RESTON VA 20195

In re Application of
ARQUINT et al.
Serial No.: 10/523,933
PCT App. No.: PCT/DE03/02548
Int'l Filing Date: 29 July 2003
Priority Date: 08 August 2002
Attorney Docket No.: 32860-000850/US
For: RADICALLY CROSSLINKABLE HYDROGEL COMPRISING LINKER GROUPS

DECISION ON 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 May 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 29 July 2003, applicant filed international application PCT/DE03/02548, which claimed priority of an earlier German application filed 08 August 2002. The deadline for entry into national stage expired thirty months after the priority date or by midnight on 08 February 2005. Thereafter, the application was abandoned for failure to enter national stage in the U.S. before the expiration of the thirty month period.

On 07 February 2005, applicants filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO 1390) along with, *inter alia*, the basic national fee.

On 15 August 2005, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required. On 3 October 2005, applicants filed an executed declaration.

On 23 January 2006, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed regarding the declaration and indicating that the signature of inventor Gotz was missing and that inventor Nuss was not listed in the international application.

On 11 May 2006, applicant filed the instant petition to revive along with an explanation of the signature of the inventor.

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 respect to Items (2) and (3), 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). The required petition fee of $1500 has also been paid.

With regard to Item (1), the proper reply is a declaration or oath, in compliance with 37 CFR 1.497(a) and (b), executed by the inventors as listed on the international application. The declaration submitted on 11 May 2006 contained three identical sheets of page 3 signed by different inventors. The declaration is not properly executed. It appears that either the attorney pieced together two separate complete declarations or the inventors were presented with an incomplete declaration. Thus, the requirements of 37 CFR 1.497 have not been met. What is required is one declaration where all inventors have signed or two separate complete declarations executed in compliance with 37 CFR §1.497(a) & (b).

Furthermore, the published international application identifies the inventor as Hannelore Gotz. The declaration indicated the name of the fourth inventor as "Hannelore Gotz" however, on Page 3, the declaration identifies and is signed by "Hannelore Nuss". Counsel provides the explanation that Ms. Gotz was married and changed her name to Hannelore Nuss. This is insufficient to accept the declaration as filed.

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 Hannelore Gotz regarding her respective change of name. The declaration, indicating Hannelore Nuss as an inventor, is not in compliance with 37 CFR 1.497 and unacceptable.

The requirements of 37 CFR 1.497(a) & (b) have not been met and the declaration is unacceptable. Item (1), a proper reply, has not been submitted and the petition to revive is dismissed at this time. The proper reply is a newly executed declaration by all inventors, along with a petition under 37 CFR 1.182 to change the name of inventor Gotz.

CONCLUSION

For the reasons stated above, the petition to revive under 37 CFR 1.137(b) filed 11 May 2006 in the above-captioned application is **DISMISSED**.

The application remain abandoned. The proper reply is a newly executed declaration by all inventors, along with a petition under 37 CFR 1.182 to change the name of inventor Gotz.

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
Office of PCT Legal Administration

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

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

In re Application of
ARQUINT et al.
Serial No.: 10/523,933
PCT App. No.: PCT/DE03/02548
Int'l Filing Date: 29 July 2003
Priority Date: 08 August 2002
Attorney Docket No.: 32860-000850/US
For: RADICALLY CROSSLINKABLE HYDROGEL COMPRISING LINKER GROUPS

DECISION ON

RENEWED PETITION

UNDER 37 CFR 1.137(b)

This is a decision on applicants' "Second Renewed Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)", filed on 20 July 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 15 August 2005, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required. On 3 October 2005, applicants filed an executed declaration.

On 23 January 2006, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed regarding the declaration and indicating that the signature of inventor Gotz was missing and that inventor Nuss was not listed in the international application. The application was abandoned at midnight on 15 March 2006 for failure to file a timely response to the Notification of Missing Requirements.

On 11 May 2006, applicant filed a petition to revive along with an explanation of the signature of the inventor. On 5 September 2006, a decision dismissing the petition was mailed.

On 27 February 2007, a renewed petition was filed along with petition under 37 CFR 1.182 to accept name change of inventor Hannelore GOTZ to Hannelore NUSS. On 14 June 2007, a decision was mailed indicating that the declaration was unacceptable as filed.

On 20 July and 01 August 2007, in response to the 14 June 2007 decision, applicant filed declarations executed by the inventors.

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".

Applicant previously satisfied Items (2) and (3). With regard to Item (1), the proper reply is a declaration or oath, in compliance with 37 CFR 1.497(a) and (b), executed by the inventors. The declarations submitted on 20 July and 01 August 2007 are properly executed and acceptable. The requirements of 37 CFR 1.497(a) and (b) have now been met. Item (1), a proper reply, has been satisfied.

CONCLUSION

For the reasons stated above, the renewed petition to revive under 37 CFR 1.137(b) filed 20 July 2007 in the above-captioned application is **GRANTED**.

The application will be forwarded to the United States Designated/Elected Office for further processing in accord with this decision. The 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) date is 01 August 2007.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

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

#10

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14 JUN 2007

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

In re Application of ARQUINT et al. Serial No.: 10/523,933 PCT App. No.: PCT/DE03/02548 Int'l Filing Date: 29 July 2003 Priority Date: 08 August 2002 Attorney Docket No.: 32860-000850/US For: RADICALLY CROSSLINKABLE HYDROGEL COMPRISING LINKER GROUPS	DECISION ON RENEWED PETITION UNDER 37 CFR 1.137(b)

This is a decision on applicants' "Renewed Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)", filed on 27 February 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 15 August 2005, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required. On 3 October 2005, applicants filed an executed declaration.

On 23 January 2006, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed regarding the declaration and indicating that the signature of inventor Gotz was missing and that inventor Nuss was not listed in the international application.

On 11 May 2006, applicant filed a petition to revive along with an explanation of the signature of the inventor. On 5 September 2006, a decision dismissing the petition was mailed.

On 27 February 2007, a renewed petition was filed along with petition under 37 CFR 1.182 to accept name change of inventor Hannelore GOTZ to Hannelore NUSS.

DISCUSSION

Petition under 37 CFR 1.182

A petition under 37 CFR 1.182 is required to accept the change in the name of the inventor along with a $400 petition fee. The petition fee will be charged to applicant's deposit account per his authorization.

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 submitted a certified copy of a marriage certificate of Hannelore Gotz regarding

her respective change of name to Hannelore NUSS. The petition under 37 CFR 1.182 is granted.

Petition under 37 CFR 1.137(b)

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".

Applicant previously satisfied Items (2) and (3). With regard to Item (1), the proper reply is a declaration or oath, in compliance with 37 CFR 1.497(a) and (b), executed by the inventors as listed on the international application. With the grant of applicant's petition under 37 CFR 1.182 above, Hannelore Nuss is recognized as an inventor.

However, the declaration submitted on 11 May 2006 and resubmitted on 27 February 2007 contained two identical sheets of page 3 signed by different inventors. The declaration is not properly executed. It appears that either the attorney pieced together two separate complete declarations or the inventors were presented with an incomplete declaration. Thus, the requirements of 37 CFR 1.497 have not been met. What is required is one declaration where all inventors have signed or two separate complete declarations executed in compliance with 37 CFR §1.497(a) & (b).

The requirements of 37 CFR 1.497(a) & (b) have not been met and the declaration is unacceptable. Item (1), a proper reply, has not been submitted and the petition to revive is dismissed at this time. The proper reply is one declaration where all inventors have signed or two separate complete declarations executed in compliance with 37 CFR §1.497(a) & (b).

CONCLUSION

For the reasons stated above, the petition to revive under 37 CFR 1.137(b) filed 27 February 2007 in the above-captioned application is **DISMISSED**.

The application remain abandoned. The proper reply is one declaration where all inventors have signed or two separate complete declarations executed in compliance with 37 CFR §1.497(a) & (b).

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

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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OFFICE OF PETITIONS

THELEN REID BROWN RAYSMAN & STEINER LLP
PO BOX 1510
NEW YORK, NY 10150-1510

In re Application of	:	
RAMASAMY, Kanda et al.	:	
Application No. 10/523,938	:	DECISION ON PETITION
Filed: October 21, 2005	:	TO WITHDRAW
Attorney Docket No. **MET-075T**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 26, 2007.

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

A review of the file record indicates that the power of attorney to THELEN REID BROWN RAYSMAN & STEINER LLP has been revoked by the assignee of the patent application on December 03, 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 Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **SALIWANCHIK LLOYD & SALIWANCHIK**
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE FL 32614-2950

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Alexandria, VA 22313-1450
www.uspto.gov

04 DEC 2006

TIANHUA GU
2462 ROCK STREET
#6
MOUNTAIN VIEW, CA 94043

SUITER WEST PC LLO
14301 FNB PARKWAY SUITE 220
OMAHA, NE 68154-5299

In re Application of GUOHUA ZHOU. Application No.: 10/523,953 PCT No.: PCT/CN03/00648 Int. Filing Date: 08 August 2003 Priority Date: 09 August 2002 Attorney Docket No.: NTP 05-1-1 For: METHOD FOR COMPARING GENE EXPRESSION LEVEL	DECISION

This is a decision on applicant's "Petition" requesting acceptance of the Revocation and Power of Attorney filed in the United States Patent and Trademark Office on 29 September 2006.

Applicant's submission of Revocation of Power of Attorney with New Power of Attorney appointing Tianhua Gu as attorney of record is accepted.

The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,953	09/29/2005	Guohua Zhou	NTP 05-1-1	9413

56352 7590 12/19/2007
GLOBAL IP SERVICES
7285 W. Eagle Court
Winton, CA 95388

EXAMINER
BAUGHMAN, MOLLY E

ART UNIT	PAPER NUMBER
1637	

MAIL DATE	DELIVERY MODE
12/19/2007	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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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04 DEC 2006

TIANHUA GU
2462 ROCK STREET
#6
MOUNTAIN VIEW, CA 94043

SUITER WEST PC LLO
14301 FNB PARKWAY SUITE 220
OMAHA, NE 68154-5299

In re Application of GUOHUA ZHOU. Application No.: 10/523,953 PCT No.: PCT/CN03/00648 Int. Filing Date: 08 August 2003 Priority Date: 09 August 2002 Attorney Docket No.: NTP 05-1-1 For: METHOD FOR COMPARING GENE EXPRESSION LEVEL	DECISION

This is a decision on applicant's "Petition" requesting acceptance of the Revocation and Power of Attorney filed in the United States Patent and Trademark Office on 29 September 2006.

Applicant's submission of Revocation of Power of Attorney with New Power of Attorney appointing Tianhua Gu as attorney of record is accepted.

The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

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

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

Barry L Welmachter
Bachman & LaPointe
900 Chapel Street
Suite 1201
New Haven CT 06510

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OFFICE OF PETITIONS

In re Application of :
Ulrich Maurer : DECISION ON PETITION
Application No. 10/523,962 :
Filed: April 11, 2005 :
Attorney Docket No. 05-169 :

This is a decision on the REQUEST TO WITHDRAW HOLDING OF ABANDONMENT filed July 23, 2007. This request is properly treated as a PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. §1.181.

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action mailed December 12, 2006. This Office action set a shortened statutory period for reply of three months, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered timely obtained, the application became abandoned effective March 13, 2007. A courtesy Notice of Abandonment was mailed on June 22, 2007.

Petitioner states that applicants request withdrawal of the abandonment as a response was mailed to the Office on June 11, 2007 and received on June 14, 2007. The petition includes a copy of the as-filed response containing a certificate of mailing and a copy of the postcard acknowledging receipt.

Petitioner's evidence has been reviewed, and is persuasive. However, consideration of their evidence is unnecessary. Their response is present in the application with a date of receipt of June 14, 2007. Moreover, the response includes a certificate of mailing in compliance with 37 CFR 1.8 signed and dated June 11, 2007. Moreover, the response includes an extension of time for

response within the third month (and extension fee). It is noted that the extension of time form submitted did not include a certificate of mailing. Nonetheless, the amendment included a certificate of mailing and stated therein that the Office was authorized to charge the required three-month extension of time to the Deposit Account. (The fee was charged to petitioner's Deposit Account as received on June 14, 2007.) Thus, the response received June 14, 2007 is considered timely filed.

Accordingly, the Notice of Abandonment mailed June 22, 2007 and the holding of abandonment are hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 1761 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for consideration by the examiner of the response shown to have been timely filed on June 14, 2007 (by virtue of the certificate of mailing dated June 11, 2007).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Barry L Welmachter
Bachman & LaPointe
900 Chapel Street
Suite 1201
New Haven, CT 06510

Mail Date: 05/18/2010

Applicant	: Ulrich Maurer	: DECISION ON REQUEST FOR
Patent Number	: 7617765	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/523,962	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **581** 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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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 05/14/2010

Applicant	: Soichirou Okazaki	: DECISION ON REQUEST FOR
Patent Number	: 7618542	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/523,968	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/02/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **971** 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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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

MAILED
JUN 01 2010
OFFICE OF PETITIONS

In re Patent No. 7,635,496	:	
Issue Date: December 22, 2009	:	
Application No. 10/524,014	:	ON PETITION
Filed: February 8, 2005	:	
Attorney Docket No. 5059-0102PUS1	:	

This is a decision on the petition, filed April 14, 2010, which is being treated as a petition requesting that the requirement of 37 CFR 3.81(b) be waived or suspended pursuant to 37 CFR 1.183 and a Request to issue a Certificate of Correction under 37 CFR 1.323.

The petition 37 CFR 1.183 is **DISMISSED.**

37 CFR 1.183 provides that in an extraordinary situation, when justice requires, any requirement of the regulations which is not a requirement of the statutes may be suspended or waived by the Commissioner.

Petitioner has requested that 37 CFR 1.323 be waived to permit the correct name of the Assignee to be provided after issuance of the patent. Petitioner has provided a copy of a Certificate of Correction under 37 CFR 1.323 to correct the Assignee's name on the issued patent.

Since the petition does not include an extraordinary situation that justice requires, the USPTO does not have the authority to waive this requirement.

The petition under 37 CFR 3.81(b) is **DISMISSED.**

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

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction

under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

The request under 37 CFR 3.81(b) was not accompanied by a statement that the assignment was submitted for recordation before issuance of the patent. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

Telephone inquiries regarding this communication should be directed to Diane C. Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

21 MAR 2006

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HEDMAN & COSTIGAN P.C.
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

In re Application of	:	
TRIFONI, Eduardo et al.	:	
Application No.: 10/524,040	:	DECISION ON
PCT No.: PCT/EP03/09554	:	
Int. Filing Date: 28 August 2003	:	PETITION
Priority Date: 28 August 2002	:	
Attorney Docket No.: 267.187	:	UNDER 37 CFR 1.47(a)
For: MEMBRANE ELECTROCHEMICAL	:	
GENERATOR	:	

This is a decision on applicants' "Rule 47(a) Petition," filed in the United States Patent and Trademark Office (USPTO) on 23 September 2005.

BACKGROUND

On 28 August 2003, applicants filed international application PCT/EP03/09554, which claimed a priority date of 28 August 2002. A copy of the international application was transmitted to the Office on 11 March 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 28 February 2005.

On 09 February 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a declaration of the inventors executed by one of the two inventors.

On 15 August 2005, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that the declaration was only executed by one of two inventors.

On 23 September 2005, applicants submitted a petition under 37 CFR 1.47(a), which was accompanied by, *inter alia*, 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. 02-2275, as authorized. Applicants list Eduardo Trifoni's address as Via Donizetti 5, I-80127 Napoli, Italy. The 09 February 2005 declaration complies with 37 CFR 1.497(a)-(b) and 37 CFR 1.47(a).

Item (2) has not been satisfied. Applicants have not furnished evidence of receipt of the complete copy of the application papers, including the declaration, by the non-signing inventor. It is unclear from the declaration of Anna Tuosto how the papers were supplied and inventor Trifoni only indicates receipt of and refusal to sign the assignments. A return mail receipt or other evidence supporting applicants' allegation of refusal to join after presentation with a complete copy of the application papers should be included. 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

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

#8

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19 OCT 2006

HEDMAN & COSTIGAN P.C.
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

In re Application of	:	
TRIFONI, Eduardo et al.	:	
Application No.: 10/524,040	:	DECISION ON
PCT No.: PCT/EP03/09554	:	
Int. Filing Date: 28 August 2003	:	PETITION
Priority Date: 28 August 2002	:	
Attorney Docket No.: 267.187	:	UNDER 37 CFR 1.47(a)
For: MEMBRANE ELECTROCHEMICAL	:	
GENERATOR	:	

This is a decision on applicants' "Renewed Rule 47(A) Petition," filed in the United States Patent and Trademark Office (USPTO) on 31 May 2006.

BACKGROUND

On 21 March 2006, the Office mailed Decision On Petition Under 37 CFR 1.47(a), dismissing applicant's petition without prejudice.

On 31 May 2006, applicant 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 non-signing applicant.

Items (1), (3), and (4) were previously satisfied. The balance of the $200 petition fee will be charged to deposit account no. 02-2275, as authorized. Applicants list Eduardo Trifoni's address as Via Donizetti 5, I-80127 Napoli, Italy. The 09 February 2005 declaration complies with 37 CFR 1.497(a)-(b) and 37 CFR 1.47(a).

Item (2) has not been satisfied. Applicants has not furnished evidence of receipt of the complete copy of the application papers, including the declaration, by the non-signing inventor. A return mail receipt or other evidence supporting applicants' allegation of refusal to join after presentation with a complete copy of the application papers should be included. MPEP 409.03(d). Anna Tuosto does not detail the presentation of the papers. Further, applicant has not furnished a complete copy of the papers submitted to the inventor, but rather has furnished only a translation of the cover letter. The Office cannot readily assess reasons that an inventor may not have returned the declaration without viewing what was presented to him.

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

2 3 MAR 2007

#18

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Charles A. Muserlian
Hedman and Costigan
1185 Avenue of the Americas
New York, NY 10036

In re Application of	:	
TRIFONI, et al.	:	DECISION ON PETITION
Serial No.: 10/524,040	:	
PCT No.: PCT/EP03/09554	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 28 August 2003	:	
Priority Date: 28 August 2002	:	
Atty Docket No.: 267.187	:	
For: MEMBRANE ELECTROCHEMICAL GENERATOR	:	

This decision is issued in response to applicant's "Letter" filed 27 October 2006 which is being treated as a (second) Renewed Petition under Rule 1.47(a) to accept the application without the signature of joint inventor, Eduardo Trifoni.

BACKGROUND

The background for the present application was set forth in detail in the Decision on Petition mailed by this Office on 19 October 2006. In that Decision on Petition, applicant's renewed petition under 37 CFR 1.47(a) was dismissed without prejudice for failure to satisfy the requirements of a grantable petition. Specifically, applicant failed to provide evidence that the nonsigning inventor has been presented with a copy of the complete application papers and has refused to execute the application.

On 27 October 2006, applicant filed the second renewed petition considered herein.

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

Regarding item (2) above, petitioner states that Eduardo Trifoni has refused to sign the application. Section 409.03(d) of the MPEP, **Proof of Unavailability or Refusal**, states, in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Petitioner states that Eduardo Trifoni has refused to sign the application. A review of the present petition reveals that applicant has not satisfied item (2) above, in that, the petitioner has not shown that a bona fide attempt was made to present the application papers, including the specification, claims, drawings, and oath/declaration to Eduardo Trifoni. The declaration of Annie Tuosto states that she mailed a copy of the application and an assignment document to Mr. Trifoni on 12 April 2006. However, petitioner fails to include evidence to demonstrate that the materials were received by the nonsigning inventor. Where the Office is being asked to accept the silence of the nonsigning inventor's as evidence of a refusal to sign, petitioner must provide some evidence that the application materials have been received by the nonsigning applicant. Further, petitioner states that "Mr. Trifoni has refused to execute two earlier applications in which Rule 47(a) petitions have been granted." In spite of that, Mr. Trifoni's refusal in other applications cannot be considered as a refusal to sign the above-identified application.

As stated above, where a refusal of the inventor to sign the application papers is alleged, a statement of facts is needed from a person having first hand knowledge of the

facts that a complete copy of the application papers (specification, claims, drawings and oath/declaration) were sent to Eduardo Trifoni, and when such papers were sent. In addition, copies of documentary evidence such as a certified mail return receipt, cover letter of instruction, telegrams, etc., should be supplied with the declaration. All documentary evidence should be translated into English.

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 renewed 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)." 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.

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

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#12

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Charles A. Muserlian
Hedman and Costigan
1185 Avenue of the Americas
New York, NY 10036

In re Application of	:	
TRIFONI, et al.	:	DECISION ON PETITION
Serial No.: 10/524,040	:	
PCT No.: PCT/EP03/09554	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 28 August 2003	:	
Priority Date: 28 August 2002	:	
Atty Docket No.: 267.187	:	
For: MEMBRANE ELECTROCHEMICAL	:	
GENERATOR	:	

This decision is issued in response to applicant's (third) "Renewed Petition under 37 CFR 1.47(a)" filed 30 March 2007 to accept the application without the signature of joint inventor, Eduardo Trifoni.

BACKGROUND

The background for the present application was set forth in detail in the Decision on Petition mailed by this Office on 19 October 2006. In that Decision on Petition, applicant's renewed petition under 37 CFR 1.47(a) was dismissed without prejudice for failure to satisfy the requirements of a grantable petition.

On 27 October 2006, applicant filed the second renewed petition. In a decision on petition dated 23 March 2007, applicant's renewed petition under 37 CFR 1.47(a) was dismissed without prejudice for failure to satisfy the requirements of a grantable petition.

On 30 March 2007 applicant filed a "Renewed Petition under 37 CFR 1.47(a)."

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(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. Items (1), (3) and (4) were previously satisfied.

Regarding item (2) above, petitioner states that Eduardo Trifoni has refused to sign the application. Section 409.03(d) of the MPEP, **Proof of Unavailability or Refusal**, states, in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

A review of the present petition reveals that applicant has not satisfied item (2) above, in that, the petitioner has not shown that a bona fide attempt was made to present the application papers, including the specification, claims, drawings, and oath/declaration to Eduardo Trifoni. Petitioner states that the "Attorney/Advisor has not properly considered the record since there are two declarations of Ms. Tuosto of record." Petitioner's assertion is incorrect, in that, both declarations (and accompanying exhibits) have been considered.

The declaration of Annie Tuosto dated 12 September 2005 states that Mr. Trifoni has refused to execute the application. However, Ms. Tuosto fails to include evidence that the application papers were received by the nonsigning inventor. Further, it is unclear from her declaration if a complete copy of the application was mailed to Mr. Trifoni. Moreover, no documentary evidence was included with the 12 September 2005 declaration.

Regarding the 30 May 2006 declaration, Ms. Tuosto fails to include evidence to demonstrate that the materials were received by the nonsigning inventor. Where the Office is being asked to accept the silence of the nonsigning inventor's as evidence of a refusal to sign, petitioner must provide some evidence that the application materials have been received by the nonsigning applicant.

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, drawings and oath/declaration) were sent to Eduardo Trifoni, and when such papers were sent. In addition, copies of documentary evidence such as a certified mail return receipt, cover letter of instruction, telegrams, etc., should be supplied with the declaration. All documentary evidence should be translated into English.

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 renewed 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)." 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.

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

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#14

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United States Patent and Trademark Office
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Charles A. Muserlian
Hedman and Costigan
1185 Avenue of the Americas
New York, NY 10036

In re Application of	:	
TRIFONI, et al.	:	DECISION ON PETITION
Serial No.: 10/524,040	:	
PCT No.: PCT/EP03/09554	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 28 August 2003	:	
Priority Date: 28 August 2002	:	
Atty Docket No.: 267.187	:	
For: MEMBRANE ELECTROCHEMICAL	:	
GENERATOR	:	

This decision is issued in response to applicant's "Renewed Petition under 37 CFR 1.47(a)" filed 29 June 2007 to accept the application without the signature of joint inventor, Eduardo Trifoni.

BACKGROUND

The background for the present application was set forth in detail in the Decision on Petition mailed by this Office on 19 October 2006. In that Decision on Petition, applicant's renewed petition under 37 CFR 1.47(a) was dismissed without prejudice for failure to satisfy the requirements of a grantable petition.

On 27 October 2006, applicant filed a second renewed petition. In a decision on petition dated 23 March 2007, applicant's renewed petition under 37 CFR 1.47(a) was dismissed without prejudice for failure to satisfy the requirements of a grantable petition.

On 30 March 2007 applicant filed a "Renewed Petition under 37 CFR 1.47(a)." In a decision on petition dated 20 June 2007, applicant's renewed petition under 37 CFR 1.47(a) was dismissed without prejudice for failure to satisfy the requirements of a grantable petition.

On 29 June 2007, applicant filed a "Renewed Petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(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 nonsigning joint inventor.

Applicant here has submitted the appropriate petition fee. Item (1) is therefore satisfied.

Regarding item (2), the petition asserts that the nonsigning inventor has refused to execute the declaration. Before a refusal to execute the application can be claimed, section 409.03(d) of the MPEP 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 (Charles A. Muserlian) asserts that Eduardo Trifoni has received a complete copy of the application and he (Eduardo Trifoni) has refused to execute the application. Item (2) is therefore satisfied.

Regarding item (3), applicant has provided the last known address of the nonsigning inventor. Accordingly, item (3) is therefore satisfied.

Regarding item (4), section 409.03(a) of the Manual of Patent Examining Procedure ("MPEP") states that:

> An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, applicant has filed a declaration executed by one of the two inventors and including an unsigned signature box identifying the nonsigning inventor (Eduardo Trifoni). This declaration is treated as having been executed by the available inventors on their behalf and on behalf of the nonsigning inventor. Item (4) is therefore satisfied.

For the reasons stated above, it is appropriate to accept the application without the signature of Eduardo Trifoni under 37 CFR 1.47(a) at this time.

CONCLUSION

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

As provided in 37 CFR 1.47(c), 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(c) will be published in the Official Gazette.

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

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

2 7 NOV 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

Eduardo Trifoni
Via Donizetti 5
I-80127
Napoli, Italy

In re Application of
TRIFONI, et al.
Serial No.: 10/524,040
PCT No.: PCT/EP03/09554
Int. Filing Date: 28 August 2003
Priority Date: 28 August 2002
Atty Docket No.: 267.187
For: MEMBRANE ELECTROCHEMICAL GENERATOR

Dear Eduardo Trifoni:

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:
Charles A. Muserlian
Hedman and Costigan
1185 Avenue of the Americas
New York, NY 10036

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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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

COPY MAILED

JUL 25 2008

In re Application of	:	
Floessholzer et al.	:	
Application No. 10/524,071	:	ON PETITION
Filed: February 9, 2005	:	
Attorney Docket No. AT 020051	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 11, 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 July 12, 2007. A Notice of Abandonment was mailed November 15, 2007.

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

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 Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 3731 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Liana Walsh

Liana Walsh
Petitions Examiner
Office of Petitions

cc: Thorne & Halajian, L.L.P.
Applied Technology Center
111 West Main Street
Bay Shore, NY 11706

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOV 0 4 2009

OFFICE OF PETITIONS

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

In re Application of	:	
Knoflacher et al.	:	
Application No. 10/524,075	:	ON PETITION
Filed: February 9, 2005	:	
Attorney Docket No. AT 020052	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 22, 2008 and supplemented on October 30, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 27, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is May 28, 2007. A Notice of Abandonment was mailed September 19, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $810 and the submission required by 37 CFR 1.114, (2) the petition fee of $1,540, 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.

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 Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center AU 3731 for processing of the RCE and for appropriate action by the Examiner in the normal course of business in accordance with 37 CFR 1.114.

Chris Bottorff
Petitions Examiner
Office of Petitions

cc: DICRAN HALAJIAN
THORNE & HALAJIAN, LLP
111 WEST MAIN STREET
BAYSHORE, NY 11706

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Rutan & Tucker, LLP
611 Anton Boulevard
Suite 1400
Costa Mesa, CA 92626

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OFFICE OF PETITIONS

In re Application of	:	
Humbert Chu	:	
Application No. 10/524,083	:	DECISION ON PETITION
Filed: August 15, 2005	:	TO WITHDRAW
Attorney Docket No. 100325.0188US	:	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 **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 Todd W. Wight and all attorneys/agents associated with customer number 34284 has been revoked by the assignee of the patent application on August 18, 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: Fish & Associates, PC
Robert D. Fish
2603 Main Street
Suite 1050
Irvine, CA 92614-6232

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ——

DATE 3/23/09

TO SPE OF : ART UNIT 1797

SUBJECT : Request for Certificate of Correction for Appl. No. 10/524684 Patent No.: 7497931 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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: Typographical errors should be corrected as per request for certificate of correction.

Glenn Caldarola/ — 1797

SPE — **Art Unit**

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

Docket No.: 13156-00006-US
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Letters Patent of:
Frank Funke et al.

Patent No.: 7,497,931

Issued: March 3, 2009

For: DISTILLATIVE PREPARATION OF IPDA HAVING A HIGH CIS-TRANS ISOMER RATIO

REQUEST FOR CERTIFICATE OF CORRECTION
PURSUANT TO 37 CFR 1.322

Attention: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

OK to enter
GC
4/9/09

Dear Madam:

Upon reviewing the above-identified patent, Patentee noted typographical errors which should be corrected.

In the Front Page:

In the Abstract, the last 4 lines read, "**v)** and IPDA fraction having a cis/trans isomer ratio of ≥ 73/27 and

vi) a depleted IPDA fraction having a cis/trans isomer ratio of ≤ 66/34." – and should read – "**iii)** an IPDA fraction having a cis/trans isomer ratio of ≥ 73/27 and

iv) an IPDA fraction having a cis/trans isomer ratio of ≤ 66/34."

669645

The errors were not in the application as filed by applicant; accordingly no fee is required.

Transmitted herewith is a proposed Certificate of Correction effecting such amendment. Patentee respectfully solicits the granting of the requested Certificate of Correction.

Applicant believes no fee is due with this request. However, if a fee is due, please charge our Deposit Account No. 03-2775, under Order No. 13156-00006-US from which the undersigned is authorized to draw.

Dated: March 10, 2009

Respectfully submitted,

Electronic signature: //Ashley I. Pezzner//
Ashley I. Pezzner
Registration No.: 35,646
CONNOLLY BOVE LODGE & HUTZ LLP
1007 North Orange Street
P. O. Box 2207
Wilmington, Delaware 19899-2207
(302) 658-9141
(302) 658-5614 (Fax)
Attorney for Applicant

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.	:	7,497,931
APPLICATION NO.	:	10/524,084
ISSUE DATE	:	March 3, 2009
INVENTOR(S)	:	Frank Funke 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:

In the Front Page:

The last 4 lines of the Abstract reads, "v) and IPDA fraction having a cis/trans isomer ratio of ≥ 73/27 and

vi) a depleted IPDA fraction having a cis/trans isomer ratio of ≤ 66/34." – and should read – "iii) an IPDA fraction having a cis/trans isomer ratio of ≥ 73/27 and

iv) an IPDA fraction having a cis/trans isomer ratio of ≤ 66/34."

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Ashley I. Pezzner
CONNOLLY BOVE LODGE & HUTZ LLP
1007 North Orange Street
P. O. Box 2207
Wilmington, Delaware 19899-2207

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATENT DEPARTMENT
LARKIN, HOFFMAN, DALY &
LINDGREN, LTD.
1500 WELLS FARGO PLAZA
7900 XERXES AVENUE SOUTH
BLOOMINGTON MN 55431

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SEP 19 2008

OFFICE OF PETITIONS

In re Application of	:	
Marshall C. Ryan	:	
Application No. 10/524086	:	
Filing or 371(c) Date: 02/09/2005	:	ON PETITION
Attorney Docket Number: 30,178-00	:	

This is a decision on the Petition for Revival of Application for patent Abandoned Unavoidably, filed August 13, 2008.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under [insert the applicable code section]". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

On filing, the inventors named in the present application were Jay D. Nord and Jeffrey K. Drogue. On May 19, 2006, Applicant filed a Correction of Inventorship to add Marshall C. Ryan as an inventor of the present application. The Correction of Inventorship included an oath/declaration executed by inventor Marshall; however, the oath/declaration did not include the residence and/or Post Office address of inventor Marshall.

On February 21, 2007, Applicant filed a Request to Delete as inventors of the present application Jay D. Nord and Jeffrey K. Drogue.

On April 10, 2007, this Office mailed a Notice of Allowance and Issue Fee Due and Notice of Allowability. The Notice of Allowability noted therein the correction of the inventorship by deleting as inventors Jay D. Nord and Jeffrey K. Drogue. Applicant submitted the issue fee on July 9, 2007.

The Office then mailed a Supplemental Notice of Allowability on November 15, 2007, and on January 4, 2008, the Office mailed an Office communication, requiring a Substitute Oath/Declaration executed by Marshall C. Ryan. The Office communication maintained as a reply period that set forth in the Notice of Allowability. A Notice of Abandonment was mailed on April 23, 2008 indicating as the reason for abandonment Applicant's failure to file a proper reply to the Office communication mailed January 4, 2008.

The present petition

Applicant files the present petition and states that in telephone conversations with the Examiner on or about December 27, 2007, and concerning the delay in issuing the patent, Applicant understood that the mailing address of inventor Ryan was required. Applicant filed an Application Data Sheet ("ADS") on December 27, 2008. Applicant provides that after receiving the January 4, 2008 Office communication requiring a Substitute Oath/Declaration, Applicant contacted the Examiner and was told that in view of the ADS, in combination with the Declaration of inventor Ryan filed May 19, 2006, a response to the January 4 Office communication would not be required. Based upon the representations of the Examiner, Applicant believed that a response to the January 4, Office communication would not be required.

Applicant states in the petition that despite the foregoing, and in response to the January 4 Office action, a substitute Declaration signed by Marshall C. Ryan is filed herewith.

A Grantable Petition Under 37 CFR 1.137(a)

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**2**) the petition fee as set forth in 37 CFR 1.17(l); (**3**) a showing to the satisfaction of the 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 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).

Applicant lacks item (**3**) as set forth above.

Applicable Law, Rules and MPEP

As to item (**3**), Applicant must provide 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 37 CFR 1.137(a) was unavoidable. In order to determine whether the delay was unavoidable, the courts have adopted a "reasonably prudent person" standard.

> 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 Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 667-68 (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).

The MPEP 711.03(c) discusses the situation where an Applicant fails to file a reply to an Office action because the Applciant is awaiting a response from this Office. The following example is provided:

> For example, as 37 CFR 1.116 and 1.135(b) are manifest that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, <u>a delay is not "unavoidable" when the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action</u>. Likewise, as a "reasonably prudent person" would file papers or fees in compliance with 37 CFR 1.8 or 1.10 to ensure their timely filing in the USPTO, as well as preserve adequate evidence of such filing, a delay caused by an applicant's failure to file papers or fees in compliance with 37 CFR 1.8 and 1.10 does not constitute "unavoidable" delay. See Krahn, 15 USPQ2d at 1825. <u>Finally, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicant's reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985)</u>. (Emphasis supplied).

<u>Analysis</u>

Applicant avers that the delay in filing a reply to the Office communication was unavoidable because Applicant reasonably believed, based upon oral representations by the Examiner, that a response to the January 4, Office communication would not be required. Applicant 1) relied upon oral advice from an Office employee, and (2) permitted the reply period to expire while awaiting action from this Office. As states above, the delay is not unavoidable under such circumstances.

Applicant is also reminded of 37 CFR§ 1.2, Business to be transacted in writing, which states

> 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.

Applicant here asserts that the delay in responding to the Office action was unavoidable because the Examiner did not timely receive the Declaration; Applicant's belief that the

Conclusion

Applicant has failed to demonstrate that the failure to timely and properly reply to the Office action was unavoidable.

Alternate venue

Applicant is urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

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

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATENT DEPARTMENT
LARKIN, HOFFMAN, DALY &
LINDGREN, LTD.
1500 WELLS FARGO PLAZA
7900 XERXES AVENUE SOUTH
BLOOMINGTON MN 55431

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NOV 13 2008

In re Application of	:	
Marshall C. Ryan	:	
Application No. 10/524086	:	
Filing or 371(c) Date: 02/09/2005	:	ON PETITION
Attorney Docket Number: 30,178-00	:	

This is a decision on the Petition for Revival of Application for patent Abandoned Unintentionally, filed October 1, 2008.

This Petition is hereby **granted**.

Background

On filing, the inventors named in the present application were Jay D. Nord and Jeffrey K. Drogue. On May 19, 2006, Applicant filed a Correction of Inventorship to add Marshall C. Ryan as an inventor of the present application. The Correction of Inventorship included an oath/declaration executed by inventor Marshall; however, the oath/declaration did not include the residence and/or Post Office address of inventor Marshall.

On February 21, 2007, Applicant filed a Request to Delete as inventors of the present application Jay D. Nord and Jeffrey K. Drogue.

On April 10, 2007, this Office mailed a Notice of Allowance and Issue Fee Due and Notice of Allowability. The Notice of Allowability noted therein the correction of the inventorship by deleting as inventors Jay D. Nord and Jeffrey K. Drogue. Applicant submitted the issue fee on July 9, 2007.

The Office then mailed a Supplemental Notice of Allowability on November 15, 2007, and on January 4, 2008, the Office mailed an Office communication, requiring a Substitute Oath/Declaration executed by Marshall C. Ryan. The Office communication maintained as a reply period that set forth in the Notice of Allowability. A Notice of Abandonment was mailed

on April 23, 2008 indicating as the reason for abandonment Applicant's failure to file a proper reply to the Office communication mailed January 4, 2008.

The present petition

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Substitute Oath/Declaration executed by Marshall C. Ryan; (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 the Office of Data Management for processing into a patent.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GIFFORD, KRASS, SPRINKLE,ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY, MI 48007-7021

Mail Date: 04/21/2010

Applicant	: Edward H. Phillips	: DECISION ON REQUEST FOR
Patent Number	: 7657054	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/524,093	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/09/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1395** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NEXSEN PRUETT JACOBS & POLLARD
201 W. MCBEE AVENUE, SUITE 400
GREENVILLE, SC 29601

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MAY 2 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Gordhanbhai N. Patel	:	
Application No. 10/524,096	:	DECISION ON PETITION
Filed: February 14, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 27845-18	:	37 CFR 1.102(c)(2)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(2)(iii), filed April 3, 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: Inventions for Countering Terrorism, should state that special status is sought because the invention materially contributes to countering terrorism. International terrorism as defined in 18 U.S.C. 2331 includes:

> activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping...

If the disclosure it not clear on its face that the claimed invention is materially directed to countering terrorism, the petition must be accompanied by a statement by the applicant, assignee or a registered attorney/agent explaining how the materiality standard is met. The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. No fee is required.

The USPTO's final rule amending 37 CFR 1.102(c)(2) states:

> The materially standard does not permit an applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that could counter terrorism. Nor does such standard permit an applicant to enjoy the benefit of advance examination merely because some minor aspect of the claimed invention may be directed to countering terrorism...[Response to Comment 65] applicants should not expect to have their petitions granted without a clear demonstration that the claimed invention is materially related to countering terrorism. 69 Fed. Reg. 56511 (Sept. 21, 2004)

The instant petition fails to meet the criteria of "materially" contributing to countering terrorism as set forth above. The invention relates to radiation sensitive devices, such as coatings films, plaques and blocks, for imaging and monitoring dose of high-energy radiations such as ultraviolet (UT) radiation, electrons, X-rays, protons, alpha particles and neutrons utilizing radiation sensitive material such as diacetylenes. While the invention may be beneficial in detecting radiation, there is no "material" evidence that the invention actually "counters" terrorism as defined in 18 U.S.C. 2331 (repeated above). The petition to make special does not show that the invention materially contributes to countering terrorism. Therefore the petition does not rise to the level intended by the Rule.

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 Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1773 for action in its regular turn.

Amelia Au
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
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OFFICE OF PETITIONS

NEXSEN PRUET, LLC
P.O. BOX 10648
GREENVILLE, SC 26903

In re Application of	:	
Gordhandhai Nathalal Patel	:	
Application No. 10/524,096	:	DECISION ON PETITION
Filed: February 9, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 27845-18	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 4, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement by the attorney of record on behalf of applicant Gordhandhai Nathalal Patel. Accordingly, the above-identified application has been accorded "special" status.

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

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 1794 for action on the merits commensurate with this decision.

Kimberly Inabinet

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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FAEGRE & BENSON LLP
PATENT DOCKETING
2200 WELLS FARGO CENTER
90 SOUTH 7TH STREET
MINNEAPOLIS, MN 55402-3901

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OFFICE OF PETITIONS

In re Application of
C. Michael Elliott, et al.
Application No. 10/524,126
Filed: February 9, 2005
Attorney Docket No. 314259

DECISION GRANTING PETITION

This is a decision on the "Petition to Accord A Filing Date" filed December 12, 2005, requesting that the above-identified application be accorded a filing date of February 9, 2005, instead of the presently accorded date of February 10, 2005.

Applicants request the earlier filing date on the basis that the application was purportedly deposited with the U. S. Postal Service (USPS) as Express Mail on February 9, 2005. In support, applicants provide, inter alia, a copy of the Express Mail label, No. EL971196645US. The same Express Mail receipt number appears on the original transmittal letter found in the file.

It is noted that while the "date-in" entered on the present copy of the Express Mail mailing label is not clear, the USPS Track & Confirm record confirms that a package bearing Express Mail label No. EL971196645US was accepted February 9, 2005 at 5:44pm in the USPS Denver CO 80202 location.

Accordingly, the evidence is convincing that the application was deposited as "Express Mail" with the U.S. Postal Service on February 9, 2005.

The petition is GRANTED.

The application is being referred to the Office of Initial Patent Examination (OIPE) for correction of the filing date to **February 9, 2005**, and issuance of a Corrected Official Filing Receipt.

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
Office of the Deputy Commissioner
for Patent Examination Policy

30 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

Michael P. Dilworth, Esq.
Crompton Corporation
199 Benson Road
Middlebury, CT 06749

In re Application of	:	
SCHUMACHER	:	
U.S. Application No.: 10/524,127	:	DECISION ON PETITION
PCT No.: PCT/EP03/06265	:	
Int. Filing Date: 13 June 2003	:	UNDER 37 CFR 1.137(b)
Priority Date: 21 June 2002	:	
Attorney Docket No.: 0241-PA	:	
For: LOW EMISSION TIN CATALYSTS	:	

The petition to revive under 37 CFR 1.137(b) filed 10 February 2005 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National fee 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. It is noted that the filed declaration fails to comply with 37 CFR 1.497(a)(3) in that it does not identify the inventor's country of citizenship. In addition, the data required under 37 CFR 1.497(c) is missing from the filed application data sheet.

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 compliant, 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

02 SEP 2005

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Benjamin A. Randall
448 W. Woodruff
Toledo, OH 43624

In re Application of	:	
PAWLOSKI, Charles et al.	:	
Application No.: 10/524, 130	:	DECISION
PCT No.: PCT/US02/18976	:	
Int. Filing Date: 14 June 2002	:	ON PETITION UNDER
Priority Date: NONE	:	
Docket No.: TBA-02-04	:	37 CFR 1.137(b)
For: METHOD OF REMOVAL OF	:	
HYDROCARBONS FROM SOILS USING	:	
SOLIDS LOADED POLYMER FOAMS	:	

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 03 February 2005 is **GRANTED**.

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

A declaration in compliance with 37 CFR 1.497(a)-(b) has been submitted.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a date of 03 February 2005 under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4).

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

STEVENS DAVIS MILLER & MOSHER, LLP
1615 L STREET, NW
SUITE 850
WASHINGTON DC 20036

In re Application of :
PETROVIC, DRAGAN, et al. :
Application No. 10/524,141 :
Filed: September 19, 2005 :
For: **MULTIPLE HARQ PROCESSES HANGLING METHOD** :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed August 15, 2006 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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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KING & SPALDING
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036-40003

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OFFICE OF PETITIONS

In re Application of	:	
Christian Bailly et al	:	
Application No. 10/524,151	:	DECISION GRANTING PETITION
Filed: February 11, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 13566.105007	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 4, 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 December 12, 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 1625 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/14/08

TO SPE OF : ART UNIT 1625 Andres Janet (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/524151 Patent No.: 7396837

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

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

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

Comments: _____

SPE 1625 **Art Unit**

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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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Johann Natterer	: DECISION ON REQUEST FOR
Patent Number	: 7600358	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/524,154	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

18 AUG 2005

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United States Patent and Trademark Office
P.O. Box 1450
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Richard C Weinblatt
Wolf, Block, Schorr, and Solis-Cohen
1650 Arch Street
22nd Floor
Philadelphia PA 19103

In re Application of BRINKMANN et al. Application No.: 10/524,159 PCT No.: PCT/EP03/08635 Int. Filing Date: 08 August 2003 Priority Date: 08 August 2002 Attorney Docket No.: GUL019-225415 For: METHOD AND ARRANGEMENT FOR RANDOMLY STORING DATA	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This decision is in response to applicant's petition under 37 CFR 1.137(b) filed in the United States Patent and Trademark Office (USPTO) on 09 August 2005.

BACKGROUND

On 05 August 2003, applicants filed international application PCT/EP03/08635 which claimed a priority date of 08 August 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 11 March 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 08 February 2005.

On 08 February 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, an English language translation of the international application.

On 01 August 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/US 909) indicating that applicants had failed to provide the full U.S. Basic National Fee by thirty months from the earliest priority date and that the application was abandoned as to the United States of America.

On 09 August 2005, applicants filed the instant petition under 37 CFR 1.137(b).

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:

(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee on 09 August 2005.

As to item (2), applicant submitted the petition fee on 09 August 2005.

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

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

CONCLUSION

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Hiscock & Barclay, LLP
One Park Place
300 South State Street
Syracuse NY 13202-2078

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APR 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Olaf Kersten	:	
Application No. 10/524,160	:	DECISION ON PETITION
Filed: March 10, 2006	:	
Attorney Docket No. 3029448 US01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 3, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 19, 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 September 20, 2009. The Notice of Abandonment was mailed January 28, 2010.

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

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

This application is being referred to Technology Center AU 3754 for appropriate action by the Examiner in the normal course of business on the reply received.

Terri Johnson
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
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STEVEN J HULTQUIST
INTELLECTUAL PROPERTY/TECHNOLOGY LAW
P O BOX 14329
RESEARCH TRIANGLE PARK NC 27709

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OFFICE OF PETITIONS

In re Application of	:	
TERNESS, Peter et al.	:	
Application No. 10/524,168	:	DECISION ON PETITION
Filed: September 30, 2005	:	TO WITHDRAW
Attorney Docket No. **4121-176**	:	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 19, 2007.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, for all the foregoing reasons, 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 Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DAVID SMITH**
KLAUBER & JACKSON LLC
411 HACKENSACK AVENUE
HACKENSACK, NJ 07601

UNITED STATES PATENT AND TRADEMARK OFFICE

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KLAUBER & JACKSON
411 HACKENSACK AVENUE
HACKENSACK, NJ 07601

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MAY 24 2010

OFFICE OF PETITIONS

In re Application of
Peter Terness, et al.
Application No. 10/524,168
Filed: September 30, 2005
Attorney Docket No. 3025-1-001

ON PETITION

This is in response to the communication, filed November 27, 2009, to revive the above-identified application, 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**.

On August 6, 2009, the Office mailed a Notice of Allowance and Issue Fee(s) Due, which set a three month period to reply. The application became abandoned on November 7, 2009, for failure to submit a timely response to the Notice of Allowance. On November 19, 2009, the Office mailed a Notice of Abandonment.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment because the reply was previously filed October 20, 2009.

The petition filed November 27, 2009 cannot be granted because the petition is not signed by all inventors. The petition is not acceptable. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under §3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that petitioner herein (Zorica Becker-Kojic) was ever given a power of attorney to act on behalf of inventor Peter Terness, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is considered to be improper.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record shows no indication that the reply to the Notice of Allowance was received October 20, 2009.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

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.

In the present petition, while petitioner did supply the Office with a copy of a transmittal letter however, petitioner did not provide an English translation, nor did the transmittal letter contain any status identifiers to properly match the document with the proper application. Further, petitioner did not provide enough documentary evidence, to grant the petition at this time. The petition to withdraw the holding of abandonment is **dismissed**.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).
>
> (2) The petition fee as set forth in 37 CFR 1.17(m), **$810.00 for a small entity**;
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810.00 petition fee.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

It is also noted that petitioner filed a power of attorney filed August 12, 2009 that was accepted in error. The statement under 37 CFR 3.73(b) was filed in the wrong application.

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 August 12, 2009 and November 27, 2009 does not include a proper statement under 37 CFR 3.73(b) with a proper reel and frame number. Petitioner should also note that the change of address filed November 27, 2009 was not signed by all inventors.

Any request for reconsideration of this decision should be submitted within **TWO (2) MONTHS** from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." See 37 CFR 1.181(f).

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

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

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

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

Telephone inquiries related to this decision may be directed to the April M. Wise at (571) 272-1642.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement.

PTO/SB/64 (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
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.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor: _____

Application No.: _____ Art Unit: _____

Filed: _____ Examiner: _____

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional

1. Petition Fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Application claims small entity status. See 37 CFR 1.27.

☐ Other than small entity-fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____ (identify type of reply):

☐ has been filed previously on _____.

☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.

☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $_____for a small entity or $_____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

_____ Signature	_____ Date
_____ Type or Printed name	_____ Registration Number, If applicable
_____ Address	_____ Telephone Number
_____ Address	

Enclosures:

☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

_____ Date	_____ Signature
	_____ Typed or printed name of person signing certificate

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

30 MAY 2006

#16

UNITED STATES PATENT AND TRADEMARK OFFICE

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

James H. PATTERSON
PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.
4800 IDS Center
80 South 8th Street
Minneapolis, Minnesota 55402

In re Application of:	:	
ZELLER, Reinhard, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/524,174	:	(37 CFR 1.47(a))
PCT No.: PCT/FR2003/002435	:	
Int'l Filing Date: 31 July 2003	:	
Priority Date: 13 August 2002	:	
Attorney's Docket No.: 3338.62US01	:	
For: DISTRACTION AND DAMPING	:	
SYSTEM WHICH CAN BE	:	
ADJUSTED AS THE VERTEBRAL	:	
COLUMN GROWS	:	

This decision is issued in response to applicants' "Petition Under 37 CFR 1.47(a)," filed 03 March 2006. Deposit Account No. 16-0631 will be charged the required $200 petition fee.

BACKGROUND

On 31 July 2003, applicants filed international application PCT/FR2003/002435. The international application claimed a priority date of 13 August 2002 and designated the United States. On 26 February 2004, 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., 13 February 2005.

On 10 February 2005, applicants filed a Transmittal Letter for entry into the U.S. national stage accompanied by, among other materials, payment of the basic national fee.

On 05 August 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that the following materials were required: (1) a translation of the international application into English; (2) the processing fee for filing the translation later than thirty months after the priority date; (3) an oath or declaration in compliance with 37 CFR 1.497; and (4) the surcharge for filing the oath or declaration later than thirty months after the priority date.

On 03 March 2006, applicants filed a response to the Notification Of Missing Requirements (with required extension of time fee). The response included payment of the required surcharge and processing, an English translation of the international application, a

declaration executed by two of the three named inventors, and the petition under 37 CFR 1.47(a) considered herein. The petition seeks acceptance of the application without the signature of the remaining inventor, Reinhard ZELLER, whom applicants assert has refused to sign the application documents.

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 by the other inventors on behalf of 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.

Pursuant to applicants' authorization, Deposit Account No. 16-0631 will be charged the required $200 petition fee. Item (1) is therefore satisfied.

The petition sets forth the last known address of the inventor. Accordingly, item (2) is therefore satisfied.

Regarding item (3), section 409.03(a) of the Manual of Patent Examining Practice (MPEP) states that:

> An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, applicants have filed a declaration executed by two of the three inventors and including an unsigned signature box identifying the nonsigning inventor. Based on the above, if acceptable, this declaration can be treated as having been executed by the available inventors on their own behalf and on behalf of the nonsigning inventor. However, the French/English declaration form used by applicants here is not the French/English declaration form provided by the USPTO (i.e., Form PTO/SB/105). Under such circumstances, a certification of the English translation is required pursuant to 37 CFR 1.69(b). A statement confirming the accuracy of the English translation contained on the declaration form must be submitted before the present declaration can be accepted. Until this statement is provided, item (3) is not considered satisfied.

Regarding item (4), the petition asserts that the nonsigning inventor has refused to execute the declaration. Before a refusal to execute the application can be claimed, section 409.03(d) of the MPEP 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."

Here, applicant has provided the required firsthand showing, with documentary support, confirming that a copy of the complete application papers were delivered to the nonsigning

inventor and that the inventor has refused to execute the declaration, as requested. Item (4) is therefore satisfied.

Based on the above, applicants have satisfied all the requirements for a grantable petition under 37 CFR 1.47(a).

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)" and should include the materials necessary to satisfy item (3) of a grantable petition, as discussed above (i.e., an acceptable statement confirming the accuracy of the English translation of the declaration).

No additional petition fee is required. Failure to file a timely response will result in abandonment of the application. Extensions of time under 37 CFR 1.136(a) are available.

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.

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

#12

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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28 SEP 2006

James H. PATTERSON
PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.
4800 IDS Center
80 South 8th Street
Minneapolis, Minnesota 55402

In re Application of: ZELLER, Reinhard, et al.	DECISION ON RENEWED PETITION (37 CFR 1.47(a))
U.S. Application No.: 10/524,174	
PCT No.: PCT/FR2003/002435	
Int'l Filing Date: 31 July 2003	
Priority Date: 13 August 2002	
Attorney's Docket No.: 3338.62US01	
For: DISTRACTION AND DAMPING SYSTEM WHICH CAN BE ADJUSTED AS THE VERTEBRAL COLUMN GROWS	

In a decision mailed by this Office on 30 May 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, petitioner had not submitted a certification confirming the accuracy of the translation contained in the French/English declaration filed herein.

On 31 July 2006, petitioners filed the renewed petition considered herein. The renewed petition includes the required certification of translation with respect to 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 Reinhard ZELLER.

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 March 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

28 SEP 2006

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

Reinhard ZELLER
127 Avenue Jean Baptiste Clement
92100 Boulogne Billancourt
FRANCE

In re Application of: ZELLER, Reinhard, et al.
U.S. Application No.: 10/524,174
PCT No.: PCT/FR2003/002435
Int'l Filing Date: 31 July 2003
Priority Date: 13 August 2002
Attorney's Docket No.: 3338.62US01
For: DISTRACTION AND DAMPING SYSTEM WHICH CAN BE ADJUSTED AS THE VERTEBRAL COLUMN GROWS

Dear Mr. ZELLER:

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
Facsimile: (571) 273-0459

Counsel Of Record:
James H. PATTERSON
PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.
4800 IDS Center
80 South 8th Street
Minneapolis, Minnesota 55402

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

COPY MAILED

JUL 19 2007

OFFICE OF PETITIONS

In re Application of	:	
William Redman-White et al.	:	
Application No. 10/524,182	:	DECISION ON PETITION
Filed: February 10, 2005	:	
Attorney Docket No. (97-1303.03)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 3, 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 March 26, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed December 26, 2006. Accordingly, the date of abandonment of this application is March 27, 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. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

16 AUG 2005

United States Patent and Trademark Office

#6

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

Schiff Hardin LLP
Patent Department
6600 Sears Tower
Chicago, IL 60606-6473

In re Application of	:	
Holmstrom et al.	:	
Application No.: 10/524,196	:	DECISION
PCT No.: PCT/SE2003/001081	:	
Int. Filing Date: 23 June 2003	:	ON
Priority Date: 22 July 2002	:	
Attorney Docket No.: P05,0038	:	PETITION
For: A Congestive Heart Failure Monitor	:	

The petition to revive under 37 CFR 1.137(b) filed 10 February 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant states that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." This statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $300.00 was provided. The required petition fee of $1500.00 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the 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 submission of an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(h).

Boris Milef
PCT Legal Examiner
PCT Legal Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

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NOV 19 2007

OFFICE OF PETITIONS

In re Application of

BROOKINGS, Daniel C. et al.
Application No. 10/524,199
Filed: July 28, 2005
Attorney Docket No. **CELL- 0290**

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 10, 2007.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, no longer represents this client, does not meet any of the conditions set forth in 37 CFR 10.40.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MICHAEL S. GREENFIELD**
MCDONNELL BOEHNEN HULBERT & BERHOFF LLP
300 SOUTH WACKER DRIVE
CHICAGO, IL 60606

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 27, 2009

TO SPE OF : ART UNIT 3725

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/524206/7488509.

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: _____

SPE

1792
Art Unit

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MAY 05 2010

OFFICE OF PETITIONS

Dickinson Wright PLLC
James E. Ledbetter, Esq.
International Square
1875 Eye Street, NW., Suite 1200
WASHINGTON DC 20006

In re Patent No. 7,532,864	:	
Issue Date: May 12, 2009	:	
Application No. 10/524,213	:	DECISION ON PETITION
Filed: July 18, 2005	:	
Attorney Docket No. **L9289.05103**	:	

This is a decision on the petition, filed, February 6, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) 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 are "Panasonic Mobile Communications Co., LTD." and " NTT Docomo, Inc." 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

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

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that "Panasonic Mobile Communications Co., LTD." And " NTT Docomo, Inc." 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 after issuance of this application into a patent.

Inquiries concerning this decision should be directed to the Terri Johnson at (571) 272-2991. 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.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Boris Adam	: DECISION ON REQUEST FOR
Patent Number	: 7664609	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/524,217	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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DEC 10 2007

JAMES S. KEDDIE, PH.D.
BOZICEVIK, FIELD & FRANCIS, LLP
1900 UNIVERSITY AVENUE, SUITE 200
EAST PALO ALTO, CA 94303

In re Application of	:
ROSSI et al	:
Serial No.: 10/524,233	:Decision on Petition
Filed : 25 August 2005	:
Attorney Docket No.:RIGL-047	:

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on 21 June 2007 requesting reconsideration of the restriction requirement. The petition was only recently forwarded to the deciding official. The delay in acting upon this petition is regretted.

BACKGROUND AND DISCUSSION

This application is a national stage filing under 35 USC 371 of PCT/US03/24550, filed on 6 August 2003, as and such, is eligible for unity of invention practice under PCT Rules.

On 30 May 2007, the examiner mailed a restriction requirement in which claims 1-30 were divided into 3 groups.

On 21 June 2007 Applicants elected Group I with traverse. Applicants also filed this petition on 21 June 2007.

On 5 September 2007, the examiner considered the restriction requirement and made it FINAL.

On 5 December 2007, applicants filed papers in response to the Office action.

The petition and file history have been carefully considered. 37 CFR 1.144 requires that a petition for restriction be filed AFTER the restriction requirement is made final by the examiner.

37 CFR 1.144. Petition from requirement for restriction.

> After a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Director to review the requirement. Petition may be deferred until after final action on or allowance of claims to the invention elected, but must be filed not later than appeal. A petition will not be considered if reconsideration of the requirement was not requested (see § 1.181).

In this instance, the petition was filed prior to the finality of the restriction requirement. As such, the petition is premature.

DECISION

The petition is **DISMISSED** as untimely.

The application will be forwarded to the examiner to prepare an Office action addressing the papers filed on 5 December 2007.

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.

John LeGuyader
Director, Technology Center 1600

1 2 MAY 2009

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Bozicevic, Field & Francis LLP
(Rigel Pharmaceuticals, Inc.)
1900 University Ave, Suite 200
East Palo Alto CA 94303

In Re Application of ROSSI Application No.: 10/524,233 PCT No.: PCT/US03/24650 Int. Filing Date: 06 August 2003 Priority Date: 09 August 2002 Attorney Docket No.: RIBL-047 For: METHODS OF IDENTIFYING COMPOUNDS THAT MODULATE IgG MEDIATED MAST CELL ACTIVATION	DECISION

This is a decision on applicant's "Petition to Corrected Filing Receipt" filed in the United States Patent and Trademark Office (USPTO) on 20 July 2007 and refiled on 28 April 2008.

On 06 August 2003, applicant filed international application No. PCT/US03/24650 which claimed a priority date of 09 August 2002 and which designated the United States. Thereafter, on 09 February 2005, before the expiration of the thirty month period, applicant filed, *inter alia*, a transmittal letter for entry into the national stage and the basic national stage filing fee.

A Notification of Missing Requirements (Form PCT/DO/EO/905) was issued on 25 May 2005, indicating, *inter alia*, that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) was required.

On 29 August 2005, applicant responded with an executed declaration. On 25 January 2006, a Notification of Acceptance Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) was mailed, indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 29 August 2005.

On 20 July 2007 and 28 April 2008, applicant filed a Request for a Corrected Filing Receipt to correct the filing date to 25 August 2005.

DISCUSSION

Section MPEP 1893.03(b) states "An international application designating the U.S. has two stage (international and national) with the filing date being the same in both stages. Often the entry into the national stage is confused with the filing date. It should be borne in mind that the filing date of the international stage application is also the filing date for the national stage application." *See* 35 U.S.C. 363 and PCT Treaty Article 11(3) (which provides that an international filing date shall be considered the actual filing date in each designated State).

It is further stated in section 1893.03(b) that the Notification of Acceptance of Application under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) indicates the date of receipt of

the 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) requirements and it indicates the date of completion of all 35 U.S.C. 371 requirements. Filing receipts are mailed concurrently with the mailing of the Form PCT/DO/EO/903. Applicants are quite often confused as to the true filing date and will ask for corrected filing receipts thinking that the information thereon is wrong. This explanation should offer some clarity. For most legal purposes, the filing date is the PCT international filing date.

The Notification of Missing Requirements advised applicant of the deficiency-a declaration in compliance with 37 CFR 1.497(a) and (b) was required.[1] Applicants responded to the Notification of Missing Requirements, on 29 August 2005 with such declaration. Thus, on 29 August 2005, all of the 35 U.S.C. 371 requirements were complete. The 25 January 2006 Notification of Acceptance correctly indicated a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 29 August 2005, the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements and date of completion of all 35 U.S.C. 371 requirements.

The Notification of Acceptance mailed on 25 January 2006 correctly indicated a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 29 August 2005 and remains in effect.

CONCLUSION

For the reasons set forth above, the Request to Correct the Filing Receipt is **DISMISSED**.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 25 January 2006 remains in effect, as it correctly indicates a 35 U.S.C. 371(c) (1), (c)(2) and (c)(4) date of 29 August 2005.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration
Telephone: (571) 272-3286
Facsimile: (571) 273-0459

[1]As stated in MPEP 1893.01(d), applicants entering the national stage in the U.S. are required to file an oath or declaration, in compliance with 37 CFR 1.497(a). *See* 35 U.S.C. 371(a)(2) and 37 CFR 1.495(c).

14 JUL 2005

#3

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Iver P. Cooper
Browdy & Neimark, P.L.L.C.
624 Ninth Street, N.W., Suite 300
Washington, D.C. 20001

In re Application of KOPCHICK, et al. Application No.: 10/524,237 PCT No.: PCT/US03/24053 Int. Filing Date: 04 August 2003 Priority Date: 04 August 2002 Attorney Docket No.: KOPCHICK5A For: DIAGNOSIS OF KIDNEY DAMAGE AND PROTECTION AGAINST SAME	DECISION ON PETITIONS UNDER 37 CFR 1.137(b) AND 37 CFR 1.182

This decision is in response to applicant's "Petition to Revive Unintentionally Abandoned Application" filed 10 February 2005 and "Petition to Change Inventor's Name to Reflect Marital Status, Pursuant to 37 CFR 1.182" filed 30 June 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 04 August 2003, applicant filed international application PCT/US03/24053. The thirty-month period for paying the basic national fee in the United States expired at midnight on 02 February 2005.

On 10 February 2005, applicant filed the present petition to revive pursuant to 37 CFR 1.137(b).

On 30 June 2005, applicant filed a petition under 37 CFR 1.182.

DISCUSSION

I. Petition Under 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 10 February 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply, from the due date for the reply (Feb. 2, 2005) until the filing of this petition was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the

full, U.S. basic national fee. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

II. Petition Under 37 CFR 1.182

As explained in the Manual of Patent Examining Procedure (MPEP) 605.04(c), in cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, a petition under 37 CFR 1.182 is required. The petition must be accompanied by an affidavit signed with both names and setting forth the procedure whereby the change of name was effected.

The present petition is accompanied by a declaration setting forth the procedure whereby the change of name was effected; namely by marriage. The declaration is executed by Mrs. Wetzel using her current married name and her maiden name. As such, it is appropriate to grant applicant's petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.137(b) is **GRANTED**.

Applicant's petition under 37 CFR 1.182 is **GRANTED**.

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.

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

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OFFICE OF PETITIONS

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

In re Application of

KOPCHICK, John J. et al.
Application No. 10/524,237
Filed: March 29, 2006
Attorney Docket No. **KOPCHICK5A**

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 25, 2007.

The request is **APPROVED**.

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

The request was signed by Iver Cooper 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: **JOHN KOPCHICK**
4 ORCHARD LANE
ATHENS, OH 45701

cc: **ROBERT MALOTT**
OHIO UNIVERSITY
TECHNOLOGY TRANSFER OFFICE
340 WEST STATE STREET UNITE 14
ATHENS, OHIO 45701

29 SEP 2005

#3

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William M. Blackstone
Akzo Nobel Pharma Patent Dept.
29160 Intervet Lane
P.O. Box 318
Millsboro, DE 19966

In re Application of HURON et al. U.S. Application No.: 10/524,242 PCT No.: PCT/US03/25358 Int. Filing Date: 13 August 2003 Priority Date: 13 August 2002 Attorney Docket No.: I-2002.022 US For: NOVEL COMPOSITION AND PROCESSES FOR DELIVERING AN ADDITIVE	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is in response to applicants' "Petition under 37 CFR 1.47(a)" filed 10 February 2005 to accept the application without the signature of joint-inventor, Mark Pieloch. The $200 petition fee will be charged to Deposit Account no. 02-2334.

BACKGROUND

On 13 August 2003, applicants filed international application PCT/US03/25358 which claimed a priority date of 13 August 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 13 February 2005.

On 10 February 2005, 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 preliminary amendment; and a Petition under 37 CFR 1.47(a).

DISCUSSION

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

Regarding item (2) above, petitioner states that Mark Pieloch has refused to sign the application. Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Petitioner states that Mark Pieloch has refused to sign the application. A review of the present petition and the accompanying papers reveals that applicants have not satisfied item (2) above, in that the applicants have not shown that a bona fide attempt was made to present the application papers to Mark Pieloch. The "Declaration of William P. Ramey, III" states that a copy of the application papers were sent to Mark Pieloch on August 22, 2003. A copy of the cover letter and delivery certificate has been provided. However, petitioner fails to include evidence to demonstrate that the materials were actually received by the nonsigning inventor at his last known address. Where the Office is being asked to accept the silence of the nonsigning inventor as evidence of a refusal to sign, petitioner must provide some evidence that the application materials have been received by the nonsigning applicant. Further, it appears that the application papers were mailed to Mr. Pieloch's corporate address. In this situation, the application papers should be submitted to the inventor at his last known home address to insure receipt.

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 Mark Pieloch, and when such papers were sent. In addition, copies of documentary evidence such as a certified mail return receipt, cover letter of instruction, telegrams, etc., should be supplied with the declaration.

Regarding item (3) above, a clear statement of the last known address of the non-signing inventor has not been provided. In situations where an inventor does not execute the oath or declaration, the inventor's most recent home address must be given to enable the Office to communicate directly with the inventor as necessary. (See MPEP §605.03)

As to item (4), a declaration executed by Sebastien Huron and Sandy Cady 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 name, citizenship, and mailing address of the third inventor, Mark Pieloch. Since the declaration does not clearly identify the name and citizenship of the third inventor, it is considered defective under 37 CFR 1.497(a)(3) and 37 CFR 1.63(c)(1).

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
Tel: (571) 272-3298
Fax: (571) 273-0459

07 MAR 2006

#5

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Intervet Inc.
Patent Department
P.O. Box 318
Millsboro, DE 19966-0318

In re Application of	:	
HURON et al.	:	
U.S. Application No.: 10/524,242	:	
PCT No.: PCT/US03/25358	:	DECISION ON PETITION
Int. Filing Date: 13 August 2003	:	UNDER 37 CFR 1.47(a)
Priority Date: 13 August 2002	:	
Attorney Docket No.: I-2002.022 US	:	
For: NOVEL COMPOSITIONS AND PROCESSES FOR DELIVERING AN ADDITIVE	:	

This decision is in response to applicants' "Renewed Petition under 37 CFR 1.47(a)" filed 29 November 2005 to accept the application without the signature of joint-inventor, Mark Pieloch.

BACKGROUND

On 13 August 2003, applicants filed international application PCT/US03/25358 which claimed a priority date of 13 August 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 13 February 2005.

On 10 February 2005, 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 preliminary amendment; and a Petition under 37 CFR 1.47(a). In a decision dated 29 September 2005, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 29 November 2005, 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(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.

Concerning item (1), the requisite petition fee has been submitted.

A review of the present petition reveals that applicants have satisfied item (2), in that the applicants have shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Mark Pieloch. The steps taken are sufficient to show that Mark Pieloch has refused to execute the application.

Regarding item (3) above, a statement of the last known address of the non-signing inventor has been provided.

As to item (4), the declaration filed on 29 November 2005 is in compliance with 37 CFR 1.497.

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

CONCLUSION

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

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

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

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

Anthony Smith

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

07 MAR 2006

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Mark Pieloch
5841 NW Gary Street
Lincoln, NE 68521

In re Application of
HURON et al.
U.S. Application No.: 10/524,242
PCT No.: PCT/US03/25358
Int. Filing Date: 13 August 2003
Priority Date: 13 August 2002
Attorney Docket No.: I-2002.022 US
For: NOVEL COMPOSITIONS AND PROCESSES FOR DELIVERING AN ADDITIVE

Dear Mark Pieloch:

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:
Intervet Inc.
Patent Department
P.O. Box 318
Millsboro, DE 19966-0318

08 JUL 2005

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Joseph T. Mayo
Dalina Law Group, P.C.
7910 Ivanhoe Ave # 325
La Jolla, CA 92037

In re Application of	:	
Joy	:	
Application No.: 10/524,246	:	
Filing Date: 03 February 2005	:	DECISION
Attorney Docket No.: 1075-P0001	:	
For: Routine Checker	:	

This is a decision on applicant's petition under 37 CFR 1.137(b) filed on 03 February 2005.

BACKGROUND

International application number PCT/AU03/00884 was filed on 10 July 2003, claimed an earliest priority date of 10 July 2002, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 22 January 2004. The 30 month time period for paying the basic national fee in the United States expired at midnight on 10 January 2005.

On 03 February 2005, applicant filed *inter alia* the instant application, accompanied by the instant petition.

DISCUSSION

The first sentence of the instant application indicates that it "is a continuation-in-part of International Application PCT/AU2003/000884 entitled 'Routine Checker' with an international filing date of July 10th, 2003..." However, co-pendency between the instant application (filed on 03 February 2005) and international application no. PCT/AU03/00884 did not exist, because international application no. PCT/AU03/00884 became abandoned with respect to the national stage in the United States under 35 U.S.C. 371 as of midnight on 10 January 2005 for failure to timely pay the basic national fee. Therefore, it would be appropriate to consider the petition under 37 CFR 1.137(b), filed on 03 February 2005, for purposes of establishing co-pendency.

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

forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the required reply is the filing of the instant continuation-in-part application. Therefore, requirement (1) has been satisfied.

Regarding requirement (2), the petition included authorization to charge the petition fee to counsel's deposit account, thereby satisfying requirement (2).

Regarding requirement (3), the petition includes an appropriate statement, in satisfaction of requirement (3).

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED** for purposes of establishing co-pendency. Co-pendency having been established, international application no. PCT/AU03/00884 is again abandoned with respect to the national stage in the United States.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing.

Daniel Stemmer
PCT Legal Examiner
PCT Legal Office

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

20 MAY 2005

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Arnold & Porter LLP
555 Twelfth Street, N.W.
Washington, D.C. 20004-1206

In re Application of	:	
TAYLOR et al.	:	
Application No.: 10/524,252	:	DECISION ON PETITION
PCT No.: PCT/US03/21271	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 09 July 2003	:	
Priority Date: 09 July 2002	:	
Attorney Docket No.: 16218.013	:	
For: MICROFINE ZINC-GLYCEROL COMPLEXES		

The petition to revive under 37 CFR 1.137(b) filed 09 February 2005 in the above-captioned application is hereby **GRANTED** as follows:

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

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

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration along with the $65 surcharge for filing the oath or declaration after the thirty-month period is required.

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

02 FEB 2006

#7

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Milan M. Vinnola
Townsend and Townsend and Crew LLP
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834

In re Application of	:	
TAYLOR et al.	:	
Application No.: 10/524,252	:	DECISION ON
PCT No.: PCT/US03/21271	:	PAPERS UNDER 37 CFR 1.42
Int. Filing Date: 09 July 2003	:	
Priority Date: 09 July 2002	:	
Attorney Docket No.: 16218.013	:	
For: MICROFINE ZINC-GLYCEROL COMPLEXES	:	

This decision is in response to the declaration filed 15 December 2005 which is being treated as a request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 09 July 2003, applicants filed the above-identified international application which claimed a priority date of 09 July 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, 09 January 2005.

On 09 February 2005, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a copy of the international application; and a petition to revive under 37 CFR 1.137(b). In a Decision on Petition dated 20 May 2005, applicants' petition to revive was granted.

On 06 June 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 in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 15 December 2005, applicants filed a declaration executed by David Fairlie, Robert M. Moffitt and Margaret Taylor, on behalf of deceased inventor, Reginald Taylor.

DISCUSSION

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

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

The declaration filed on 15 December 2005 is executed by David Fairlie, Robert M. Moffitt and Margaret Taylor as the "legal representative" of the deceased inventor, Reginald Taylor. The declaration submitted appears to have been executed by the proper parties under 37 CFR 1.42, however, the declaration does not satisfy the requirements under 37 CFR 1.497(b)(2). 37 CFR 1.497(b)(2) states the following:

> (2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

Pursuant to revised 37 CFR 1.497(b)(2), in addition to the citizenship and former residence and post office address of the deceased inventor referenced under 37 CFR 1.497(a)(3) and 37 CFR 1.63, the declaration must also provide residence, citizenship, and post office address for the legal representative. The declaration filed on 15 December 2005 provides the residence, citizenship, and post office address for only one individual and it is unclear whether this information is for the legal representative or the deceased inventor. 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

04 APR 2006

#9

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Milan M. Vinnola
Townsend and Townsend and Crew LLP
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834

In re Application of	:	
TAYLOR et al.	:	
Application No.: 10/524,252	:	DECISION ON
PCT No.: PCT/US03/21271	:	PAPERS UNDER 37 CFR 1.42
Int. Filing Date: 09 July 2003	:	
Priority Date: 09 July 2002	:	
Attorney Docket No.: 16218.013	:	
For: MICROFINE ZINC-GLYCEROL COMPLEXES	:	

This decision is in response to "Renewed Submission under 37 CFR 1.42" filed 07 March 2006. No petition fee is required.

BACKGROUND

On 09 July 2003, applicants filed the above-identified international application which claimed a priority date of 09 July 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, 09 January 2005.

On 09 February 2005, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a copy of the international application; and a petition to revive under 37 CFR 1.137(b). In a Decision on Petition dated 20 May 2005, applicants' petition to revive was granted.

On 06 June 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 in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 15 December 2005, applicants filed a declaration executed by David Fairlie, Robert M. Moffitt and Margaret Taylor, on behalf of deceased inventor, Reginald Taylor. In a decision dated 02 February 2006, applicants' request under 37 CFR 1.42 was refused.

On 07 March 2006, applicant filed the renewed request under 37 cFR 1.42 and a Supplemental Application Data Sheet.

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.

As stated in the previous petition, the declaration filed on 15 December 2005 is executed by David Fairlie, Robert M. Moffitt and Margaret Taylor as the "legal representative" of the deceased inventor, Reginald Taylor. Counsel avers that deceased inventor's citizenship, address and post office address and the citizenship, address and post office address of the deceased inventor's legal representative are the same. The declaration is acceptable under 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b).

CONCLUSION

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

The application has an international filing date of 09 July 2003, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **07 March 2006**.

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

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JOSEPH J. LAKS
THOMSON LICENSING LLC
2 INDEPENDENCE WAY, PATENT OPERATIONS
PO BOX 5312
PRINCETON NJ 08543

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AUG 1 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Jurgen BAUMIE et al.	:	
Application No. 10/524,256	:	DECISION ON PETITION
Filed: February 10, 2005	:	
Attorney Docket No. PD020080	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 25, 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, November 27, 2007, which set a shortened statutory period for reply of three (3) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 28, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of November 27, 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 2186 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN VA 22102

In re Application of

MULLER, Wilhelm
Application No. 10/524,267
Filed: February 06, 2006
Attorney Docket No. **44912079300**

DECISION ON PETITION TO WITHDRAW FROM RECORD

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

The request is **APPROVED**.

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

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

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **WILHELM MULLER**
UNTRANGER 21
WORTH, GERMANY 85457

cc: **KEVIN SPIVAK, BELL BOYD & LLOYD LLC**
70 WEST MADISON STREET
SUITE 3100
CHICAGO, IL 60602

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CONNOLLY BOVE LODGE
& HUTZ LLP
1875 EYE STREET, NW
WASHINGTON, DC 20036

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FEB 29 2008

In re Application of	:	
Christoph ADAMI, et al	:	
Application No. 10/524,268	:	DECISION ON PETITION
Filed: February 11, 2005	:	
Attorney Docket No. 12810-00022-US	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before October 19, 2007. As required by the Notice of Allowance and Fee(s) Due, mailed July 19, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on October 20, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the Issue Fee of $1440 and Publication Fee of $300; (2) the petition fee of $1540; and (3) the required statement of unintentional delay.

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

The application is being referred to the Office of Patent Publication.

April Wise
Petitions Examiner
Office of Petitions

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Paper No. None

ARENT FOX PLLC
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

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OFFICE OF PETITIONS

In re Application of Javier Marti Sendra et al. Application No. 10/524,273 Filed: August 11, 2005 Attorney Docket No.: 027318-00007 Title: COUPLING SYSTEM BETWEEN DIELECTRIC OPTICAL GUIDES AND PLANAR PHOTONIC CRYSTAL GUIDES	DECISION ON PETITION UNDER 37 C.F.R. §1.181

This is a decision on the petition filed March 21, 2007, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed August 11, 2006, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on November 12, 2006. A notice of abandonment was mailed on March 12, 2007.

With the present petition, Petitioner has asserted that the non-final Office action was not received.

The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office

communication was not received. In addition, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement[1].

Petitioner has met the requirements of Delgar v. Schuyler, 172 USPQ 513 (D.D.C. 1971), in that he has asserted that the Office communication was not received, that he has searched both the file jacket and the docket record, and he has included a copy of the latter.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the mailing was not received.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will re-mail the non-final Office action of August 11, 2006, and will set a new period for response.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

---

1 See MPEP 711.03(c).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

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OFFICE OF PETITIONS

In re Application of :
Javier MARTI SENDRA et al. :
Application No. 10/524,273 :
Filed: August 11, 2005 :
Attorney Docket No. **027318-00007** :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 03, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 09, 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 October 10, 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 w/replacement drawings; (2) the petition fee $1,540.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of July 09, 2007 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 $1,050.00 extension of time fee submitted with the petition on April 03, 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) 272-4231.

The application file is being referred to Technology Center AU 2874 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

OIPE IAP58
APR 0 3 2008
PATENT & TRADEMARK OFFICE

PTO/SB/22 (01-08)
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Under the paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless if displays a valid OMB control number.

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a) FY 2008 *(Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).)*	Docket Number (Optional) 027318-00007
Application Number 10/524273	Filed August 11, 2005
For COUPLING SYSTEM BETWEEN DIELECTRIC OPTICAL GUIDES AND PLANAR PHOTONIC CRYSTAL GUIDES	
Art Unit 2874	Examiner Omar R. Rojas

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):

		Fee	Small Entity Fee	
☐	One month (37 CFR 1.17(a)(1))	$120	$60	$
☐	Two months (37 CFR 1.17(a)(2))	$460	$230	$
☒	Three months (37 CFR 1.17(a)(3))	$1050	$525	$ 1,050.00
☐	Four months (37 CFR 1.17(a)(4))	$1640	$820	$
☐	Five months (37 CFR 1.17(a)(5))	$2230	$1115	$

☐ Applicant claims small entity status. See 37 CFR 1.27.

☐ A check in the amount of the fee is enclosed.

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

☐ The Director has already been authorized to charge fees in this application to a Deposit Account.

☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 01-2300.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Refund Ref:
05/28/2008 0030056154
Credit Card Refund Total: $1050.00

Adjustment date: 05/28/2008 CKHLOK
04/04/2008 AWONDAF1 00000019 10524273
01 FC:1253 -1050.00 OP

I am the ☐ applicant/inventor.

☐ 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).

☒ attorney or agent of record. Registration Number 55,478

☐ attorney or agent under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____.

Signature — April 3, 2008 (Date)

Tarik M. Nabi (Typed or printed name) — 202-857-6000 (Telephone Number)

NOTE: Signatures 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.

☒ Total of 1 forms are submitted.

04/04/2008 AWONDAF1 00000019 10524273
01 FC:1253 1050.00 OP

This collection of information is required by 37 CFR 1.136(a). 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 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 5-27-08 | 2 Serial/Patent # 10/524273

3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment		4-3-03	$ 1,050.00
✓	Extension of Time			$
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND: $ ~~0.00~~ 1,050.00

8 TO BE REFUNDED BY:

	Treasury Check
✓	Credit Deposit A/C #:
	9 ~~01-2308~~ Credit Card

10 REASON:

	Overpayment
	Duplicate Payment
✓	No Fee Due (Explanation):

Maximum ~~time~~ extendable time has expired

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Michelle Eason TITLE: Paralegal ~~Petitions Examiner~~

SIGNATURE: Michelle R. Eason PHONE: 571-272-4231

OFFICE: Office of Petitions

****

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APPROVED: [illegible] DATE: 5/28/08

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Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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OFFICE OF PETITIONS

EGBERT LAW OFFICES
412 MAIN STREET, 7TH FLOOR
HOUSTON TX 77002

In re Application of	:	
Jean-Pierre GAECHTER	:	
Application No. 10/524,298	:	DECISION ON PETITION
Filed: February 11, 2005	:	
Attorney Docket No. **1429-152**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 30, 2009, to revive the above-identified application.

The petition is **GRANTED**.

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 May 18, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). 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 August 19, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal $270; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3656 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

28 FEB 2006

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DARBY & DARBY
P.O. Box 5257
New York, NY 10150-5257

In re Application of HAYASHI, Ryoji U.S. Application No.: 10/524,305 PCT No.: PCT/JP03/10177 Int. Filing Date: 8 August 2003 Priority Date: 12 August 2002 Attorney Docket No.: 09867/0202189-USO For: REMOTE CONTROL SYSTEM AND ITS TRANSMITTER AND MOVEABLE MACHINE	:	**DECISION**

Applicant's "Request for Corrected Filing Receipt" filed via facsimile on 10 February 2006 is treated as a petition under 37 CFR 1.181 and hereby **GRANTED** as follows:

The filing receipt mailed 27 January 2006 indicated an incorrect title. The title should be recorded as "Remote Control System and its Transmitter and Movable Machine."

Accordingly, the filing receipt mailed 27 January 2006 is hereby **VACATED**.

A corrected filing receipt will be mailed with this decision.

This application will then be forwarded to Technology Center 1600 for examination.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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HITACHI METALS, LTD.
C/O KEATING & BENNETT, LLP
1800 Alexander Bell Drive
SUITE 200
Reston VA 20191

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OFFICE OF PETITIONS

In re Patent No. 7,570,142	:	
Issue Date: August 4, 2009	:	
Application No. 10/524,314	:	ON PETITION
Filed: February 9, 2005	:	
Attorney Docket No. 60303.49	:	

This is a decision on the petition filed July 17, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is GRANTED.

Telephone inquiries concerning this decision may be directed to the JoAnne Burke at (571) 272-4584. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

As authorized, the $130 fee for the petition under 37 CFR 3.81(b) has been assessed to petitioner's deposit account.

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

JoAnne Burke
Petitions Examiner
Office of Petitions

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

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Nicholas Peter Franks	: DECISION ON REQUEST FOR
Patent Number	: 7632872	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/524,316	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/09/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **164** 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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THE DOW CHEMICAL COMPANY
INTELLECTUAL PROPERTY SECTION,
P. O. BOX 1967
MIDLAND,MI 48641-1967

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OFFICE OF PETITIONS

In re Application of	:	
Alexander Vogel	:	
Application No. 10/524,330	:	ON PETITION
Filed: February 11, 2005	:	
Attorney Docket No. 62398A	:	

This is a decision on the petition under 37 CFR 1.137(a), filed June 23, 2006, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to file a timely response to the Notice of Allowance and Issue Fee Due mailed March 13, 2006, which set a statutory period for reply of three months from its mailing date. Extensions of time under 37 CFR 1.136(a) were not available. No response was received within the allowable period and the application became abandoned on June 14, 2006.

The issue fee, publication fee, and Form PTOL 85-B, received March 13, 2006, are noted and made of record.

Deposit account 04-1512 will be charged $500.00 for the instant petition fee.

The application file will be forwarded to the Office of Patent Publications 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

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MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: Curt Harkless	: DECISION ON REQUEST FOR
Patent Number	: 7620219	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/524,339	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1094** 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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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

Mail Date: 04/21/2010

Applicant	: Darren James Mansfield	: DECISION ON REQUEST FOR
Patent Number	: 7572818	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/524,345	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

15 DEC 2006

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NORRIS, MCLAUGHLIN & MARCUS, P.A.
875 THIRD AVE
18TH FLOOR
NEW YORK, NY 10022

In re Application of BROSIG et al	:	
U.S. Application No.: 10/524,351	:	
PCT Application No.: PCT/EP2003/009357	:	
Int. Filing Date: 22 August 2003	:	
Priority Date Claimed: 04 September 2002	:	DECISION
Attorney Docket No.: 101215-178	:	
For: METHOD AND DEVICE FOR	:	
RECOGNIZING THE LEVEL OF	:	
AWARENESS OF A VEHICLE DRIVER	:	

This is in response to applicant's "Petition Under 37 CFR § 1.181(a) to Withdraw Holding of Abandonment" filed 03 October 2006.

BACKGROUND

On 22 August 2003, applicant filed international application PCT/EP2003/009357, which claimed priority of an earlier Germany application filed 04 September 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 18 March 2004. The thirty-month period for paying the basic national fee in the United States expired on 04 March 2005.

On 11 February 2005, 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 27 July 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 09 August 2005, applicant filed an executed declaration.

On 08 August 2006, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely respond to the Notification of Missing Requirements.

On 03 October 2006, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The petition states that the cover page for the declaration filed 09 August 2005 listed an incorrect application number. The originally filed declaration has been located and will be matched with the present application file.

CONCLUSION

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

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 08 August 2006 is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 22 August 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 09 August 2005.

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

BryanLin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510

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OCT 09 2009

OFFICE OF PETITIONS

In re Application of	:	
Bergaya et al.	:	
Application No. 10/524,358	:	DECISION ON PETITION
Filed: August 8, 2005	:	
Attorney Docket No. 05-189	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 17, 2009, to revive the above-identified application.

The petition is **GRANTED**.

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

This application became abandoned for failure to file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 26, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). In view of the 3-month extension of time filed July 17, 2009 the date of abandonment of this application is July 27, 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 Notice of Appeal and fee of $540, (2) the petition fee of $1,620, and (3) an adequate 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 Technology Center AU 1793 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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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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In re Application of	:	
Heessels, Adrianus Caspar Leonardus	:	
Application No. 10/524,379	:	ON PETITION
Filed: February 10, 2005	:	
Attorney Docket No. NL-020753	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 9, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 6, 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 December 7, 2007. A notice of abandonment was mailed May 2, 2008

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

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

This matter is being referred to Technology Center 2814 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: VOLENTINE FRANCOS & WHITT, PLLC
ONE FREEDOM SQUARE, SUITE 1260
11951 FREEDOM DRIVE
RESTON, VA 20190

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MILLIPORE CORPORATION
290 CONCORD ROAD
BILLERICA, MA 01821

Mail Date: 04/21/2010

Applicant	: Yves Gaignet	: DECISION ON REQUEST FOR
Patent Number	: 7578936	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/524,383	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/06/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

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In re Application of	:	
Sadarangani et al.	:	
Application No.: 10/524388	:	DECISION ON
Filing or 371(c) Date: 09/07/2005	:	PETITION
Attorney Docket Number: 047935/288415	:	

This is a decision in response to the "Petition under 37 C.F.R. 1.181(a) to Withdraw Holding of Abandonment in Accordance with MPEP 711.03(c) and 1156 O.G. 53," filed November 10, 2008.

This Petition is hereby **dismissed**.

Any further 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 "Renewed Petition under [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 28, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Accordingly, the date of abandonment of this application is May 29, 2008.

Petition under 37 CFR 1.181

Applicant files the present petition and asserts that the Office action was not received. In support of this assertion, Applicant files a copy of the Master Data Center database report indicating that nothing has been received from this Office for this application since the September 11, 2007 Office action; a copy of the outside front cover of the file jacket maintained by Applicant for the present application, and a copy of Applicant's docket control sheet for the present application. (Emphasis supplied).

Applicable Law, Rules and MPEP

The MPEP 711.03(c)A, Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action, provides

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

MPEP 711.03(c).

Analysis

A review of the a copy of the Master Data Center database report and as confirmed in the petition, reveals that the copy of the Master Data Center database report is for the present application only. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all

replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, Applicant should so state.

The petition is dismissed without prejudice. Applicant should file a Request for Reconsideration of Petition and include the necessary statements and/or copies of docket records and file jacket.

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

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

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FEB 2 6 2009

OFFICE OF PETITIONS

In re Application of	:	
Sadarangani et al.	:	
Application No.: 10/524388	:	DECISION ON
Filing or 371(c) Date: 09/07/2005	:	PETITION
Attorney Docket Number: 047935/288415	:	

This is a decision in response to the "Request for Reconsideration of Petition under 37 C.F.R. 1.181," filed February 16, 2009.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 28, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Accordingly, the date of abandonment of this application is May 29, 2008.

This Petition is hereby **granted**.

With the present request for reconsideration of petition, Applicant has demonstrated non-receipt of the Office action by a preponderance of the evidence.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn. No petition fee has been charged and none is due.

The application will be referred to the Technology Center Art Unit 2834 for re-mailing of the Office action and re-setting the period for reply.

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

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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

Mail Date: 04/21/2010

Applicant	: Werner Jacob	: DECISION ON REQUEST FOR
Patent Number	: 7582021	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/524,391	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **91** 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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JAGTIANI + GUTTAG
10363-A DEMOCRACY LANE
FAIRFAX, VA 22030

MAILED

JAN 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Limin Li, et al.	:	
Application No. 10/524,426	:	DECISION ON PETITION
Filed: February 15, 2005	:	TO WITHDRAW
Attorney Docket No. FUNC-0011-UT1	:	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 19, 2008.

The request is **APPROVED**.

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

The request was signed by Steven B. Kelber on behalf of himself. Steven B. Kelber has been withdrawn as attorneys or agents 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 undersigned at 571-272-1642.

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

#5

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07 FEB 2006

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

In re Application of	:	
OKNELID, Erika et al.	:	
Application No.: 10/524,430	:	
PCT No.: PCT/SE03/01226	:	
Int. Filing Date: 18 July 2003	:	DECISION
Priority Date: 16 August 2002	:	
Attorney's Docket No.: 08806.0174-00	:	
For: PRESENTING RECOGNISED	:	
HANDWRITTEN SYMBOLS	:	

This is a decision regarding applicants' response to Notification of Missing Requirements, filed 09 August 2005.

BACKGROUND

On 18 July 2003, applicants filed international application PCT/SE03/01226. On 26 February 2004, a copy of the international application was transmitted to the Office by the International Bureau. The deadline for entry into the national stage in the United States was midnight 16 February 2005.

On 15 February 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by the basic national fee.

On 10 June 2005, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 09 August 2005, applicants filed a declaration in response to the Notification of Missing Requirements. The declaration was executed by Erika Prymus and Magnus Persson.

DISCUSSION

Under 37 CFR 1.41(a)(4), the inventorship of the international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any change effected under PCT Rule 92bis. The record does not reflect any such requests under Rule 92*bis* during the international stage.

The inventors in the international application are Erika Oknelid and Magnus Persson. The inventors on the declaration are Erika Prymus and Magnus Persson. Thus, the declaration fails to comply with 37 CFR 1.497(a)(3).

Applicant is required to submit an oath or declaration in compliance with 37 CFR 1.497(a)-(b). Attention is directed to MPEP §605.04(c) and the requirement for a petition under 37 CFR 1.182 contained therein, if there has been a change of name.

CONCLUSION

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

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

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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02 OCT 2006

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901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

In re Application of	:	
OKNELID, Erika et al.	:	
Application No.: 10/524,430	:	DECISION ON
PCT No.: PCT/SE03/01226	:	
Int. Filing Date: 18 July 2003	:	PETITION
Priority Date: 16 August 2002	:	
Attorney's Docket No.: 08806.0174-00	:	UNDER 37 CFR 1.182
For: PRESENTING RECOGNISED	:	
HANDWRITTEN SYMBOLS	:	

This is a decision regarding applicants' response to "Petition For Name Change Under 37 C.F.R. §1.182," filed 07 July 2006.

BACKGROUND

On 07 February 2006, the Office mailed Decision, indicating that the inventors on the declaration did not match the inventors on the international application.

On 07 July 2006, applicants filed this petition to correct the name of Erika Oknelid to Erika Prymus.

DISCUSSION

The inventors in the international application are Erika Oknelid and Magnus Persson. The inventors on the declaration are Erika Prymus and Magnus Persson. When an inventor listed in the international application changes his or her name, a petition as described in MPEP 605.04(c) is required.

The balance of the $400 petition fee will be charged to deposit account no. 06-0916, as authorized. Erika Prymus has supplied a declaration stating that she is an inventor in the international application, was known as Oknelid prior to her marriage and is now Prymus. This submission satisfies the requirements of MPEP 605.04(c).

CONCLUSION

Applicant's petition under 37 CFR 1.182 is **GRANTED**.

This application is being forwarded to the National Phase Processing Branch Division of PCT Operations for further processing. The application has a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 09 August 2005.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,434	02/15/2005	Rene Djurup	DJURUP1	4128

1444 7590 12/17/2008
BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303

EXAMINER
GUDIBANDE, SATYANARAYAN R

ART UNIT	PAPER NUMBER
1654	

MAIL DATE	DELIVERY MODE
12/17/2008	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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BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

DEC 1 7 2008

In re Application of:
Djurup et al.
Serial No.: 10/524,434
Filed: February 15, 2005
Attorney Docket No.: **DJURUP1**

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.181, filed December 9, 2008, requesting the review of the examiner's decision of November 25, 2008 which refused entry of the after-final amendment of October 27, 2008.

BACKGROUND

Recently, applicants submitted an amendment filed under 37 C.F.R. 1.116 after final Office action on October 27, 2008. In said amendment, applicant proposed to amend claim 74 to recite "X9" and delete "X19".

In response to applicants' amendment filed after final Office action on October 27, 2008, the examiner mailed an Advisory Action on November 25, 2008. In this Advisory Action, the examiner indicated that the amendment filed after final Office action on October 27, 2008 would not be entered because the amendments do not overcome the new matter rejection made in the final Office action of March 19, 2008 (See Advisory Action, PTOL-303).

In response thereto, applicants filed this petition under 37 CFR § 1.181 on December 9, 2008 requesting that the examiner's refusal to enter the amendment filed after final Office action on October 27, 2008 be overturned in favor of applicant.

DISCUSSION

The petition and the file history have been carefully considered.

However, it is noted that the examiner has had a telephonic Interview Summary on December 4, 2008 wherein the examiner has indicated to applicants' attorney that after further consideration

of the amendment and review of the prosecution history, the finality of the office action of March 19, 2008 will be withdrawn and a non-final action addressing the issues will follow.

DECISION

Accordingly, the petition is moot and is **DISMISSED.**

This application will be forwarded to the examiner to take an action consistent with this decision.

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

Remy Yucel
Director, Technology Center 1600

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,434	02/15/2005	Rene Djurup	DJURUP1	4128

1444 7590 07/24/2009
BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303

EXAMINER
GUDIBANDE, SATYANARAYAN R

ART UNIT	PAPER NUMBER
1654	

MAIL DATE	DELIVERY MODE
07/24/2009	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.

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JUL 2 4 2009

Iver P. Cooper
BROWDY AND NEIMARK, P.L.L.C.
624 Ninth Street, N.W.
Washington, D.C. 20001

In re Application of:	:
Djurup et al.	:
Serial No.: 10/524,434	: PETITION DECISION
Filed: February 15, 2005	:
Attorney Docket No.: DJURUP=1	:

This is in response to the petition under 37 CFR § 1.181, filed June 25, 2009, requesting that the requirement to comply with sequence rules set forth in the final Office action mailed June 18, 2009 be withdrawn.

BACKGROUND

On June 18, 2009, the examiner mailed to applicants a final Office action containing, *inter alia*, a requirement to comply with the sequence rules. Specifically, the examiner quoted a phrase from claim 1, part (a), which stated "X1 is amino acids 1-5 of SEQ ID NO: 595, 600, 605 or 606." The examiner indicated that the recited 1-5 amino acids corresponding to SEQ ID NO: 595, 600, 605 and 606 need SEQ ID NOs. The examiner set two concurrent shortened statutory periods for response. First, applicant was required to provide a response to comply with the sequence rules within one month. Second, applicant was required to respond to the final Office action within three months.

On June 25, 2009, applicants filed the petition under consideration.

DISCUSSION

The petition and the file history have been carefully considered.

As set forth in the petition, MPEP § 2422.03 states:

> Sequence identifiers can also be used to discuss and/or claim parts or fragments of a properly presented sequence. For example, language such as

> "residues 14 to 243 of SEQ ID NO:23" is permissible and the fragment need not be separately presented in the "Sequence Listing."

Therefore, "amino acids 1-5 of SEQ ID NO: 595, 600, 605 or 606" do not require their own sequence identifiers. However, claim 1 is directed to a genus of larger sequences comprising parts of sequences that are noncontiguous segments of larger sequences. 37 CFR 1.822(e) states:

> A sequence with a gap or gaps shall be presented as a plurality of separate sequences, with separate sequence identifiers, with the number of separate sequences being equal in number to the number of continuous strings of sequence data. **A sequence that is made up of one or more noncontiguous segments of a larger sequence or segments from different sequences shall be presented as a separate sequence.** (emphasis added)

Furthermore, the sequence set forth in claim 1 comprises seven specifically identified amino acids. 37 CFR 1.821(a) states, in part:

> Nucleotide sequences and/or amino acid sequences as used in §§ 1.821 through 1.825 are interpreted to mean an **unbranched** sequence of four or more amino acids or an unbranched sequence of ten or more nucleotides.

37 CFR 1,821(b) states:

> Patent applications which contain disclosure of nucleotide and/.or amino acid sequences, in accordance with the definition in paragraph (a) of this section, shall, with regard to the manner in which the nucleotide and/or amino **acid** sequences are presented and described, conform exclusively to the requirements of §§ 1.821 through 1.825.

Thus, since claim 1 is directed to a genus of sequences that may contain seven specifically identified amino acids, it needs its own sequence identifier and cannot recite noncontiguous segments from different sequences.

The petition also expresses concern regarding the two concurrent time periods set for response. MPEP § 710.02(b) indicates that a single shortened period for response must be set for any Office action:

> Under the authority given to him or her by 35 U.S.C. 133, the Director of the USPTO has directed the examiner to set **a** shortened period for reply to every action. (emphasis added)

Thus, the final rejection mailed June 18, 2009 incorrectly sets two time periods for response.

DECISION

The petition is subsequently **GRANTED.**

The requirement in the final rejection that "[T]he 1-5 amino acids corresponding to SEQ ID NO: 595,600, 605 and 606 need SEQ ID Nos" is **withdrawn**. There is no requirement that small segments of larger sequences be separately listed in the sequence listing; see MPEP § 2422.03 (discussed above). Were the segments from SEQ ID No.: 595 et al. not present, the sequence shown in claim 1 would not need to comply with the sequence rules because it would not have at least four specifically defined amino acids. However, with those segments present, the sequence has seven specifically defined amino acids and, therefore, must comply with the sequence rules.

In view of the mis-stated sequence rule compliance requirement, the final rejection is hereby VACATED and the examiner will be instructed to re-issue the final rejection with a correctly stated requirement to comply with the sequence rules. The requirement will cite 37 CFR 1.822 (e) and will require a new sequence listing wherein each sequence having "amino acids 1-5 of SEQ ID NO: 595, 600, 605 or 606" will be given its own sequence identifier. That Office action will have a three-month shortened statutory period to respond.

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

Remy Yucel
Director, Technology Center 1600

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,434	02/15/2005	Rene Djurup	DJURUP1	4128

1444 7590 08/27/2009
BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303

EXAMINER
GUDIBANDE, SATYANARAYAN R

ART UNIT	PAPER NUMBER
1654	

MAIL DATE	DELIVERY MODE
08/27/2009	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 2 7 2009

Iver P. Cooper
BROWDY AND NEIMARK, P.L.L.C.
624 Ninth Street, N.W.
Washington, D.C. 20001

In re Application of:	:
Djurup et al.	:
Serial No.: 10/524,434	: PETITION DECISION
Filed: February 15, 2005	:
Attorney Docket No.: DJURUP=1	:

This is in response to the renewed petition under 37 CFR § 1.181, filed August 6, 2009, requesting reconsideration of the decision on petition mailed July 24, 2009.

BACKGROUND

The relevant file history of the instant application was discussed in the decision on petition mailed July 24, 2009.

DISCUSSION

The petition and the file history have been carefully considered. Applicants' detailed explanation clarified that each sequence claimed under proviso (a) and proviso (b) did not fall under the definitions set forth in 37 C.F.R. § 1.821(a).

DECISION

The petition is subsequently **GRANTED**.

The requirement in the final rejection that "[T]he 1-5 amino acids corresponding to SEQ ID NO: 595,600, 605 and 606 need SEQ ID NOs" is **withdrawn**. Accordingly, the final rejection is hereby VACATED and the examiner will be instructed to re-issue the final rejection without a requirement to provide separate sequence identifiers for amino acids 1-5 of SEQ ID NO: 595, 600, 605, or 606. That Office action will have a three-month shortened statutory period to respond.

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

Remy Yucel
Director, Technology Center 1600

22 JUL 2005

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Ljubomir Nikolic
PO Box 60142
Table View
South Africa, 7439
SOUTH AFRICA

In re Application of: NIKOLIC, Ljubomir	:	
U.S. Application No.: 10/524,436	:	
PCT No.: PCT/IB02/03439	:	DECISION
International Filing Date: 27 August 2002	:	
Priority Date: None	:	
Attorney's Docket No.: None	:	
For: UNIVERSAL STAND FOR VEHICLE ENGINES	:	
AND GEARBOXES	:	

This decision is issued in response to applicant's 18 July 2005 facsimile submission seeking to withdraw the Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 06 June 2005. The submission is treated herein as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 27 August 2002, applicant filed international application PCT/IB02/03439. The international application designated the United States and did not claim an earlier priority date. On 11 March 2004, a copy of the international application was communicated to the United States Patent And Trademark Office (USPTO) by the International Bureau (IB). The deadline for payment of the basic national fee was thirty months from the priority date, i.e., 27 February 2005.

On 14 February 2005, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment for the basic national fee.

In 06 June 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) stating that an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date were required.

On 18 July 2005, applicant filed the submission considered herein. The submission asserts that the international application was filed with an acceptable declaration under PCT Rule 4.17(iv) and that the declaration requirement has already been satisfied with respect to the present application.

DISCUSSION

The original Request (Form PCT/RO/101) filed herein on 27 August 2002 was executed by the sole applicant/inventor and included a declaration of inventorship under PCT Rule 4.17(iv). The declaration of inventorship was not signed by the applicant. However, as set forth on the declaration form itself and in the instructions thereto, applicant's signature on the concurrently filed Request is sufficient for the declaration to be considered executed. Pursuant to 37 CFR 1.497(a), applicant's submission of a timely declaration under PCT Rule 4.17(iv) during the international phase satisfies the oath or declaration requirement for entry into the national stage in the United States.

Based on the above, the Notification Of Missing Requirements mailed 06 June 2005, based as it was on applicant's purported failure to satisfy the oath or declaration requirement, is appropriately vacated.

CONCLUSION

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

The declaration under PCT Rule 4.17(iv) filed by applicant with the Request during the international phase satisfies the oath or declaration requirement for entry into the national stage.

The Notification Of Missing Requirements mailed 06 June 2005 is hereby **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accord with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 14 February 2005.

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

18 OCT 2005

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BAYER CROPSCIENCE LP
PATENT DEPARTMENT
100 BAYER ROAD
PITTSBURGH, PA 15205-9741

In re Application of FISCHER et al	:	
U.S. Application No.: 10/524,438	:	
PCT Application No.: PCT/EP03/08881	:	
Int. Filing Date: 11 August 2003	:	DECISION
Priority Date Claimed: 23 August 2002	:	
Attorney Docket No.: CS8456/LeA 36,304	:	
For: SUBSTITUTED	:	
HETEROCYCLYLPYRIMIDINES	:	

This is in response to the correspondence filed 27 June 2005, which is being treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 11 August 2003, applicant filed international application PCT/EP03/08881, which claimed priority of an earlier Germany application filed 23 August 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 01 April 2004. The thirty-month period for paying the basic national fee in the United States expired on 23 February 2005.

On 11 February 2005, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 06 June 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 27 June 2005, applicant filed the present request for status under 37 CFR 1.42.

DISCUSSION

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

The declaration filed 27 June 2005 is in compliance with 37 CFR 1.42 and 1.497.

Applicant is advised that the submission of a declaration executed by the sole heir of the deceased inventor is hereby construed as an indication that no legal representative of the deceased's estate has been appointed and that no legal representative is required by the applicable law to be appointed. If this interpretation is incorrect applicant is required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to this decision.

CONCLUSION

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

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.[1]

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

[1] A review of the application file reveals that no English translation of the international application is present.

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OFFICE OF PETITIONS

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

In re Application of	:	
John Anthony Foran et al.	:	
Application No. 10/524,442	:	DECISION ON PETITION
Filed: October 11, 2005	:	TO WITHDRAW
Attorney Docket No. 1817-0156PUS1	:	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 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, **the foreign law firm whom is the corresponding attorneys are no longer handling this application and have instructed our firm to send everything directly to the applicants**, 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 for
David Bucci
Petitions Examiner
Office of Petitions

cc: **Internet Payments Limited**
Unit 9, Southern Cross Business Park, Bray
County Wicklow, Ireland

08 MAY 2006

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#5

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Myers Dawes Andras & Sherman, LLP
19900 MacArthur Blvd., Suite 1150
Irvine, CA 92612

In re Application of	:	
Hawkins et al.	:	
Application No.: 10/524,446	:	DECISION
PCT No.: PCT/US03/03605	:	
Int. Filing Date: 07 February 2003	:	ON
Priority Date: 07 February 2003	:	
Attorney Docket No.: AQU1.PAU.01	:	PETITION
For: Irrigation Connectors	:	

This is in response to the petition under 37 CFR 1.47(a) filed on 08 August 2005.

BACKGROUND

This international application was filed on 07 February 2003, and claimed no earlier priority date. The 30 month time period for paying the basic national fee in the United States expired at midnight on 08 August 2005 (since 07 August 2005 was a Sunday). Applicants filed *inter alia* the basic national fee on 11 February 2005.

On 06 June 2005, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration in compliance with 37 CFR 1.497(a) and (b).

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), petitioner paid $130.00 toward the petition fee on 08 August 2005. The remaining $70.00 is being charged to counsel's Deposit Account No. 01-1960, as authorized by the petition.

Regarding requirement (2), petitioner urges that the absence on the declaration of the signature of joint inventor Wayne Miyasato be excused because he "refuses to sign in an application for patent or cannot be found or reached after diligent effort." With regard to the issue of whether Mr. Miyasato could be found or reached after diligent effort, it is noted that the petition and supporting documents identify two addresses for him, along with "a phone number to which a fax machine was connected." These facts do not suggest that Mr. Miyasato's whereabouts are uncertain within the meaning of 37 CFR 1.47(a), since efforts could readily be made to communicate with him at each of these three venues. It is noted that petitioner refers to "additional addresses" in Torrance, California, but does not recount any efforts undertaken to contact him at more than one Torrance address. The petition also alludes to a "skip trace search" but no documentation of that search or other efforts (such as internet searches or telephone

directory searches) has been provided. For these reasons, it would be inappropriate to conclude that Mr. Miyasato "could not be found or reached after diligent effort" at this time.

Regarding the issue of whether Mr. Miyasato has refused to execute the application, Counsel's attention is respectfully drawn to MPEP 409.03(d), which 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. 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

Counsel states that "an inventor's declaration" was sent to "the fax number listed" and to "each of the additional addresses found in the skip trace," but does not indicate whether correspondence was sent to his last known address, identified by petitioner as a certain address in Anaheim. Moreover, petitioner neither explicitly states that the "inventor's declaration" sent to him was directed to this particular application, nor that a complete copy of this specific application (including specification, claims and drawings) has been sent to him. As such, it would not be appropriate to interpret Mr. Miyasato's failure to return an executed declaration as a refusal to execute within the meaning of 37 CFR 1.47(a) on the basis of the evidence presented.

Regarding requirement (3), the petition includes a statement the last known address of Wayne Miyasato. Accordingly, requirement (3) has been satisfied.

Regarding requirement (4), the petition is accompanied by a declaration document signed by joint inventors Stanley Hawkins and James Matlock, as well as by a second declaration document signed by none of the inventors, but signed by "David Abrams, President of Aquarius Brands, Inc., Assignee, on Behalf of Inventor Wayne M. Miyasato." Counsel's attention is drawn to 37 CFR 1.47(a), which states in part that

> If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor.

This is to be distinguished from 37 CFR 1.47(b), which states in part that

> Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors.

The declaration signed by Mr. Abrams is defective because he purports to sign for an assignee on behalf of the non-signing inventor, which is appropriate under 37 CFR 1.47(b) but not under 37 CFR 1.47(a). Since this petition was brought under 37 CFR 1.47(a), Mr. Abrams' signature is inappropriate. Moreover, since Mr. Abrams has signed a declaration "on behalf of" the nonsigning inventor, it becomes unclear whether joint inventors Hawkins and Matlock signed the declaration on behalf of Miyasato as well. Therefore, neither of the declaration documents filed on 08 August 2005 are acceptable.

DECISION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47." 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.

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

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

31 AUG 2006

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Myers Dawes Andras & Sherman, LLP
19900 MacArthur Blvd., Suite 1150
Irvine, CA 92612

In re Application of	:	
Hawkins et al.	:	
Application No.: 10/524,446	:	DECISION
PCT No.: PCT/US03/03605	:	
Int. Filing Date: 07 February 2003	:	ON
Priority Date: 07 February 2003	:	
Attorney Docket No.: AQU1.PAU.01	:	PETITION
For: Irrigation Connectors	:	

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 13 July 2006.

DISCUSSION

In a decision mailed on 08 May 2006, the petition under 37 CFR 1.47(a) filed on 08 August 2005 was dismissed without prejudice because

> Regarding requirement (2), petitioner urges that the absence on the declaration of the signature of joint inventor Wayne Miyasato be excused because he "refuses to sign in an application for patent or cannot be found or reached after diligent effort." With regard to the issue of whether Mr. Miyasato could be found or reached after diligent effort, it is noted that the petition and supporting documents identify two addresses for him, along with "a phone number to which a fax machine was connected." These facts do not suggest that Mr. Miyasato's whereabouts are uncertain within the meaning of 37 CFR 1.47(a), since efforts could readily be made to communicate with him at each of these three venues. It is noted that petitioner refers to "additional addresses" in Torrance, California, but does not recount any efforts undertaken to contact him at more than one Torrance address. The petition also alludes to a "skip trace search" but no documentation of that search or other efforts (such as internet searches or telephone directory searches) has been provided. For these reasons, it would be inappropriate to conclude that Mr. Miyasato "could not be found or reached after diligent effort" at this time.
>
> Regarding the issue of whether Mr. Miyasato has refused to execute the application, ... Counsel states that "an inventor's declaration" was sent to "the fax number listed" and to "each of the additional addresses found in the skip trace," but does not indicate whether correspondence was sent to his last known address, identified by petitioner as a certain address in Anaheim. Moreover, petitioner neither explicitly states that the " inventor's declaration" sent to him was directed to this particular application, nor that a complete copy of this specific application (including specification, claims and drawings) has been sent to him. As such, it would not be appropriate to interpret Mr. Miyasato's failure to return an executed declaration as a refusal to execute within the meaning of 37 CFR 1.47(a) on the basis of the evidence presented.

> The declaration signed by Mr. Abrams is defective because he purports to sign for an assignee on behalf of the non-signing inventor, which is appropriate under 37 CFR 1.47(b) but not under 37 CFR 1.47(a). Since this petition was brought under 37 CFR 1.47(a), Mr. Abrams' signature is inappropriate. Moreover, since Mr. Abrams has signed a declaration "on behalf of" the nonsigning inventor, it becomes unclear whether joint inventors Hawkins and Matlock signed the declaration on behalf of Miyasato as well. Therefore, neither of the declaration documents filed on 08 August 2005 are acceptable.

In response, petitioner urges that treatment of the petition under only 37 CFR 1.47(a), as opposed to both 37 CFR 1.47(a) and 1.47(b) simultaneously, is improper. Petitioner's attention is drawn to MPEP 409.03(b), which explains in part that

> Filing under 37 CFR 1.47(b) and 35 U.S.C. 118 is permitted only when no inventor is available to make application. These provisions allow a "person" with a demonstrated proprietary interest to make application "on behalf of and as agent for" an inventor who "cannot be found or reached after diligent effort" or who refuses to sign the application oath or declaration. The word "person" has been construed by the U.S. Patent and Trademark Office to include juristic entities, such as a corporation. Where 37 CFR 1.47(a) is available, application cannot be made under 37 CFR 1.47(b).

Accordingly, since at least one joint inventor is available to make the present application, treatment under 37 CFR 47(b), or both 1.47(a) and 1.47(b), would be improper.

Regarding requirement (2), counsel has presented copies of correspondence sent to Mr. Miyasato, including a certified letter sent to him at his last known address along with a copy of the application and declaration; this parcel was returned to sender as "unclaimed," as shown by the submitted photocopy of the envelope. Petitioner has also presented a print-out of an msn White Pages search and a print-out of an Intelius "People Search Report" for Mr. Miyasato. Further, petitioner has provided copies of a letter enclosing a complete copy of the application and a declaration, and sent to three of the four additional addresses listed on the Intelius search, as well as to 841 El Mirador Drive in Fullerton, CA. However, there does not appear to be any showing that petitioner attempted to contact Mr. Miyasato at the remaining Intelius address, "40 E. CTR #207" in Anaheim, CA. Petitioner emphasizes that "the question may be more whether Miyasato can be found at all than whether he refuses to sign." In the absence of a showing of an effort to contact Mr. Miyasato at the "40 E. CTR #207" address, it remains possible that he is in fact located at that address and would be willing to sign the declaration if it were presented to him there along with a copy of the application papers. Therefore, it would not be appropriate to conclude at this time that he is unavailable within the meaning of 37 CFR 1.47(a).

Regarding requirement (4), the declaration filed on 13 July 2006 is defective because it appears to have been compiled by assembling individual sheets from multiple declaration documents. Thus, it is not clear whether each signatory executed a complete copy of the declaration.

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.

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

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

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Myers Dawes Andras & Sherman, LLP
19900 MacArthur Blvd., Suite 1150
Irvine, CA 92612

16 NOV 2006

In re Application of
Hawkins et al.
Application No.: 10/524,446
PCT No.: PCT/US03/03605
Int. Filing Date: 07 February 2003
Priority Date: 07 February 2003
Attorney Docket No.: AQU1.PAU.01
For: Irrigation Connectors

DECISION ON PETITION

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 31 October 2006.

DISCUSSION

In a decision mailed on 31 August 2006, the petition under 37 CFR 1.47(a) filed on 13 July 2006 was dismissed without prejudice because

> Regarding requirement (2), counsel has presented copies of correspondence sent to Mr. Miyasato, including a certified letter sent to him at his last known address along with a copy of the application and declaration; this parcel was returned to sender as "unclaimed," as shown by the submitted photocopy of the envelope. Petitioner has also presented a print-out of an msn White Pages search and a print-out of an Intelius "People Search Report" for Mr. Miyasato. Further, petitioner has provided copies of a letter enclosing a complete copy of the application and a declaration, and sent to three of the four additional addresses listed on the Intelius search, as well as to 841 El Mirador Drive in Fullerton, CA. However, there does not appear to be any showing that petitioner attempted to contact Mr. Miyasato at the remaining Intelius address, "40 E. CTR #207" in Anaheim, CA. Petitioner emphasizes that "the question may be more whether Miyasato can be found at all than whether he refuses to sign." In the absence of a showing of an effort to contact Mr. Miyasato at the "40 E. CTR #207" address, it remains possible that he is in fact located at that address and would be willing to sign the declaration if it were presented to him there along with a copy of the application papers. Therefore, it would not be appropriate to conclude at this time that he is unavailable within the meaning of 37 CFR 1.47(a).
>
> Regarding requirement (4), the declaration filed on 13 July 2006 is defective because it appears to have been compiled by assembling individual sheets from multiple declaration documents. Thus, it is not clear whether each signatory executed a complete copy of the declaration.

In response, petitioner states that "the Applicants mailed on Aug. 14, 2006 a Supplement to the Renewed Petition which included the signed declaration of inventorship and power of attorney by Wayne Miyasato, thereby rendering the consideration of the renewed petition moot on other grounds." Inspection of the paper application file and of the corresponding IFW database

record reveals that no evidence of a declaration filed on 14 August 2006 is present at this time. However, the instant renewed petition is accompanied by a declaration document nominating and executed by Stanley E. Hawkins, James A. Matlock, and Wayne Miyasato (whose signature is dated "October 20, 2006"). This declaration is in compliance with 37 CFR 1.497(a) and (b). Therefore, the petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**.

DECISION

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

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 **31 October 2006**.

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

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LAW OFFICES OF DANIEL L. DAWES
5200 WARNER BLVD.
SUITE 106
HUNTINGTON BEACH, CA 92649

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In re Application of	:	
Stanley E. Hawkins, et al.	:	
Application No. 10/524,446	:	DECISION ON PETITION
Filed: February 11, 2005	:	TO WITHDRAW
Attorney Docket No. AQU1.PAU.01 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 August 29, 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 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: STANLEY E. HAWKINS
3301 EAST DOUGLAS AVENUE
VISALIA, CA 93292

02 AUG 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

#3

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Charles Berman
GREENBERG TRAURIG, LLP
2450 Colorado Avenue, Suite 400E
Santa Monica, CA 90404

In re Application of: DALSTRA, Joop U.S. Application No.: 10/524,454 PCT No.: PCT/NL03/00547 International Filing Date: 30 July 2003 Priority Date: 30 July 2002 Attorney's Docket No.: 72998-012400 For: ANALYTICAL SYSTEM AND METHOD FOR MEASURING AND CONTROLLING A PRODUCTION PROCESS	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 10 February 2005 in the above-captioned application is hereby **GRANTED** as follows:

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

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

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the issuance of a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date.

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

02 MAY 2005

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DEL S. CHRISTENSEN
SHELL OIL COMPANY
INTELLECTUAL PROPERTY
ONE SHELL PLAZA
P.O. BOX 2463
HOUSTON, TX 77252-2463

In re Application of LOHBECK Serial No.: 10/524,463 PCT App. No.: PCT/EP03/08843 Int'l Filing Date: 08 August 2003 Priority Date: 08 August 2002 Attorney Docket No.: TS6300US For: EXPANDABLE TUBULAR ELEMENT FOR USE IN A WELLBORE	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 14 February 2005 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that the basic national fee of $300 has been provided. The required petition fee of $1500 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. Applicant's deposit account will be charged the $130 surcharge for filing the oath or declaration after the thirty month period. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 14 February 2005.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

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

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

08 DEC 2005

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Robert H. Brink
Glaxosmithkline
Corporate Intellectual Property, MAI B475
Fiver Moore Dr., P.O. Box 13398
Research Triangle Park. NC 27709-3398

In re Application of Eatherton et al. Application No.: 10/524,469 PCT No.: PCT/EP03/09221 Int. Filing Date: 19 August 2003 Priority Date: 21 August 2002 Attorney's Docket No.:P33098USW For: PYRIMIDINES COMPOUNDS	DECISION ON REQUEST UNDER 37 CFR 1.42

This is a decision on the papers filed 23 August 2005 which are being treated as a request under 37 CFR 1.42.

BACKGROUND

On 19 August 2003, applicants filed international application PCT/EP03/09221, which claimed priority of an earlier British applications, the earliest of which was filed 21 August 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 04 March 2004. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 21 February 2005.

On 14 February 2005, 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).

On 08 August 2005, the United States Patent and Trademark Office in its capacity as an Elected Office mailed the "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) indicating that applicant was required to file an oath/declaration and a surcharge fee. The notification set a two-month time period in which to respond.

On 23 August 2005, applicants filed the current response which included an executed declaration for inventors Eatherton, Giblin, Mitchell, Naylor, Rawlings, Slingsby, Whittington, and Doughty as executor for Richard Howard Green.

DISCUSSION

Applicant's declarations are being treated as a request under 37 CFR 1.42.

With respect to applicants' declarations in the current application, 37 CFR 1.42 states, in part:

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

37 CFR 1.497 states, in part:

> (a) When an applicant of an international application desires to enter the national stage under 35U.S.C. 371 pursuant to 1.494 or 1.495, he or she must file an oath or declaration that:
> (1) Is executed in accordance with either 1.66 or 1.68;
> (2) Identifies the specification to which it is directed;
> (3) Identifies each inventor and the country of citizenship of each inventor; and
> (4) States that the person making the oath or declaration believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought.
> (b) (1) The oath or declaration must be made by all of the actual inventors except as provided for in 1.42, 1.43 or 1.47.
> (2) If the person making the oath or declaration is not the inventor, the oath or declaration shall state the relationship of the person to the inventor, the facts required by 1.42, 1.43 or 1.47, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.

The declarations filed 23 August 2005 appear to identify the citizenship, residence and mailing address of the named executor (Jennifer Doughty), but fail to properly identify the citizenship, residence and mailing address of the deceased inventor (Richard Green). Accordingly, the declaration is not acceptable under 37 CFR 1.497.

CONCLUSION

Applicants' request under 37 CFR 1.42 is **DISMISSED** without prejudice.

If reconsideration of this decision is desired, a proper response, i.e., a declaration in compliance with 37 CFR 1.497(a)-(b), must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.42". Extensions of time may be obtained under 37 CFR 1.136(a). **FAILURE TO RESPOND WITH RESULT IN ABANDONMENT OF THE APPLICATION.**

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

Debra Brittingham
PCT Special Programs Examiner
Office of PCT Legal Administration

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

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

02 MAR 2006

#8

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Robert H. Brink
Glaxosmithkline
Corporate Intellectual Property, MAIB475
Five Moore Dr., P.O. Box 13398
Research Triangle Park, NC 27709-3398

In re Application of EATHERTON, et al. Application No.: 10/524,469 PCT No.: PCT/EP03/09221 Int. Filing Date: 19 August 2003 Priority Date: 21 August 2002 Attorney Docket No.: P33098USW For: PYRIMIDINE COMPOUNDS	DECISION ON PAPERS UNDER 37 CFR 1.42

This decision is in response to applicants' "Renewed Submission under 37 CFR 1.42" filed 28 February 2006. No petition fee is required.

BACKGROUND

On 19 August 2003, applicants filed the above-identified international application which claimed a priority date of 21 August 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 04 March 2004. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, 21 February 2005.

On 14 February 2005, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a copy of the international application, and a preliminary amendment

On 08 August 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 23 August 2005, applicants filed an executed declaration/power of attorney which was treated as a request under 37 CFR 1.42. In a decision dated 08 December 2005, applicants' request under 37 CFR 1.42 was refused.

On 28 February 2006, applicants filed "Renewed Submission under 37 CFR 1.42."

DISCUSSION

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

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

The declaration filed on 28 February 2006 is executed by Jennifer Margaret Doughty as the "legal representatives" of the deceased inventor, Richard Howard Green. The declaration is acceptable under 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b). Accordingly, the requirements for entry into national stage under 35 U.S.C. 371(c) were completed as of 28 February 2006.

CONCLUSION

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

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

Anthony Smith

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

#6

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18 JAN 2006

GLAXOSMITHKLINE
CORPORATE INTELLECTUAL PROPERTY, MAI B475
FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK NC 27709-3398

In re Application of	:	
EATHERTON, Andrew John et al.	:	
Application No.: 10/524,470	:	DECISION ON
PCT No.: PCT/EP03/09217	:	
Int. Filing Date: 19 August 2003	:	PETITION
Priority Date: 21 August 2002	:	
Attorney Docket No.: P33099USW	:	UNDER 37 CFR 1.42
For: PYRIMIDINE DERIVATIVES AND	:	
THEIR USE AS CB2 MODULATORS	:	

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 Richard Howard Green is deceased. Applicants' submission has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 19 August 2003, applicants filed international application PCT/EP03/09217, which claimed a priority date of 21 August 2002. A copy of the international application was transmitted to the Office by the International Bureau on 04 March 2004. The deadline for entry into the national stage in the United States was 21 February 2005.

On 14 February 2005, 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 08 August 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 filing fee, search fee, exam fee or oath or declaration were 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, with the exception of inventor Green and the required information for the legal representative, Jennifer Doughty. 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

#8

UNITED STATES PATENT AND TRADEMARK OFFICE

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23 AUG 2006

GLAXOSMITHKLINE
CORPORATE INTELLECTUAL PROPERTY, MAI B475
FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK, NC 27709-3398

In re Application of	:	
EATHERTON, Andrew John et al.	:	
Application No.: 10/524,470	:	DECISION ON
PCT No.: PCT/EP03/09217	:	
Int. Filing Date: 19 August 2003	:	PETITION
Priority Date: 21 August 2002	:	
Attorney Docket No.: P33099USW	:	UNDER 37 CFR 1.42
For: PYRIMIDINE DERIVATIVES AND	:	
THEIR USE AS CB2 MODULATORS	:	

This is a decision on applicants' renewed request for status under 37 CFR 1.42, filed in the United States Patent and Trademark Office on 28 February 2006.

BACKGROUND

On 18 January 2006, the Office mailed decision on petition under 37 CFR 1.42, refusing applicants' request.

On 28 February 2006, applicants filed the instant renewed request under 37 CFR 1.42.

DISCUSSION

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

The declaration is signed by an executor. The declaration lists the inventors and their citizenships and the legal representative and the legal representative's citizenship, residence and postal address. The declaration satisfies 37 CFR 1.497(a)-(b) and 37 CFR 1.42.

CONCLUSION

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

This application is being forwarded the National Stage Processing Branch of the PCT Operations for further processing consistent with this decision. The application has a 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) date of 28 February 2006.

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 : 6/15/06

TO SPE OF : ART UNIT 2855

SUBJECT : Request for Certificate of Correction on Patent No.: 7017423

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

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

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

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

Comments:

SPE

2855
Art Unit

PTO/SB/44 (04-05)
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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.	:	7,017,423
APPLICATION NO.	:	10/524,474
ISSUE DATE	:	March 28, 2006
INVENTOR(S)	:	Sylvain Calloch, David Dureisseix, Gilles Arnold, and Inaki Zudaire Rovira

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

Col. 1, line 14, delete "This application is a 371 of PCT/FR03/02515."
Col. 2, line 33, "shafts" should read --shaft--.
Col. 7, line 22, "applies for example" should read --applies, for example,--.
Col. 7, line 25, "implemented-in" should read --implemented in--.
Col. 7, line 30, "apparatus-of" should read --apparatus of--.
Col. 8, line 30, "axes, comprise" should read --axes comprise--.
Col. 15, line 62, "points" should read --point--.
Col. 15, line 62, "is secured" should read --are secured--.
Col. 17, line 25, "are identical" should read --is identical--.
Col. 19, line 3, "jaw 48 shown" should read --jaw 48, shown--.
Col. 24, line 34, "testpieces 1 in" should read --testpieces 1 is in--.
Col. 25, line 27, "testpieces 1 is" should read --testpieces 1, is--.
Col. 26, line 7, "zones the" should read --zones, the--.
Col. 26, line 29, delete "(1)".
Col. 27, line 3, "by plurality" should read --by a plurality--.
Col. 27, line 53, "zones the" should read --zones, the--.
Col. 28, line 23, "position" should read --positions--.
Col. 28, line 41, "of pair" should read --of the pair--.
Col. 30, line 1, "some of plurality" should read --some of the plurality--.
Col. 30, line 64, "claim" should read --claims--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
April M. Capati
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090

MAY 30 2006

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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA, GA 30309

COPY MAILED
MAR 19 2010

In re Application of Mitsuru Shinagawa, et al. Application No. 10/524,485 Filed: February 14, 2005 Attorney Docket No. 44471/312241	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 March 17, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 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 regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2617 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

---

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

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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA, GA 30309

MAILED

MAR 25 2010

OFFICE OF PETITIONS

In re Application of	:	
Mitsuru Shinagawa, et al.	:	
Application No. 10/524,485	:	DECISION GRANTING PETITION
Filed: February 14, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 44471/312241	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 17, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 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 regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2617 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

---

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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,486	11/17/2005	Stefan Laufer	264821US0PCT	6298

22850 7590 04/18/2008
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
MORRIS, PATRICIA L

ART UNIT	PAPER NUMBER
1625	

NOTIFICATION DATE	DELIVERY MODE
04/18/2008	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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APR 1 8 2008

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

In re Application of:
Stefan Laufer et al.
Serial No.: 10/524,486
Filed: February 14, 2005
Attorney Docket No.: 264821US0PCT

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.181, filed April 1, 2008, requesting that the Advisory Action mailed March 14, 2008, which refuses entry of the claim amendments filed under 37 CFR 1.116 after final Office action on February 26, 2008, be entered.

BACKGROUND

More recently, applicants submitted an amendment after final Office action on February 26, 2008 filed under 37 C.F.R. 1.116. In this amendment, applicants proposed the following amendments to the claims:

- Claim 16, part (b), replacing 'NR^7COR^8' with '$\underline{NR^7COR^{10}}$'
- Claim 16, the addition of the phrase '<u>or, if R^3 is NR^7COR^{10}, is R^8</u>' (last line of page 2)
- Claim 25, replacing the phrase 'Het is a 5- or 6-membered aromatic heterocycle...' with 'Het is a 5- or 6-membered <u>non-</u>aromatic heterocycle...'

In response to applicants' amendment filed after final Office action on February 26, 2008, the examiner mailed an Advisory Action on March 14, 2008. In this Advisory Action, the examiner indicated that the amendments filed after final Office action on February 26, 2008 would not be entered because they would raise new issues that would require further consideration and/or search, they would raise the issue of new matter and they were not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal (PTOL-303). As an addendum to these indications, the examiner explained that the request for reconsideration had been considered but did not place the application in condition for allowance because:

...the amendment is NON-RESPONSIVE to the final rejection because it FAILS to address any of the rejections. Applicants continue to fail to present a claim to the elected method. Further, applicants have added new matter to the claims which require further consideration. No support can be found for the newly added proviso clause.

In response thereto, applicants filed this petition on April 1, 2008 under 37 CFR § 1.181, requesting entrance of the claim amendments filed after final Office action on February 26, 2008.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition filed on April 1, 2008, applicants argue that the amendment filed under 37 C.F.R. 1.116 on February 26, 2008 should be entered because the amendments to the claims made therein were sought merely to:

A) correct the 'inadvertent omission in the definition of R^{10}' in claim 16; that is, to amend NR^7COR^8 to read 'NR^7COR^{10}', wherein NR^7COR^{10} was previously cited in claim 2 (now cancelled),
B) correct the inadvertent omission of 'non' prior to the term 'aromatic' in claim 25 which applicants argue was originally present in claim 2, and
C) add the inadvertently omitted proviso "if R^3 is NR^7COR^{10}, R^{10} is R^8" which, as applicants argue, was originally present in claim 2. It is noted here that while applicants state in the petition that the amendment to claim 16 incorporates the proviso "if R^3 is NR^7COR^{10}, R^{10} is R^8' the actual proviso proposed by applicants is "'if R^3 is NR^7COR^{10},is R^8" and such was cited in claim 2 (now cancelled).

Prosecution after final rejection is governed by 37 C.F.R.§ 1.116 which states, in part:

(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;
(2) An amendment presenting rejected claims in better form for consideration on appeal may be admitted; or
(3) An amendment touching the merits of the application or patent under reexamination may be admitted upon a showing of good and sufficient reasons why the amendment is necessary and was not earlier presented.

Applicants argue with regard to (A) above:

Had the previous amendment been fully considered by the Examiner, it would have been appropriate to reject both Claims 16 and 25 on grounds of indefiniteness under 35 U.S.C. § 112, second paragraph; and/or failure to comply with the description requirement of 35 U.S.C. § 112, first paragraph. Then, the amendment would have been responsive to such rejection(s), thereby placing the application in better form and reducing the issues for appeal. No new issues would have been raised, since the Examiner was already

> informed in the previous amendment that Applicants intended Claims 16 and 25 to be based on Claims 2 and 1, respectively.

Thus, applicants contend that at the time the final Office action was mailed on December 11, 2007, the examiner improperly overlooked that NR^7COR^8, present in claim 16, that should have been rejected under 35 U.S.C § 112, first or second paragraph. Applicants therefore assert that said amendment places the claims in better condition for appeal by obviating possible issues under 35 U.S.C MPEP § 112, first and/or second paragraph. However, such contentions by applicants are merely presumptions absent actual rejections of such by the examiner on the record. Further, with regard to this particular amendment, even if the examiner had overlooked rejectionable subject matter with regard to the recitation of NR^7COR^8, the change from 'NR^7COR^8' to 'NR^7COR^{10}' would have required further consideration on the part of the examiner because 'NR^7COR^8' was not present in claim 16 at the time the final Office action was mailed, and said change was not specifically suggested by the examiner. While applicants argue that the amendment filed on October 1, 2007 stated that claims 16-24 were 'based on Claims 2-4, 8-11, 13 and 15', this statement found on page 9 of the amendment was properly not read into the claims and subsequently not examined. Therefore, applicants' amendment of claim 16, part (b); replacing 'NR^7COR^8' with 'NR^7COR^{10}', was not made in response to any specific suggestion by the examiner and it is not determined that this change places the claims in *better* form for appeal, especially considering that this species is not under consideration for examination as it is a non-elected species (applicants elected example 54, which corresponds to wherein R^3 is the species of (a) in the claim; NR^4R^{10}).

Applicant argues with regard to (2) above:

> Nor has any issue of new matter been raised (which the Examiner never identifies), since the corrections sought to be made in Claims 16 and 25 find bases in Claims 2 and 1, respectively. The so-called proviso can be found in original Claim 2, at page 102, lines 3-6 of the application

However, the examiner's statement "applicants have added new matter to the claims which require further consideration. No support can be found for the newly added proviso clause" indicates that the examiner could not find support for the newly added proviso "if R^3 is NR^7COR^{10}, is R^8." Therefore, it is determined that the examiner did identify the 'issue of new matter', contrary to applicants' assertions.

Upon mailing the final Office action in an application, prosecution of the application is closed. Entry of proposed amendments to claims when brought before the examiner when prosecution is closed is limited to amendments which clearly place the claims in better form for appeal, or clearly comply with suggestions raised by the examiner or clearly overcome rejections which can be readily interpreted as allowable subject matter without further undue consideration on the part of the examiner. While language added in a claim after final rejection may have been present in a previous claim, the mere presence of that language in a previous claim does not preclude that language from being new matter. On the contrary, the placement and context of the language within the claim as a whole must be evaluated for new matter. If the examiner cannot readily

determine that the placement and context of a newly proposed limitation presented after final rejection in a claim is not new matter, it may 'raise the issue' of new matter. Raising the 'issue' of new matter is not a rejection *per se*. It is merely indicating to applicants that the proposed amendments may be new matter.

Upon thorough evaluation of the case history, it is determined that the proviso "if R^3 is NR^7COR^{10} is R^8" is not new matter as this limitation was present in claim 2 of the original claims. However, the insertion of this proviso would necessitate a new consideration by the examiner because this proviso was not present in the claims prior to the mailing of the final Office action. It is further pointed out that applicants' proposed insertion of the proviso "if R^3 is NR^7COR^{10} is R^8" in claim 16 is deemed not to place the claims in better condition for appeal, because the proviso is unclear. The proviso does not properly state the alternative in an acceptable format such as 'if A is B then C is D' and is therefore confusing.

With regard to applicants' proposed amendment to claim 25 which replaces 'aromatic' with 'non-aromatic', this change would require further consideration by the examiner because this proviso was not present in claim 25 prior to the mailing of the final Office action. Further, this amendment is not deemed to place the claim in better condition for appeal.

Thus, applicants' arguments that "[t]he Examiner is, in effect, penalizing Applicants for the Examiner's failure to raise appropriate grounds of rejection" is unsubstantiated, and no impropriety on the part of the examiner for the non-entrance of the proposed claim amendments can be found.

Applicants further argue:

> Nor is it appropriate to refuse entry of the amendment on grounds that it fails to present a claim to the elected method. In a Response to Restriction Requirement filed April 3, 2007, Applicants elected rheumatoid arthritis as a specific disease, in response to the Examiner's requirement, in the restriction requirement entered March 5, 2007, to elect a specific disease. Present Claims 36 and 37 are each dependent claims that limit the inflammatory disorder of the corresponding independent claim to rheumatoid arthritis. Thus, Claims 36 and 37 are claims directed to the elected method. However, even if such claims were not present, it is not seen how failure to present such claims is ground for refusing entry of an after-Final amendment under the present circumstances.

However, it is noted that the examiner did not refuse entry of the amendment due to the examiner's contention that "Applicants continue to fail to present a claim to the elected method" (page 2, Advisory action). This statement made by the examiner is a continuation of #11 of the Advisory action which states "The request for reconsideration has been considered but does NOT place the application in condition for allowance because:..." (emphasis on the Advisory Action form). On the contrary, the reasons for refusing entry of the proposed claim amendments are identified by #3 (a), (b) and (c) of the Advisory Action. Thus, the examiner's statement, "Applicants continue to fail to present a claim to the elected method" is deemed immaterial to the entry or non-entry of the amendment. However, it is pointed out that the examiner's statement has no basis in the MPEP because applicant need not limit their claims to the elected species in order to be responsive to an Office action (see, for example, MPEP § 803.02).

Applicants further argue:

> Nor is it appropriate to refuse entry of the amendment on grounds that it is non- responsive to the Final Rejection when the amendment states that Applicants traverse all the rejections of record for reasons stated in the to-be-filed Appeal Brief, which was filed March 4, 2008.

The examiner's statement "the amendment is NON-RESPONSIVE to the final rejection because it FAILS to address any of the rejections" (emphasis in the examiner's original remarks) is found in the continuation of #11 of the Advisory action which states "The request for reconsideration has been considered but does NOT place the application in condition for allowance because:...". Thus, this statement is immaterial to the entry/non-entry of the proposed amendments. Nevertheless, it appears that the examiner inadvertently overlooked the applicants' traversal of the outstanding rejections: In the amendment filed after final Office action on February 26, 2008, applicants specifically stated that the traversal of the rejections of record was found in the Appeal Brief and that said traversal was incorporated into the remarks by reference therein (see page 2 of the Remarks section filed concurrently with the after final amendment of February 26, 2008).

The examiner is expected to consider any relevant arguments which are present in the remarks made after final rejection if they are not solely directed toward proposed amendments which are not entered. It is clear that the examiner did not properly consider applicants' arguments through apparent inadvertent error. A cursory review of the traversal present in the Appeal Brief filed on March 4, 2008 indicates that the traversal therein does not pertain to any of the newly proposed claim amendments which were not entered; but are specifically directed toward the outstanding rejections based upon the examined, elected species and therefore should rightfully be considered.

Applicants' request to enter the proposed claim amendments filed after final Office action on February 28, 2006 is denied. However, it is decided that the Advisory Action mailed by the examiner on March 14, 2008 is incomplete because it does not specifically address applicants' traversal of the currently pending rejections.

DECISION

The petition is **GRANTED IN-PART.**

This application will be forwarded to the examiner to vacate the prior Advisory Action mailed on March 14, 2008 in order to fully consider relevant arguments made by applicants in traversal of the outstanding rejections; said traversal being found in the Appeal Brief filed on March 4, 2008. Entry or non-entry of the claim amendments proposed by applicants in the amendment filed after final Office action on February 26, 2008 is referred to the discretion of the examiner.

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

Christopher Low
Director (Acting), Technology Center 1600

DOCKET NO: 264821US0PCT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF	:
STEFAN LAUFER, ET AL.	: EXAMINER: MORRIS, P. L.
SERIAL NO: 10/524,486	:
FILED: NOVEMBER 17, 2005	: GROUP ART UNIT: 1625
FOR: 2-THIO-SUBSTITUTED IMIDAZOLE DERIVATIVES AND THEIR USE IN PHARMACEUTICS	:

PETITION UNDER 37 CFR 1.181

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

Applicants respectfully petition from the Examiner's refusal to enter, by an Advisory Action entered March 14, 2008, the amendment under 37 CFR 1.116 filed February 26, 2008.

Statement of Facts

In the above-referenced amendment under 37 CFR 1.116 (amendment), Applicants sought to amend Claims 16 and 25. Claim 16 was sought to be amended to correct an inadvertent omission in the definition of R^{10}. In the previous amendment filed October 1, 2007 (previous amendment), it was stated that Claim 16 was based on Claim 2. Claim 2 recited, *inter alia*, that if R^3 is NR^7COR^{10}, R^{10} is R^8. Thus, this limitation was sought to be added, as well as correcting "NR^7COR^8 " to --NR^7COR^{10}--. In the previous amendment, it was stated that Claim 25 was based on Claim 1. Claim 25 was sought to be amended to correct an inadvertent error in the definition of "Het", which is a 5- or 6-membered non-

aromatic heterocycle, as supported by, for example, original Claim 1 and page 6, line 11 of the specification.

In the Advisory Action, the Examiner refuses to enter the amendment on the grounds that:

(1) it raises new issues that would require further consideration and/or search;

(2) it raises the issue of new matter; and

(3) it is not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.

In a Continuation Sheet attached to the Advisory Action, the Examiner states that the amendment is non-responsive to the Final Rejection because it fails to address any of the rejections; that Applicants continue to fail to present a claim to the elected method; that Applicants have added new matter to the claims which require further consideration; and no support can be found for the newly added proviso.

Argument

Had the previous amendment been fully considered by the Examiner, it would have been appropriate to reject both Claims 16 and 25 on grounds of indefiniteness under 35 U.S.C. § 112, second paragraph; and/or failure to comply with the description requirement of 35 U.S.C. § 112, first paragraph. Then, the amendment would have been responsive to such rejection(s), thereby placing the application in better form and reducing the issues for appeal. No new issues would have been raised, since the Examiner was already informed in the previous amendment that Applicants intended Claims 16 and 25 to be based on Claims 2 and 1, respectively. Nor has any issue of new matter been raised (which the Examiner never identifies), since the corrections sought to be made in Claims 16 and 25 find bases in Claims

2 and 1, respectively. The so-called proviso can be found in original Claim 2, at page 102, lines 3-6 of the application.

The Examiner is, in effect, penalizing Applicants for the Examiner's failure to raise appropriate grounds of rejection.

Nor is it appropriate to refuse entry of the amendment on grounds that it is non-responsive to the Final Rejection when the amendment states that Applicants traverse all the rejections of record for reasons stated in the to-be-filed Appeal Brief, which was filed March 4, 2008.

Nor is it appropriate to refuse entry of the amendment on grounds that it fails to present a claim to the elected method. In a Response to Restriction Requirement filed April 3, 2007, Applicants elected rheumatoid arthritis as a specific disease, in response to the Examiner's requirement, in the restriction requirement entered March 5, 2007, to elect a specific disease. Present Claims 36 and 37 are each dependent claims that limit the inflammatory disorder of the corresponding independent claim to rheumatoid arthritis. Thus, Claims 36 and 37 are claims directed to the elected method. However, even if such claims were not present, it is not seen how failure to present such claims is ground for refusing entry of an after-Final amendment under the present circumstances.

In addition to the reasons presented above for vacating the Examiner's refusal to enter the amendment, Applicants note that an issue has been reached on the patentability of the present invention over the prior art between the Office and Applicants. Entry of the amendment will not cause the Examiner to reconsider the prior art rejection, because the amendment does not go to the merits of the rejection but rather, as discussed above, seeks to correct inadvertent errors. Thus, administrative economy will be served by entering the amendment and permitting the appeal to move forward.

Accordingly, it is respectfully requested that the amendment be entered, and that the Appeal Brief, which presumed entry of the amendment, be acted on by the Examiner.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Norman F. Oblon

Harris A. Pitlick
Registration No. 38,779

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/07)

NFO:HAP\

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.
10/524,486	11/17/2005	Stefan Laufer	264821US0PCT	6298

22850 7590 02/09/2009
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
MORRIS, PATRICIA L

ART UNIT	PAPER NUMBER
1625	

NOTIFICATION DATE	DELIVERY MODE
02/09/2009	ELECTRONIC

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FEB 0 9 2009

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

In re Application of	:
Laufer et al	:Decision on Petition
Serial No.: 10/524,486	:
Filed : 17 November 2005	:
Attorney Docket No.: 264821PCT	:

This letter is in response to the Petition under 37 C.F.R. 1.181 filed on 7 November 2008 requesting reconsideration of the lack of unity requirement mailed 27 October 2007.

BACKGROUND

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

On 5 March 2007, the examiner set forth a lack of unity requirement which divided the claims into products and processes and required an election of species, for example, among the compounds of Example 1 or Example 28, etc. The examiner reasoned that the compounds contain a pyridine which does not define a contribution over the prior art. No prior art was cited.

On 3 April 2007, applicants elected Group I, and species of Example 54 with traverse.

On 30 May 2007, the examiner considered the traversal and maintained the lack of unity determination.

Following several rounds of prosecution, on 12 September 2008, the examiner issued a non-final Office action in which claims 16-38 were pending. On the form PTOL-326, the examiner accounted for the claims as follows:

Claims 16-38 are pending.
Claim 16, 24, 27, 34 and 36 are rejected.
Claims 17-23, 25-33, 35 and 38 are objected to.

In the body of the Office action, the examiner accounted for the claims as follows:

> Claims 24, 34, 36 and 37 are rejected under 35 U.S.C. 112 1st paragraph for lack of enablement.
> Claim 16 is rejected under 35 U.S.C 112 2nd paragraph for indefiniteness.
> Claim 17-23 were objected to for being dependent upon a rejected base claim, but would be allowable if re-written in independent form including all limitations of the base claim and any intervening claims.
> Claim 25 is objected to as containing non-elected subject matter.
> Claims 26-33, 35 and 38 if presented in independent form or made dependent upon an allowable claim would appear to be allowable.

The examiner states that "this application has been examined to the extent readable on the elected compound wherein R10 represents a tetrahydropyran and nonheterocyclic groups, B represents nonheterocyclic groups and R1-R7 A and m as set forth in claim 1, exclusively. Claim 25 and those dependent thereon all embrace additional heterocycles. Claims 24 and 34 has (sic, have) been examined to the extent readable on the treatment of rheumatoid arthritis since applicant (sic, text missing)."

On 7 November 2008, applicants filed this petition.

On 12 January 2009, applicants filed a response to the Office action.

DISCUSSION

The file history and petition have been considered carefully.

Before turning to the merits of the petition, it is noted that the status of the claims in Office action mailed 12 September 2008 is inconsistent and incomplete in the PTOL 326 form and body of the Office action. Claims 27 is listed as rejected on the PTOL-326, while the body of the Office action does not include any rejection for Claim 27. Pending Claim 37 is left out of the accounting in the PTOL-326.

The petition requests examination of a second or subsequent species of Claim 25. Claim 25 is written in Markush format. MPEP 803.02 provides the following guidance on the examination of Markush claims:

> If on examination the elected species is found to be anticipated or rendered obvious by prior art, the Markush-type claim and claims to the elected species shall be rejected, and claims to the nonelected species would be held withdrawn from further consideration. A second action on the rejected claims can be made final unless the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the

claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p). See MPEP § 706.07(a).

On the other hand, should the examiner determine that the elected species is allowable, the examination of the Markush-type claim will be extended. If prior art is then found that anticipates or renders obvious the Markush-type claim with respect to a nonelected species, the Markush-type claim shall be rejected and claims to the nonelected species held withdrawn from further consideration. The prior art search, however, will not be extended unnecessarily to cover all nonelected species. Should applicant, in response to this rejection of the Markush-type claim, overcome the rejection, as by amending the Markush-type claim to exclude the species anticipated or rendered obvious by the prior art, the amended Markush-type claim will be reexamined. The examination will be extended to the extent necessary to determine patentability of the Markush-type claim.

At present, there is no rejection pending on claim 25, nor is claim 25 indicated as allowable. For this reason, the Office action mailed 12 September 2008 is incomplete and will be vacated.

DECISION

The petition filed under 37 CFR 1.144 on 23 January 2009 is **GRANTED**.

The restriction requirement between the product of Group I and process of Group II has been withdrawn in view of the fact that since the Office action dated 30 May 2007, the examiner has examined the process of Group II along with the elected product.

The Office action mailed 12 September 2008 is vacated as incomplete because it did not correctly or consistently account for the status of claims and because it was incomplete for not rejecting Claim 25 or indicate allowability of Claim 25.

The application will be forwarded to the examiner to consider the papers filed 12 January 2009 and to prepare a new non-final Office action on the pending claims consistent with this petition decision and with the guidance of MPEP 803.02.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-272-8300.

Remy Yucel
Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/24/09

TO SPE OF : ART UNIT 3617

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/524,499 Patent No.: 7,314,014

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
Palm Location 7580

Should the changes be made **Valerie Jackson** **Certificates of Correction Branch**

703-756-1573

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

SPE

3617
Art Unit

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

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

COPY MAILED

MAR 3 1 2008

In re Application of	:	
TOUW, Ivo P. et al.	:	
Application No. 10/524,507	:	DECISION ON PETITION
Filed: September 29, 2005	:	TO WITHDRAW
Attorney Docket No. **3691-050510**	:	FROM RECORD
	:	

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

The request is **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 Kirk Miles on behalf of all attorneys of record who are associated with customer No. 28289. All attorneys/agents associated with the Customer Number 28289 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: **IVO P. TOUW**
LARIKSLAAN 156
3053 LE ROTTERDAM
THE NETHERLANDS

cc: **BARBARA E. JOHNSON**
ATTORNEY AT LAW
555 GRANT STREET – SUITE 323
PITTSBURGH, PA 15219

11 JUN 2007

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Michael L Goldman
Nixon Peabody
Clinton Square
PO Box 31051
Rochester NY 14603

In re Application of	:	
BELFORT et al.	:	
Application No.: 10/524,509	:	DECISION
PCT No.: PCT/US03/25248	:	
Int. Filing Date: 13 August 2003	:	
Priority Date: 14 August 2002	:	
Attorney Docket No.: 18001/5054	:	
For: IMPRINTING A SUBSTRATE FOR	:	
SEPARATION OF A TARGET MOLECULE FROM	:	
A FLUID MEDIUM	:	

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 11 January 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 13 August 2003, applicants filed international application PCT/US03/25248, which designated the United States and claimed a priority date of 14 August 2002. A copy of the international application was communicated from the International Bureau to the USPTO on 26 February 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 14 February 2005.

On 14 February 2005, 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, the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date, and an assertion of small entity status.

On 09 June 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.

On 11 January 2006, applicants filed the instant petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, a petition/fee for a five-month extension

of time, and a statement of Elizabeth LaBarge in support of the 37 CFR 1.47(a) petition.

On 09 March 2007, the DO/EO/US mailed a NOTICE OF ACCEPTANCE OF APPLICATION (Form PCT/DO/EO/903) according the application a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of 11 January 2006.

DISCUSSION

Petition Under 37 CFR 1.47(a)

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

Items (1), (3), and (4) have been met.

Item (2) has not been met. The declaration of Elizabeth LaBarge has been considered. It is alleged that the non-signing inventor Mina Han cannot be found. The letter from DHL dated 23 December 2005 states that DHL was "unable to complete delivery of your shipment [] because additional information is required." It is not clear from the declaration of Elizabeth LaBarge whether she ever contacted DHL to inquire as to what additional information DHL required. Additionally, it does not appear that an internet search using a people locator service has been made. Further, perhaps the university of Mina Han's last known address can be contacted to determine whether she is still at the university and, if not, to determine whether the university has any forwarding address.

Notice of Acceptance mailed 09 March 2007

For the reasons set forth above, 35 U.S.C. 371(c)(4) has not been met. Accordingly, the NOTICE OF ACCEPTANCE OF APPLICATION mailed 09 March 2007 is hereby VACATED.

CONCLUSION

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

For the above reasons, the NOTICE OF ACCEPTANCE OF APPLICATION mailed 09 March 2007 is hereby VACATED.

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

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

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

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.
10/524,514	03/28/2005	Hiroyuki Morioka	0112857-426	6174

29175 7590 01/24/2008
BELL, BOYD & LLOYD, LLP
P. O. BOX 1135
CHICAGO, IL 60690

EXAMINER
WARTALOWICZ, PAUL A

ART UNIT	PAPER NUMBER
1793	

MAIL DATE	DELIVERY MODE
01/24/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,514	03/28/2005	Hiroyuki Morioka	0112857-426	6174

7590 01/25/2008
BELL, BOYD & LLOYD, LLP
P. O. BOX 1135
CHICAGO, IL 60690

EXAMINER
WARTALOWICZ, PAUL A

ART UNIT	PAPER NUMBER
1793	

MAIL DATE	DELIVERY MODE
01/25/2008	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.

Patent Publication Branch
Office of Data Management

Refund Ref:
01/25/2008 RCLEMONS 0000160919

CHECK Refund Total: $2350.00

Refund Ref:
01/25/2008 RCLEMONS 0000160920

CHECK Refund Total: $130.00

FORM PET651G (Rev. 08/07)

Adjustment date: 01/25/2008 RCLEMONS
07726/2005 VWALLACE 00000008 10524514
01 FC:1642 -400.00 OP

Adjustment date: 01/25/2008 RCLEMONS
03731/2005 MKAYPAGH 00000018 10524514
04 FC:1647 -1450.00 OP
03 FC:1683 -200.00 OP

Adjustment date: 01/25/2008 RCLEMONS
02722/2005 MKAYPAGH 00000080 10524514
01 FC:1631 -300.00 OP

Notice of Abandonment	Application No.	Applicant(s)	
	10/524,514	MORIOKA ET AL.	
	Examiner	Art Unit	
	Wartalowicz, Paul A	1793	

-- 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.

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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19 JAN 2006

T. Daniel Christenbury
IP Group of Piper Rudnick, LLP
1650 Market Street
Suite 4900
Philadelphia, PA 19103

In re Application of	:	
MORIMOTO, et al.	:	
Application No.: 10/524,517	:	DECISION ON PETITION
PCT No.: PCT/JP03/11204	:	
Int. Filing Date: 02 September 2003	:	UNDER 37 CFR 1.181
Priority Date: 05 September 2002	:	
For: PROCESS FOR PRODUCING OXYCARBONYL	:	
SUBSTITUTED PIPERAZINE DERIVATIVE	:	

This decision is in response to applicant's "Request For Filing Receipt/Notice of Acceptance" filed 26 September 2005 and again on 12 January 2006 in the United States Patent and Trademark Office (USPTO). The request is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 02 September 2003, applicant filed international application PCT/JP03/11204. The thirty-month period for paying the basic national fee in the United States expired at midnight on 05 March 2005.

On 11 February 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the international application; an executed combined declaration and power of attorney; a preliminary amendment and an Application Data Sheet.

On 09 August 2005, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. In addition, applicant was notified of the need to provide a surcharge of $130.00 for filing the oath or declaration later than the appropriate 20 or 30 months from the earliest priority date. (37 CFR 1.492(e). Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 26 September 2005, applicant filed the present petition accompanied by a copy of the filed combined declaration and power of attorney, a stamped postcard receipt and a copy of the U.S. Express Mail label.

DISCUSSION

A review of the application file finds the original combined declaration and power of attorney contained therein. The paper is stamped "DT07 Rec'd PCT/PTO 11 FEB 2005." Thus it is clear that applicant included the executed declaration at the time of filing and there is no need to accept the copy presently provided. As such, applicant's petition under 37 CFR 1.181 is dismissed as moot. Further examination 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 11 February 2005.

CONCLUSION

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

The application will be given an international filing date of 02 September 2003 under 35 U.S.C. 363 and a date of **11 February 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The "Notification of Missing Requirements" (Form PCT/DO/EO/905) mailed 09 August 2005 is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision, namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) indicating a 371 date as detailed above.

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

12 SEP 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

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

In re Application of	:	
PETER TIEMANN	:	DECISION
Application No.: 10/524,523	:	
PCT No.: PCT/EP03/08548	:	ON PETITION UNDER
Int. Filing Date: 01 August 2003	:	
Priority Date: 16 August 2002	:	37 CFR 1.43
Attorney's Docket No.: 2002P00241WOUS	:	
For: GAS TURBINE COMBUSTION CHAMBER:		

This decision is in response to applicants' "Petition under 37 CFR 1.43" filed in the United States Patent and Trademark Office (USPTO) on 11 February 2005.

BACKGROUND

On 01 August 2003, applicants filed international application PCT/EP03/08548, which claimed a priority date of 16 August 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 18 March 2004.

On 11 February 2005, 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 , a declaration executed by Iris Otlmanns on behalf of herself and as legal representative for inventor Peter Tiemann and a petition under 37 CFR 1.43.

DISCUSSION

The oath or declaration for entry into the national stage in the United States must comply with 37 CFR 1.497(a)-(b). The 11 February 2005 petition indicates that Peter Tiemann is legally incapacitated and that Iris Oltmanns has been appointed his legal representative. Under 37 CFR 1.43, in the event of legal incapacitation of an inventor, "the legal representative ... of such inventor may make the necessary oath or declaration, and apply for and obtain the patent." The 11 February 2005 declaration identifies Iris Oltmanns as the Legal Representative and provides her residence, citizenship and address in addition to Mr. Tiemann's residence, citizenship and address. The 11 February 2005 declaration complies with 37 CFR 1.497(a)-(b).

CONCLUSION

Applicants' request for status under 37 CFR 1.43 is **GRANTED**.

The application has an international filing date of 01 August 2005 under 35 U.S.C. §363 and a date of 11 February 2005 under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4).

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

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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#6

30 JAN 2006

RatnerPrestia
P. O. Box 980
Valley Forge, PA 19482-0980

In re Application of
ROLL, Georg
U.S. Application No. 10/524,552
PCT No.: PCT/EP03/08303
Int. Filing Date: 28 July 2003
Priority Date: 13 August 2002
Attorney Docket No.: PC10500US
For: METHOD FOR ACTUATING AN ELECTROMECHANICAL PARKING BRAKE DEVICE

DECISION ON REQUEST

This decision is issued in response to applicant's "Petition under 37 CFR 1.497(d)" filed 07 October 2005. The petition fee has been submitted.

BACKGROUND

On 28 July 2003, applicant filed international application PCT/EP03/08303 which claimed a priority date of 13 August 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 18 March 2004. The international application named Georg Roll as applicant/inventor. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, 13 March 2005.

On 11 February 2005, applicant filed a transmittal letter for entry into the national stage accompanied by, *inter alia:* the requisite basic national fee; an English translation of the international application; and a preliminary amendment.

On 08 August 2005, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond

On 07 October 2005, applicant filed a Petition under 37 CFR 1.497(d) and a declaration executed by: Georg Roll and Christof Maron as joint-inventors.

DISCUSSION

In the instant case, the international application named Georg Roll as applicant/inventor. Applicant requests to add Christof Maron as an applicant/inventor. In

order to correct an error in naming the inventor(s) made during the international stage in the national stage, a submission under 37 CFR 1.497(d) is required.

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

Applicants have satisfied items (1) - (4).

CONCLUSION

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

A review of the application papers reveals that applicants have completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application will be given an international application filing date of 28 July 2003 and a date of **07 October 2005** under 35 U.S.C. 371.

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

Anthony Smith

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

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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15TH STREET, NW
WASHINGTON DC 20005

In re Application of	:	
SHOKAT, Kevan M. et al.	:	
Application No. 10/524,608	:	DECISION ON PETITION
Filed: March 24, 2006	:	TO WITHDRAW
Attorney Docket No. **71332.00301.UTL1**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 12, 2007.

The request is **APPROVED**.

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

The request was signed by Trevor Coddington 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: **KEVAN M. SHOKAT**
783 35TH AVENUE
SAN FRANCISCO, CA 94121-3435

cc: **KENNETH JENKINS**
12730 HIGH BLUFF DRIVE
SUITE 400
SAN DIEGO, CA 92130

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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Dickinson Wright, PLLC
1875 Eye Street, NW
Suite 1200
Washington, DC 20006

Mail Date: 04/20/2010

Applicant	: Christoph Glingener	: DECISION ON REQUEST FOR
Patent Number	: 7620326	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/524,617	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **612** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

18 MAR 2009

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

In re Application of	:	
OGATA, Koji et al.	:	
U.S. Application No.: 10/524,620	:	DECISION ON
PCT No.: PCT/JP2003/010673	:	
Int. Filing Date: 22 August 2003	:	PETITION
Priority Date: 22 August 2002	:	
Attorney Docket No.: F-8592	:	UNDER 37 CFR 1.181
For: CONTINUOUS CASTING OF	:	
MOLTEN STEEL FOR SHEET	:	
METAL	:	

This is a decision on the petition under 37 CFR 1.181, filed in the United States Patent and Trademark Office on 22 August 2008.

BACKGROUND

On 17 March 2005, applicants filed a letter entitled "Submission of Declaration". It authorized the Office to charge the surcharge for late filing of the declaration and claimed that a declaration was filed "herewith". However, the file does not include a copy of the declaration.

On 26 July 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 14 July 2006, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application went abandoned for failure to timely reply to the Notification of Missing Requirements mailed 26 July 2005.

On 02 May 2007, applicant filed a copy of an Express Mail label, a copy of a postcard receipt and a declaration of the inventors.

On 22 August 2008, applicants filed this petition under 37 CFR 1.181 to withdraw the holding of abandonment.

DISCUSSION

The petition filed by applicants on 15 May 2008 has been located in 10/524,621 and relocated to this file.

Applicants claim to have submitted a timely response to the Notification of Missing Requirements and ask that holding of abandonment be withdrawn. To withdraw the holding of abandonment, applicants must provide sufficient evidence of an earlier, timely filing with the Office and a copy of the earlier submission.

Applicants have provided a date-stamped postcard receipt identifying the above captioned application and listing a declaration. MPEP 503, states in part:

> A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.
>
> The identifying data on the postcard should be so complete as to clearly identify the item for which a receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).
>
> The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard.

The Office is in receipt of a document filed on 17 March 2005 entitled "Submission of Declaration". The postcard lists a declaration/power of attorney, but does not identify the number of pages. The postcard is insufficiently itemized to establish that papers are missing.

CONCLUSION

For the above reason, applicants' request to withdraw the holding of abandonment is **DISMISSED** without prejudice.

This application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely reply may be construed as intentional delay.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web or if mailed, should be addressed to the Mail Stop PCT, Commissioner for Patents,

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

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Phone: (571) 272-3292
Fax: (571) 273-0459

1 JUN 2009

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

In re Application of	:	
OGATA, Koji et al.	:	
U.S. Application No.: 10/524,620	:	DECISION ON
PCT No.: PCT/JP2003/010673	:	
Int. Filing Date: 22 August 2003	:	PETITION
Priority Date: 22 August 2002	:	
Attorney Docket No.: F-8592	:	UNDER 37 CFR 1.181
For: CONTINUOUS CASTING OF	:	
MOLTEN STEEL FOR SHEET	:	
METAL	:	

Applicant's Petition For Revival Under 37 CFR 1.137(b), filed in the above-captioned application on 06 April 2009 is **DISMISSED**, without prejudice.

Applicant states that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," as required by 37 CFR 1.137(b)(3). The petition fee has been paid. 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.

However, the proper reply is an oath or declaration in compliance with 37 CFR 1.497(a)-(b). On 02 May 2007, applicant furnished a declaration of the inventor. However, the declaration provided by applicant is a foreign language declaration, but it is not a USPTO form. Applicant has not provided a statement that the English text is an accurate translation of the foreign text. See 37 CFR 1.69.

A statement under 37 CFR 1.69 or a new oath or declaration in compliance with 37 CFR 1.497(a)-(b) and 1.69 is required within TWO (2) MONTHS of the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely reply may be construed as intentional delay.

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

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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14 AUG 2009

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

In re Application of OGATA, Koji et al. U.S. Application No.: 10/524,620 PCT No.: PCT/JP2003/010673 Int. Filing Date: 22 August 2003 Priority Date: 22 August 2002 Attorney Docket No.: F-8592 For: CONTINUOUS CASTING OF MOLTEN STEEL FOR SHEET METAL	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicants' renewed Petition For Revival Under 37 CFR 1.137(b), filed in the above-captioned application on 19 June 2009 is **GRANTED**.

Applicants state that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," as required by 37 CFR 1.137(b)(3). The petition fee has been paid. 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.

Applicants have now furnished a statement under 37 CFR 1.69 to accompany their declaration. The declaration complies with 37 CFR 1.497(a)-(b).

The application is being forwarded to the National Phase Processing Branch of the Office of Patent Application Processing for further action consistent with this decision. The application has a 35 USC 371(c)(1), (c)(2) and (c)(4) date of 02 May 2007.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

26 AUG 2005

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ALEXANDRIA VA 22320

In re Application of	DECISION ON
Masaru WASAKI et al	
PCT No.: PCT/JP02/10208	
Application No.: 10/524,661	
Int. Filing Date: 11 August 2003	
Priority Date: 19 August 2002	PAPERS FILED
Attorney's Docket No.: 122761	
For: COMMON MODE SIGNAL SUPPRESSING CIRCUIT AND NORMAL MODE SIGNAL SUPPRESSING CIRCUIT	UNDER 37 CFR 1.42

This is a decision on the declaration filed 11 February 2005, which has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 11 February 2005, 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 under 35 U.S.C. 371(c)(4). However, the executed declaration is signed by Hitomi WASAKI as legal representative for deceased inventor, Masaru WASAKI.

DISCUSSION

The declaration is accepted under 37 CFR 1.42 because it includes the citizenship and mailing addresses of Hitomi WASAKI(legal representative) and of deceased inventor, Masaru WASAKI. Accordingly, applicants have satisfied the requirements under 37 CFR 1.42.

Thus, the requirements under 35 USC 371(c) are satisfied.

CONCLUSION

For the above reasons, the submission of the declaration under 37 CFR 1.42 is **ACCEPTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations until commencement of national stage processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) is 11 February 2005.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 272-0459

#6

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26 JAN 2006

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK, NY 10150-5257

In re Application of PETRUNIN et al	:	
U.S. Application No.: 10/524,668	:	
PCT Application No.: PCT/US03/25125	:	
Int. Filing Date: 12 August 2003	:	
Priority Date Claimed: 13 August 2002	:	DECISION
Attorney Docket No.: 04227/100L791-US1	:	
For: DEVICES AND METHODS FOR DETECTING AMNIOTIC FLUID IN VAGINAL SECRETIONS	:	

This is in response to applicant's "Petition Under 37 CFR 1.47(b)" filed 08 December 2005.

BACKGROUND

On 12 August 2003, applicant filed international application PCT/US03/25125, which claimed priority of an earlier United States application filed 13 August 2002. The thirty-month period for paying the basic national fee in the United States expired on 13 February 2005.

On 09 February 2005, 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 August 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 08 December 2005, applicant filed the present petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(i), (2) factual proof that the inventor refuses to execute the application or cannot be reached

after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. See 37 CFR 1.47(b).

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

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 all of the inventors refuses to sign the application papers. The petition adequately shows that a bona fide attempt was made to present copies of the application papers to the inventors for signature. In particular, copies of the application papers were sent to the inventors via the Russian TNT carrier service, and proof of delivery has been provided (see affidavit of Michael Friedman and accompanying exhibits). Furthermore, petitioner has sufficiently demonstrated the inventors' refusal to sign. In particular, inventor Boris Fuks made an express written refusal to sign in an electronic mail message dated 24 December 2004. With regard to the other inventors, their failure to respond to repeated mailings illustrates a constructive refusal to cooperate. Therefore, it can be concluded with reasonable certainty that the inventors refuse to join in the application.

With regard to item (3) above, the petition states the last known addresses of the nonsigning inventors.

With regard to item (4) above, an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventors has not been provided.

With regard to item (5) above, the 37 CFR 1.47(b) applicant must prove that, as of the date the application was deposited in the Patent and Trademark Office, (A) the invention has been assigned to the applicant, or (B) the inventor has agreed in writing to assign the invention to the applicant, or (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify filing of the application. MPEP 409.03(f).

In the present case, applicant has submitted sufficient evidence that the present invention has been assigned to the 37 CFR 1.47(b) applicant, N-Dia, Inc.

With regard to item (6) above, the petition includes an adequate showing regarding the preservation of rights of the parties and/or the prevention of irreparable damage.

CONCLUSION

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

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

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

17 MAR 2006

#8

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DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK, NY 10150-5257

In re Application of FUKS et al	:	
U.S. Application No.: 10/524,668	:	
PCT Application No.: PCT/US03/25125	:	
Int. Filing Date: 12 August 2003	:	
Priority Date Claimed: 13 August 2002	:	DECISION
Attorney Docket No.: 04227/100L791-US1	:	
For: DEVICES AND METHODS FOR	:	
DETECTING AMNIOTIC FLUID IN	:	
VAGINAL SECRETIONS	:	

This is in response to applicant's "Renewed Petition Under 37 C.F.R. 1.47(b)" filed 08 March 2006.

BACKGROUND

On 12 August 2003, applicant filed international application PCT/US03/25125, which claimed priority of an earlier United States application filed 13 August 2002. The thirty-month period for paying the basic national fee in the United States expired on 13 February 2005.

On 09 February 2005, 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 August 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 08 December 2005, applicant a petition under 37 CFR 1.47(b).

On 26 January 2006, this Office mailed a decision dismissing the 08 December 2005 petition.

On 08 March 2006, applicant filed the present renewed petition under 37 CFR 1.47(b).

DISCUSSION

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

Petitioner has previously satisfied items (1), (2), (3), (5), and (6) above.

With regard to item (4) above, an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventors has been provided.

CONCLUSION

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

This application has an international filing date of 12 August 2003 and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 08 March 2006.

As set forth in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the nonsigning inventors at the last known addresses of record and will be published in the *Official Gazette*.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

17 MAR 2006

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Boris Fuks
4 Riverhust Road, Apt. 501
Billerica, MA 01821

In re Application of FUKS et al
U.S. Application No.: 10/524,668
PCT Application No.: PCT/US03/25125
Int. Filing Date: 12 August 2003
Priority Date Claimed: 13 August 2002
Attorney Docket No.: 04227/100L791-US1
For: DEVICES AND METHODS FOR DETECTING AMNIOTIC FLUID IN VAGINAL SECRETIONS

Dear Boris Fuks:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 118. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost 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

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK, NY 10150-5257
Attorney Docket No.: 04227/100L791-US1

17 MAR 2006

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Dmitrii Pertrunin
6 Stroikovskaja ul., Apartment 190
Moscow 109316
Russian Federation

In re Application of FUKS et al
U.S. Application No.: 10/524,668
PCT Application No.: PCT/US03/25125
Int. Filing Date: 12 August 2003
Priority Date Claimed: 13 August 2002
Attorney Docket No.: 04227/100L791-US1
For: DEVICES AND METHODS FOR DETECTING AMNIOTIC FLUID IN VAGINAL SECRETIONS

Dear Dmitrii Pertrunin:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 118. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost 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

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK, NY 10150-5257
Attorney Docket No.: 04227/100L791-US1

17 MAR 2006

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P.O. BOX 1450
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Yevgeny Li'ich Zaraisky
69 Ul. Udaltsova, Apartment 19
Moscow 117454
Russia

In re Application of FUKS et al
U.S. Application No.: 10/524,668
PCT Application No.: PCT/US03/25125
Int. Filing Date: 12 August 2003
Priority Date Claimed: 13 August 2002
Attorney Docket No.: 04227/100L791-US1
For: DEVICES AND METHODS FOR DETECTING AMNIOTIC FLUID IN VAGINAL SECRETIONS

Dear Yevgeny Li'ich Zaraisky:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 118. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost 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

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK, NY 10150-5257
Attorney Docket No.: 04227/100L791-US1

17 MAR 2006

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www.uspto.gov

Marina Nikolayevna Boltovskaya
50 Malaya Filevskaya ul., Apartment 88
Moscow 121433
Russian Federation

In re Application of FUKS et al
U.S. Application No.: 10/524,668
PCT Application No.: PCT/US03/25125
Int. Filing Date: 12 August 2003
Priority Date Claimed: 13 August 2002
Attorney Docket No.: 04227/100L791-US1
For: DEVICES AND METHODS FOR DETECTING AMNIOTIC FLUID IN VAGINAL SECRETIONS

Dear Marina Nikolayevna Boltovskaya:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 118. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost 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

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK, NY 10150-5257
Attorney Docket No.: 04227/100L791-US1

17 MAR 2006

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Svetlana Vladimirovna Nazimova
Borisovskii Prudii, 21-1, Apartment 98
Moscow 15211
Russia

In re Application of FUKS et al
U.S. Application No.: 10/524,668
PCT Application No.: PCT/US03/25125
Int. Filing Date: 12 August 2003
Priority Date Claimed: 13 August 2002
Attorney Docket No.: 04227/100L791-US1
For: DEVICES AND METHODS FOR DETECTING AMNIOTIC FLUID IN VAGINAL SECRETIONS

Dear Svetlana Vladimirovna Nazimova:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 118. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost 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

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK, NY 10150-5257
Attorney Docket No.: 04227/100L791-US1

17 MAR 2006

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ALEXANDRIA, VA 22313-1450
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Nelly Andronikovna Starosvetskaya
10 Grodnenskaya ul., Apt. 64
Moscow
Russian Federation

In re Application of FUKS et al
U.S. Application No.: 10/524,668
PCT Application No.: PCT/US03/25125
Int. Filing Date: 12 August 2003
Priority Date Claimed: 13 August 2002
Attorney Docket No.: 04227/100L791-US1
For: DEVICES AND METHODS FOR DETECTING AMNIOTIC FLUID IN VAGINAL SECRETIONS

Dear Nelly Andronikovna Starosvetskaya:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 118. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost 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

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK, NY 10150-5257
Attorney Docket No.: 04227/100L791-US1

17 MAR 2006

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Alexandr Konstantinov
105 Spit Brook Road, Suite 19-C
Nashua, NH 03062

In re Application of FUKS et al
U.S. Application No.: 10/524,668
PCT Application No.: PCT/US03/25125
Int. Filing Date: 12 August 2003
Priority Date Claimed: 13 August 2002
Attorney Docket No.: 04227/100L791-US1
For: DEVICES AND METHODS FOR DETECTING AMNIOTIC FLUID IN VAGINAL SECRETIONS

Dear Alexandr Konstantinov:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 118. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost 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

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK, NY 10150-5257
Attorney Docket No.: 04227/100L791-US1

17 MAR 2006

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Margarita Igorevna Marshiskaia
27 ul. Vvedenskogo, Building 2, Apartment 256
Moscow 117342
RussianFederation

In re Application of FUKS et al
U.S. Application No.: 10/524,668
PCT Application No.: PCT/US03/25125
Int. Filing Date: 12 August 2003
Priority Date Claimed: 13 August 2002
Attorney Docket No.: 04227/100L791-US1
For: DEVICES AND METHODS FOR DETECTING AMNIOTIC FLUID IN VAGINAL SECRETIONS

Dear Margarita Igorevna Marshiskaia:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 118. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost 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

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK, NY 10150-5257
Attorney Docket No.: 04227/100L791-US1

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United States Patent and Trademark Office
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John E. Vandigriff
906 Stone Circle Lane
Lewisville, TX 75056

15 NOV 2006

In re Application of	:	
BAKER	:	
Application No.: 10/524,677	:	
PCT No.: PCT/AU03/01043	:	DECISION ON PETITION
Int. Filing Date: 15 August 2003	:	
Priority Date: 15 August 2002	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: PRO101	:	
For: INTERACTIVE PROPERTY TOUR	:	

This decision is in response to applicant's "Petition to Revive Unintentionally Abandoned Application Under 37 CFR § 1.137(b)" filed 03 November 2006.

BACKGROUND

On 20 October 2006, applicant was mailed a communication and notification of abandonment.

On 03 November 2006, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required). Applicant has satisfied items 2-3. Item 4 does not apply.

As detailed in the communication mailed 20 October 2006, the present national stage application became abandoned for failure to timely respond to the Form PCT/DO/EO/905 mailed 30 August 2005 requiring an executed oath or declaration of the inventor. Applicant has presently filed a declaration executed by the sole inventor. However, the declaration is missing page one which contains the necessary language under 37 CFR 1.63 and 37 CFR 1.497(a). As such, it is not possible to grant applicant's petition to revive at this time.

CONCLUSION

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

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

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

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

#12

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Alexandria, VA 22313-1450
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24 APR 2007

John E. Vandigriff
906 Stone Circle Lane
Lewisville, TX 75056

In re Application of	:	
BAKER	:	
Application No.: 10/524,677	:	
PCT No.: PCT/AU03/01043	:	DECISION ON PETITION
Int. Filing Date: 15 August 2003	:	
Priority Date: 15 August 2002	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: PRO101	:	
For: INTERACTIVE PROPERTY TOUR	:	

The renewed petition to revive under 37 CFR 1.137(b) filed 29 January 2007 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that applicant has now provided an executed declaration of the inventor. 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 15 August 2003 under 35 U.S.C. 363 and will be given a date of **29 January 2007** 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

05 JAN 2007

#18

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John E. Vandigriff
906 Stone Circle Lane
Lewisville, Texas 75056

In re Application of	:	
BAKER, et al.	:	DECISION ON PETITION
Application No.: 10/524,677	:	
PCT No.: PCT/AU03/01043	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 15 August 2003	:	
Priority Date: 15 August 2002	:	
Atty. Docket No.: PRO101	:	
For: INTERACTIVE PROPERTY TOUR	:	

The renewed petition to revive under 37 CFR 1.137(b) filed 07 December 2006 in the above-captioned application is hereby **DISMISSED** as follows:

Applicant's presently filed papers do not contain the declaration referenced in the renewed petition. It appears to have been mistakenly left out of the filing. As such, it is not possible to grant applicant's renewed petition at this time. The annotated stamped return postcard accompanies this decision.

Applicant's renewed petition references an additional inventor who was 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; including a properly executed declaration of the inventors.

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

1 0 NOV 2008

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Alexandria, VA 22313-1450
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ALAN HODES
BEYER LAW GROUP
20450 STEVENS CREEK BLVD
SUITE 200
CUPERTINO CA 95014

In re Application of	:	
NORTON-BAKER	:	
Application No.: 10/524,677	:	
PCT No.: PCT/AU03/01043	:	DECISION ON PETITION
Int. Filing Date: 15 August 2003	:	
Priority Date: 15 August 2002	:	UNDER 37 CFR 1.497(d)
Atty. Docket No.: PRO101	:	
For: INTERACTIVE PROPERTY TOUR	:	

This decision is in response to applicant's "CORRECTION OF INVENTORSHIP 37 C.F.R. 1.497(d)(1)" filed 25 September 2008 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 24 April 2007, applicant was mailed a decision granting applicant's petition to revive pursuant to 37 CFR 1.137(b).

On 15 September 2008, applicant was mailed a "Notification of Acceptance" (Form PCT/DO/EO/903).

On 25 September 2008, applicant filed the present petition to add Marlene Norton-Baker as an inventor in the application.

DISCUSSION

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 has satisfied items (1), (2) and (4). Specifically, the inventor being added, Mrs. Marlene Norton-Baker, has signed a statement indicating that her omission from the international application was in error and without deceptive intent; applicant has provided payment of the $130.00 petition fee and filed a newly executed declaration executed by both inventors.

Regarding item (3), applicant has not included a statement from the assignee, Proactive Technologies Pty, Ltd. consenting to the addition of the inventor named in the petition, as well as, right to prosecute pursuant to 37 CFR 3.73(b).

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

1 0 NOV 2008

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P.O. Box 1450
Alexandria, VA 22313-1450
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ALAN HODES
BEYER LAW GROUP
20450 STEVENS CREEK BLVD
SUITE 200
CUPERTINO CA 95014

In re Application of	:	
NORTON-BAKER	:	
Application No.: 10/524,677	:	
PCT No.: PCT/AU03/01043	:	DECISION ON PETITION
Int. Filing Date: 15 August 2003	:	
Priority Date: 15 August 2002	:	UNDER 37 CFR 1.497(d)
Atty. Docket No.: PRO101	:	
For: INTERACTIVE PROPERTY TOUR	:	

This decision is in response to applicant's "CORRECTION OF INVENTORSHIP 37 C.F.R. 1.497(d)(1)" filed 25 September 2008 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 24 April 2007, applicant was mailed a decision granting applicant's petition to revive pursuant to 37 CFR 1.137(b).

On 15 September 2008, applicant was mailed a "Notification of Acceptance" (Form PCT/DO/EO/903).

On 25 September 2008, applicant filed the present petition to add Marlene Norton-Baker as an inventor in the application.

DISCUSSION

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 has satisfied items (1), (2) and (4). Specifically, the inventor being added, Mrs. Marlene Norton-Baker, has signed a statement indicating that her omission from the international application was in error and without deceptive intent; applicant has provided payment of the $130.00 petition fee and filed a newly executed declaration executed by both inventors.

Regarding item (3), applicant has not included a statement from the assignee, Proactive Technologies Pty, Ltd. consenting to the addition of the inventor named in the petition, as well as, right to prosecute pursuant to 37 CFR 3.73(b).

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

0 6 JAN 2009

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

ALAN HODES
BEYER LAW GROUP
20450 STEVENS CREEK BLVD
SUITE 200
CUPERTINO CA 95014

In re Application of	:	
NORTON-BAKER	:	
Application No.: 10/524,677	:	DECISION ON RENEWED
PCT No.: PCT/AU03/01043	:	
Int. Filing Date: 15 August 2003	:	PETITION UNDER
Priority Date: 15 August 2002	:	
Atty. Docket No.: PRO101	:	37 CFR 1.497(d)
For: INTERACTIVE PROPERTY TOUR	:	

This decision is in response to applicant's renewed petition under 37 CFR 1.497(d) filed 19 December 2008 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 10 November 2008, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.497(d) to add Marlene Norton-Baker as an inventor in the application. Applicant was afforded two months to file any request for reconsideration.

On 19 December 2008, applicant filed the present petition.

DISCUSSION

As detailed in the decision mailed 10 November 2008, 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), (2) and (4). With the filing of the present renewed petition and accompanying exhibits applicant has satisfied the remaining item and it is proper to grant applicant's renewed petition at this time.

CONCLUSION

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

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

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

18 APR 2006

#16

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P.O. Box 1450
Alexandria, VA 22313-1450
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Moser Patterson & Sheridan
Sedna Patent Services, LLC
595 Shrewsbury Avenue
Suite 100
Shrewsbury, New Jersey 07702

In re Application of
DEROSA, Peter
Application No.: 10/524,682
PCT No.: PCT/US03/24552
Int. Filing Date: 06 August 2003
Priority Date: 15 August 2002
Attorney Docket No.: SED-109-US
For: A SMART AUDIO GUIDE SYSTEM AND METHOD

DECISION ON PETITION UNDER 37 CFR 1.47(b)

This decision is issued in response to applicant's "Petition for Filing of Patent Application When All Inventors Refuse to Execute Papers or Cannot Be Reached any 37 CFR 1.47(b)" filed 10 February 2006, to accept the application without the signature of inventor, Peter DeRosa. The petition fee has been submitted.

BACKGROUND

On 06 August 2003, applicant filed international application PCT/US03/24552 which claimed a priority date of 15 August 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 15 February 2005.

On 15 February 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a copy of international application.

On 14 November 2005, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed. The notification set a two-month time limit in which to respond.

On 10 February 2006, applicant filed "Petition for Filing of Patent Application When All Inventors Refuse to Execute Papers or Cannot Be Reached any 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(i); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the nonsigning inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages.

A complete review of the papers filed 15 February 2006 reveals that petitioner has paid the requisite petition fee, provided sufficient proof that the non-signing inventor has refused to execute the applcation, stated the last known address of the non-signing inventor, provided an acceptable declaration, provided sufficient proof of proprietary interest, and provided a sufficient showing of preservation of right or irreparable damage. Accordingly, all of the requirements of items (1) through (6) above have been satisfied.

CONCLUSION

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

The application will be given an international filing date of 06 August 2002 under 35 U.S.C. 363, and a date of **10 February 2006** under 35 U.S.C. 371(c).

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

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

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

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

18 APR 2006

#10

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

Peter DEROSA
92 Border Road
Concord, MA 01742

In re Application of
DEROSA, Peter
Application No.: 10/524,682
PCT No.: PCT/US03/24552
Int. Filing Date: 06 August 2003
Priority Date: 15 August 2002
Attorney Docket No.: SED-109-US
For: A SMART AUDIO GUIDE SYSTEM AND METHOD

Dear Mr. DeRosa:

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

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

Anthony Smith

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

Counsel of Record:
Moser Patterson & Sheridan
Sedna Patent Services, LLC
595 Shrewsbury Avenue
Suite 100
Shrewsbury, New Jersey 07702

The sole inventor/applicant, Peter DeRosa (hereinafter "DeRosa") has refused to execute a Declaration. Enclosed herewith are Petition for the Filing of Patent Application When Sole Inventor Refuses to Execute Papers or Cannot Be Reached Under 37 C.F.R. 1.47(b), (2) Declarations of William D. McCall and Yvette Thornton in support of the Petition, and (3) Combined Declaration and Power of Attorney executed by William D. McCall, signing under 37 C.F.R. 1.47(b) as agent for and on behalf of Sedna Patent Services, LLC and as agent for DeRosa (in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date). The Commissioner is authorized to charge the $130 fee for late submission **(at the large entity rate)** to counsel's Deposit Account No. 20-0782/SEDN/PRED109. [See Petition papers for authorization to charge the Petition fee to counsel's Deposit Account No. 20-0782/SEDN/PRED109.]

If any other fees are due in connection with this response and the Petition, and during the pendency of this application, the Commissioner is authorized to charge 37 C.F.R. 1.16 and 37 C.F.R. 1.17 fees due (or credit any overpayment of fees) to Deposit Account No. 20-0782/SEDN/PRED109.

Respectfully submitted,

Eamon J. Wall, Attorney
Reg. No. 39,414
(908) 530-9404

Adjustment date: 05/01/2006 VWALLACE
02/15/2006 ATRAN1 00000051 200782 10524682
05/08/2006 VWALLACE 00000014 200782 10524682
01 FC:2617 65.00 DA

Dated: 2/7/06

PATTERSON & SHERIDAN, LLP
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702
Telephone: 732-530-9404
Fax: 732-530-9808

02/15/2006 ATRAN1 00000051 200782 10524682
01 FC:1617 130.00 DA

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

2 5 SEP 2007

Ropes & Gray LLP
Patent Docketing 39/41
One International Place
Boston, MA 02110-2624

In re Application of
HANNON et al.
Application No.: 10/524,690
PCT No.: PCT/US03/30901
Int. Filing Date: 29 September 2003
Priority Date: 27 September 2002
Attorney Docket No.:CSHL-P01-011
For: CELL-BASED RAN INTERFERENCE AND RELATED METHODS AND COMPOSITIONS

DECISION ON REQUEST

This decision is issued in response to applicants' "Communication in Response to Notification of Defective Response" filed 15 May 2007, which is being treated as a request under 37 CFR 1.497(d) to correct the inventorship of the present national stage application. The $130 petition fee will be charged to counsel's Deposit Account.

BACKGROUND

On 29 September 2003, applicants filed international application PCT/US03/30901 which claimed a priority date of 27 September 2002. The published international application identified nine applicant/inventors for the United States: Jordin Fridman; Gregory J. Hannon; Michael Hemann; Scott W. Lowe; Patrick J. Paddison; Jack Zilfou; Ross Dickens; Michelle A. Carmell; and Thomas A. Rosenquist. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 27 March 2005.

On 15 February 2005, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee; a preliminary amendment; and a copy of the international application.

On 23 February 2006, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 01 September 2006, applicants filed a declaration and a five month extension of time.

On 21 November 2006, applicants filed "Second Preliminary Amendment and Correction of Inventorship under 37 CFR 1.48(b)."

On 26 April 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration was defective because the fifth inventor (Stephen J. Elledge) was not identified on the international application.

On 15 May 2007, applicants filed the present request under 37 CFR 1.497(d) to add Stephen J. Elledge as an inventor.

DISCUSSION

The present submission seeks to correct the inventorship so as to add inventor Stephen J. Elledge to the application. 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; 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 the adding Stephen J. Elledge to the application, applicants' 15 May 2007 submission satisfies requirements (1) and (2).

Regarding item (3), applicants have submitted a document(s) entitled "Consent of Assignee to Correct Inventorship Pursuant to 37 CFR 1.497(d)(3)." This document states that the assignees consent to the addition of Stephen J. Elledge as an inventor herein. However, pursuant to 37 CFR 1.497(d)(3), the consent of the assignee must be submitted in compliance with 37 CFR 3.73(b) (see MPEP 201.03(II)(D)). Here, the statement executed by the assignee does not comply with the requirements of 37 CFR 3.73(b)(2). Specifically, the person (John Maroney and Chester Bisbee) signing the "Consent of Assignee" does not have apparent authority to act on behalf of the assignee or states that he is authorized to act on behalf of the assignee. Item (3) is therefore not satisfied.

Regarding item (4), the 01 September 2006 submission included an executed declaration. However, this declaration is not in compliance with 37 CFR 1.497. Specifically, the thirteen page document submitted by applicants appear to be a compilation of multiple copies of a six-page declaration (the filed materials include four copies of "Page 4 of 6" and four copies of "Page 5 of 6"). 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.

Additionally, the declaration is not in compliance with 37 CFR 1.497 (a)-(b) in that it gives the impression that Jack Zilfou and Stephen J. Elledge are the "fifth inventor" for the present application. Accordingly, a declaration in compliance with 37 CFR 1.497 is still required.

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

CONCLUSION

Applicants' request to add inventor Stephen J. Elledge under 37 CFR 1.497(d) is **DISMISSED** without prejudice. The inventors of record remain the inventors named on the international application.

Applicants' request under 37 CFR 1.48(b) will be held in abeyance pending the submission of a fully executed oath or declaration in compliance with 37 CFR 1.497.

Applicants must file a proper response to this decision within **TWO (2) MONTHS** from the mail date indicated above. A proper response must include a declaration in compliance with 37 CFR 1.497(a)-(b) and a written consent of assignee in compliance with 37 CFR 3.73(b). Failure to file a timely and proper response will result in abandonment of the application. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, Commissioner for Patents, P.O. Box 1450,

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

02 MAY 2008

Ropes & Gray LLP
Patent Docketing 39/41
One International Place
Boston, MA 02110-2624

In re Application of
HANNON et al.
Application No.: 10/524,690
PCT No.: PCT/US03/30901
Int. Filing Date: 29 September 2003
Priority Date: 27 September 2002
Attorney Docket No.: CSHL-P01-011
For: CELL-BASED RNA INTERFERENCE AND RELATED METHODS AND COMPOSITIONS

DECISION ON REQUEST

In a decision mailed by this Office on 25 September 2007, applicants' request to correct inventorship was dismissed without prejudice for failure to satisfy all the requirements of 37 CFR 1.497(d). Specifically, applicants had not provided the required consent of the assignee to the requested change in inventorship. The decision also indicated that the declaration filed by applicants on 01 September 2006 was defective under 37 CFR 1.497(a)-(b).

On 27 February 2008, applicants filed the renewed request under 37 CFR 1.497(d) considered herein. The submission included the consent of the assignee to the requested correct of inventorship, in the form required under 37 CFR 1.497(d)(3) and 3.73(b). Further, the declaration filed 27 February 2008 is acceptable under 37 CFR 1.497. Accordingly, applicants have now satisfied all the requirements to correct the inventorship herein.

Applicants' request to correct inventorship under 37 CFR 1.497(d) is **GRANTED**. The inventorship herein is corrected to add Stephen J. Elledge as additional inventor of record.

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 27 February 2008.

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

10 AUG 2006

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WOLF, BLOCK, SCHORR & SOLIS-COHEN LLP
1650 ARCH STREET, 22ND FLOOR
PHILADELPHIA PA 19103-2334

In re Application of:	:	
HUFNAGL, Peter, et al.	:	DECISION ON REFUND REQUEST
Application No.: 10/524,714	:	
PCT No.: PCT/EP2003/008961	:	
Int. Filing Date: 12 August 2003	:	
Priority Date: 15 August 2002	:	
Attorney Docket No.: GUL019-225663	:	
For: TELEMEDECINE SYSTEM COMPRISING A MODULAR UNIVERSAL ADAPTER	:	

This decision is issued in response to applicants' "Request For Refund" filed 02 February 2006. No petition fee is required.

BACKGROUND

On 15 February 2005, applicants filed a transmittal letter for entry into the national stage accompanied by, among other materials, payment of $600 in small entity fees and a translation of the international application into English. The transmittal letter itemized the $600 fee payment as follows: $150 as the basic national fee; $50 as the examination fee; $200 as the search fee; and $200 as the fee for inclusion of eight extra claims (over the permitted twenty).

On 24 June 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/903) requiring submission of an oath or declaration in compliance with 37 CFR 1.497, the $65 surcharge for filing the oath or declaration later than thirty months after the priority date, and $200 in additional claims fees.

On 22 August 2005, applicants filed a response to the Notification Of Missing Requirements that included an executed declaration and payment of the $65 surcharge and the $200 in additional claims fees.

On 24 January 2006, the DO/EO/US mailed a "Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt.

On 02 February 2006, applicants filed the "Request For Refund" considered herein, seeking a refund of the $200 in additional claims fees submitted on 22 August 2005 in response to the Notification Of Missing Requirements. The submission notes that this $200 fee had already been provided by applicants as part of the original $600 fee payment filed on 15 February 2005.

DISCUSSION

A review of the application file confirms that the total fee required for extra claims herein is $200 (i.e., $25 for each of the eight additional total claims included over twenty). Applicants submitted this $200 fee as part of the $600 fee payment filed on 15 February 2005. Accordingly, the requirement in the Notification Of Missing Requirements that applicants submit an additional $200 payment for extra claims was incorrect. Applicants are therefore entitled to the requested refund of the duplicative $200 fee payment filed 22 August 2005.

However, it is noted that the $600 fee payment filed by applicants on 15 February 2005 included only $50 for the examination fee. Because the USPTO did not issue an International Preliminary Examination Report (IPER) finding that all the claims herein satisfied the requirements of PCT Article 33(1)-(4), the appropriate small entity examination fee here is $100, not $50. Accordingly, applicants' present $200 refund will be offset by the additional $50 required to complete the required examination fee.

CONCLUSION

Applicants' refund request is **GRANTED** to the extent discussed herein.

Deposit Account No. 23-2820 will be credited with a refund of $150. This amount represents a refund of the duplicative $200 fee for extra claims paid 22 August 2005, reduced by the additional $50 fee payment required to complete the appropriate examination fee.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Peter Rehbein	: DECISION ON REQUEST FOR
Patent Number	: 7589290	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/524,726	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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

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

PEPPER HAMILTON LLP
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTSBURGH, PA 15219

Mail Date: 04/21/2010

Applicant	: Donald McCallum	: DECISION ON REQUEST FOR
Patent Number	: 7604205	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/524,727	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **897** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

26 MAY 2005

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

Ryan L. Willis
Taft, Stettinius & Hollister, LLP
425 Walnut Street, Suite 1800
Cincinnati, OH 45202-3957

In re Application of WHISH-WILSON, et al. U.S. Application No.: 10/524,734 PCT No.: PCT/AU03/01039 Int. Filing Date: 15 August 2003 Priority Date: 15 August 2002 Attorney Docket No.: AAR04-GN002 For: METHOD AND COMPUTER PROGRAM FOR PROVIDING VISUAL INFORMATION TO A VIEWER	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 16 February 2005 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National fee 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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Clark & Elbing LLP
101 Federal Street
Boston, MA 02110

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OFFICE OF PETITIONS

In re Application of

Tomas Ussing
Application No. 10/524,753
Filed: July 28, 2005
Attorney Docket No. 50395/002001

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 19, 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 Terri Williams at 571-272- 2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Knobbe Martens Olson & Bear LLP**
550 West C Street
Suite 1200
San Diego, CA 92101

16 AUG 2005

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#5

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F. Michael Sajovec
MYERS, BIGEL, SIBLEY & SAJOVEC, P.A.
P.O. Box 37428
Raleigh, NC 27627

In re Application of	:	
ABEL, Eric *et al*	:	
Application No.: 10/524,755	:	
PCT No.: PCT/GB03/03007	:	**DECISION**
Int. Filing Date: 10 July 2003	:	
Priority Date: 10 July 2002	:	
Attorney Docket No.: 9013-68	:	
For: COATINGS	:	

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 15 February 2005 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 has not 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 a declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee are required.

James Thomson

James Thomson
Attorney Advisor
PCT Legal Administration

Tel.: (571) 272-3302

16 AUG 2005

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314

In re Application of BURCZYK et al. Application No.: 10/524,759 PCT No.: EP02/11440 Int. Filing Date: 12 October 2002 Priority Date: 19 October 2001 Attorney Docket No.: BURC3006/FJD For: PRESSURE MEDIATOR WITH SEPARATING MEMBRANE AND METHOD FOR THE PRODUCTION THEREOF	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This decision is in response to applicants' submission filed 11 February 2005.

BACKGROUND

On 12 October 2002, applicants filed international application PCT/EP02/11440 which designated the U.S. and claimed a priority date of 19 October 2001. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 01 May 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 19 April 2004.

On 11 February 2005, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee and a petition 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 11 February 2005.

As to item (2), applicant submitted the petition fee on 11 February 2005.

As to item (3), petitioner's statement that the "the application was unintentionally abandoned" has been construed as meaning that the "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional." If this interpretation is incorrect, applicant must *immediately* notify the Office of PCT Legal Administration of such fact.

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

CONCLUSION

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

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring: an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b); the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date; an English translation of the international application as filed; and the processing fee under 37 CFR 1.492(f) for furnishing the English translation later than thirty months from the priority date.

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

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

In re Application of	:	
FORAN, et al.	:	
Application No. 10/524,767	:	DECISION ON PETITION
Filed: July 13, 2005	:	TO WITHDRAW
Attorney Docket No. 1817-0155PUS1	:	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 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, "The Foreign law firm who is the corresponding Attorneys are no longer handling this application and have instructed our firm to send everything directly to the applicants" are not appropriate since it does not meet any of the conditions set forth in 37 CFR 10.40.

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

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: Internet Payments Limited
Unit 9, Southern Cross Business Park, Bray
County Wicklow
IRELAND

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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Pearne & Gordon LLP
1801 East 9th Street
Suite 1200
Cleveland, OH 44114-3108

Mail Date: 04/20/2010

Applicant	: Luigi Panzetti	: DECISION ON REQUEST FOR
Patent Number	: 7582176	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/524,771	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1066** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

09 JUN 2006

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Commissioner for Patents
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HAHN AND MOODLEY
22616 Silver Oak Way
Cupertino, CA 95014

In re Application of BOTHA *et al* Application No.: 10/524,795 PCT No.: PCT/ZA2003/000111 Int. Filing Date: 14 August 2003 Priority Date: 16 August 2002 Attorney Docket No.: 000004.P001 For: METATHESIS CATALYST AND PROCESS	:	**DECISION**

Applicants' "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR §1.137(b)" filed on 26 April 2006 is hereby **GRANTED** as follows:

The proper reply in the form of a declaration in compliance with 37 CFR 1.497(a) and (b), the additional claim fee and surcharge fee was submitted. The petition fee has been paid. Applicants' statement 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.

Applicants also submitted a five-month extension of time and $2,160.00 fee. Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Since the extension of time submitted with the petition was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be refunded to the applicant.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 14 August 2003, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 26 April 2006.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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MAGINOT, MOORE & BECK, LLP
CHASE TOWER
111 MONUMENT CIRCLE
SUITE 3250
INDIANAPOLIS IN 46204

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SEP 25 2008

In re Application of Richard Farrar et al. Application No. 10/524,800 Filed: January 17, 2006 Attorney Docket No.: **1781-0017**	: : : : :	ON PETITION

This is a decision on the petition filed September 12, 2008 under 37 CFR 1.181 to withdraw the holding of abandonment for the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

The application was held abandoned on February 20, 2008, for failure to timely submit a timely response to the non-Final Office Action mailed November 19, 2007, which set a three month period for reply. Accordingly, a Notice of Abandonment was mailed August 1, 2008.

Petitioner asserts that a response was filed and, in support, petitioner has submitted, *inter alia*, a copy of the response said to have been filed which includes a certificate of mail date of February 19, 2008 and a post card receipt date stamped February 21, 2008 by the USPTO.

The evidence submitted corroborates a timely response to the non-Final Office Action. Accordingly, the holding of abandonment is withdrawn and the Notice of Abandonment is vacated. No petition fee Is due and none has been charged.

This matter is being referred to Technology Center 3733 for appropriate action on the amendment filed February 21, 2008, a copy of which was submitted September 12, 2008 with the instant petition.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK NY 10112-4498

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OFFICE OF PETITIONS

In re Application of	:	
Im, James S.	:	
Application No. 10/524,809	:	NOTICE
Filed: February 15, 2005	:	
Attorney Docket No. A35416-PCT-USA	:	
(070050.27)		

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Mario Kroeninger	: DECISION ON REQUEST FOR
Patent Number	: 7664587	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/524,810	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1200** 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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LILLING & LILLING PLLC
PO BOX 435
JERUSALEM 91003
ISRAEL

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OFFICE OF PETITIONS

In re Application of	:	
Amram EIZENFELD, et al	:	
Application No. 10/524,867	:	DECISION ON PETITION
Filed: February 14, 2005	:	TO WITHDRAW
Attorney Docket No. 415/14	:	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 3, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Bruce E. Lilling on behalf of the attorneys of record associated with Customer No. 24101.

The attorneys of record associated with Customer No. 24101 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: AMRAM EIZENFELD
KIBBUTZ RAMOT
MENASHE 19245
ISRAEL

cc: STRYKER GI LTD.
8 HAESHEL ST., BUSINESS AND
INDUSTRIAL PARK, P.O. BOX 3534
CAESAREA 38900
ISRAEL

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Richard P. Berg
Ladas & Parry
5670 Wilshire Boulevard
Suite 2100
Los Angeles, CA 90036-5679

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OFFICE OF PETITIONS

In re Application of	:	
Ryuichi Shimada et al.	:	
Application No. 10/524,893	:	DECISION ON PETITION
Filed: February 17, 2006	:	TO WITHDRAW
Attorney Docket No. B-5648 622443-2/MSG/LWT	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 23, 2009.

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 Lee W. Tower and all attorneys/agents associated with customer number 36716 have been revoked by the assignee of the patent application on January 21, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: International Knowledge Asset Office
P.O. Box 7206
Rancho Santa Fe, CA 92067

04 APR 2005

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Peter J. Shen
Baker Botts LLP
30 Rockefeller Plaza
New York, NY 10112

In re Application of GIACCIA et al. Application No.: 10/524,919 PCT No.: PCT/US03/06360 Int. Filing Date: 28 February 2003 Priority Date: 28 February 2002 Attorney Docket No.: 35045PCTUSA For: METHODS AND COMPOSITION FOR REGULATING ADIPOGENESIS	:	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 17 February 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicants have submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office PCT Legal Administration
Tel.: 571-272-3298
Facsimile: 571-273-0459

03 MAR 2006

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LAW OFFICE OF MORRIS E. COHEN
1122 CONEY ISLAND AVENUE
SUITE 217
BROOKLYN NY 11230

In re Application of:	:	
KOROWICKI, Robert, T.	:	DECISION ON PETITION FOR
U.S. Application No.: 10/524,924	:	REVIVAL OF ABANDONED
PCT No.: PCT/US2003/025582	:	APPLICATION UNDER
International Filing Date: 14 August 2003	:	37 CFR 1.137(b)
Priority Date: 14 August 2002	:	
Attorney's Docket No.: 4094.008.400	:	
For: PLASMA TREATED METALLIZED	:	
FILM	:	

The petition for revival under 37 CFR 1.137(b) filed 17 February 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirements of 37 CFR 1.137(b)(3).

Applicant has submitted the authorization to charge Deposit Account No. 50-1604 for all required fees (including the basic national fee), and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

It is noted that the 17 February 2005 submission included an executed declaration in compliance with 37 CFR 1.497. Deposit Account No. 50-1604 will be charged the $130 surcharge for filing the declaration later than thirty months after the priority date.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 17 February 2005.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

08 SEP 2005

#5

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Fullbright & Jaworski LLP
600 Congress Avenue
Suite 2400
Austin, Texas 78701

In re Application of
KIRN, David
Application No.: 10/524,932
PCT No.: PCT/US03/25141
Int. Filing Date: 11 August 2003
Priority Date: 12 August 2002
Attorney Docket No.: KIRN:002US
For: METHODS AND COMPOSITIONS CONCERNING POXVIRUSES AND CANCER

DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 25 August 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration along with the $65 surcharge for filing the oath or declaration after the thirty-month period is required.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 571-272-3298
Facsimile: 571-273-0459

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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11 JUN 2007

FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN TX 78701

In re Application of BARRETT et al. Application No.: 10/524,939 PCT No.: PCT/US03/25681 Int. Filing Date: 18 August 2003 Priority Date: 16 August 2002 Attorney Docket No.: UTSG:260US For: COMPOSITIONS AND METHODS RELATED TO FLAVIVIRUS ENVELOPE PROTEIN DOMAIN III ANTIGENS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This decision is in response to applicants' petition under 37 CFR 1.137(b) filed 13 September 2005 and applicants' petition under 37 CFR 1.78(a)(3) filed 20 March 2006.

BACKGROUND

On 18 August 2003, applicants filed international application PCT/US03/25681 which designated the U.S. and claimed a priority date of 16 August 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 26 February 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 16 February 2005.

On 16 February 2005, applicant filed a transmittal letter for entry into the national stage in the United States.

On 30 August 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned as to the United States of America for failing to provide the full U.S. Basic National Fee by thirty months from the priority date.

On 13 September 2005, applicants filed a petition under 37 CFR 1.137(b) which was accompanied by the U.S. Basic National Fee and an assertion of small entity status.

On 20 March 2006, applicants filed a petition under 37 CFR 1.78(a)(3).

DISCUSSION

Petition Under 37 CFR 1.137(b)

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee on 13 September 2005.

As to item (2), applicant submitted the petition fee on 13 September 2005.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

Petition Under 37 CFR 1.78(a)(3)

The instant petition seeks acceptance of a late claim for priority to a prior-filed PCT national stage application by way of an amendment to the specification, which reads: "This application is a national phase application under 35 U.S.C. § 371 of International Application No. PCT/US2003/25681 filed 18 August 2003".

As set forth in MPEP 1893.03(c), page 1800-199, a national stage application filed under 35 U.S.C. § 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the date of filing of that international application. *See also* MPEP 1893.03(b). In this regard, since the international application is not an earlier application (it has the same filing date as the national stage), a priority claim in the national stage of the international application is inappropriate. Accordingly, it is not necessary for the applicant to amend the first sentence of the specification to reference the international application number that was used to identify the application during international processing of the application by the international authorities prior to commencement of the national stage under 35 U.S.C. § 371.

In view of the above, the petition under 37 CFR 1.78(a)(3) is dismissed as involving a moot issue.

In view of the dismissal of the instant petition as moot, the $1,370 fee submitted is unnecessary and will be credited to petitioner's deposit account in due course.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

The petition under 37 CFR 1.78(a)(3) is **DISMISSED** as **MOOT** 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 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
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

Boris Milef
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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9 FEB 2006

The Firm of Karl R. Ross, P.C.
5676 Riverdale Avenue
Box 900
Bronx, New York 10471-0900

In re Application of
DE'LONGHI, Giuseppe
Application No.: 10/524,942
PCT No.: PCT/EP02/12055
Int. Filing Date: 29 October 2002
Priority Date: 09 August 2002
Atty. Docket No.: 23192
For: ELECTRICALLY POWERED OVEN, IN PARTICULAR FOR BAKING OR HEATING SLICED BREAD, AND HEATING PROCEDURE

DECISION

This decision is issued in response to applicant's "Request for Assignment of Correct Filing Date" filed on 28 March 2005.

Applicant states in the present petition that "a filing date has been assigned to this application of 18 February 2005 . . .this application should have received the filing date of 08 February 2005." Upon review of the Image File Wrapper, the present application was filed in the United States Patent and Trademark Office via United States Express Mail. In accordance with 37 CFR 1.10, the application was accorded a receipt date of 08 February 2005. Additionally, the Notification of Acceptance of Application under 35 U.S.C. 371 and 37 CFR 1.495" (Form PCT/DO/EO/903) indicated the date of receipt of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements as 08 February 2005 and a 35 U.S.C. 371 completion date of 09 February 2005. Subsequently, an Official Filing Receipt was issued indicating a "FILING DATE" of 08 February 2005. Therefore, applicant's request for the corrected filing date is dismissed as moot.

Any questions concerning this matter may be directed to the undersigned at 571-272-3298.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: 571-272-3298
Fax: 571-273-0459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/27/09

TO SPE OF : ART UNIT 3721

SUBJECT : Request for Certificate of Correction for Appl. No.: 10524943 Patent No.: 7448187 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

NATHAN J. NEWHOUSE
SUPERVISORY PATENT EXAMINER 3782

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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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	:	
De Greef et al.	:	
Application No. 10/524,968	:	DECISION ON PETITION
Filed: February 17, 2005	:	
Attorney Docket No. NL02 0769 US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 27, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely and properly reply to the final Office action mailed December 17, 2007. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on March 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 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 Joan Olszewski at (571) 272-7751.

The file is now being forwarded to Technology Center 2629 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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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	:	
Richard Albang et al.	:	
Application No. 10/524,983	:	DECISION ON PETITION
Filed: June 7, 2006	:	TO WITHDRAW
Attorney Docket No. 4662-339	:	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 **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the attorneys and/or agents associated with the firm Morrison & Foerster LLP has been revoked by the assignee of the patent application on September 22, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **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
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.
10/525,015	02/17/2005	Noboru Yamaji	Q86324	5025

65565 7590 02/25/2008
SUGHRUE-265550
2100 PENNSYLVANIA AVE. NW
WASHINGTON, DC 20037-3213

EXAMINER
KOSAR, ANDREW D

ART UNIT	PAPER NUMBER
1654	

MAIL DATE	DELIVERY MODE
02/25/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FEB 22 2008

SUGHRUE-265550
2100 PENNSYLVANIA AVE.
NW WASHINGTON, DC 20037-3213

In re Application of:
Yamaji et al.
Serial Number: 10/525,015
Filed: February 17, 2005
Attorney Docket No.: Q86324

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.181, filed January 8, 2008, requesting that the final Office action mailed November 8, 2007 be withdrawn.

BACKGROUND

More recently, the examiner mailed a non-final Office action on June 4, 2007. At the time this non-final Office action was mailed, claims 11 and 13-17 were pending in the application. The examiner rejected claims 11 and 13-17 under 35 U.S.C. 102(b) as being anticipated by Kammer et al.

In response to the non-final Office action of June 4, 2007, applicants submitted a reply on September 4, 2007 which included arguments and amendments to the claims. Amongst the claim amendments, applicants added the following new claim:

> 18. (new): A method for treating osteoarthritis, caused by articular cartilage extracellular matrix degradation, which comprises administering a therapeutically effective amount of a histone deacetylase-inhibiting compound to a patient in need thereof.

The examiner subsequently mailed a final Office action on November 8, 2007. At the time this final Office action was mailed, claims 11 and 13-18 were pending. The examiner maintained the rejection of claims 11 and 13-17 under 35 U.S.C. 102(b) as being anticipated by Kammer et al. The examiner additionally set forth a new ground of rejection, rejecting claims 11 and 13-18 under 35 U.S.C. 102(b) as being anticipated by Watkins et al. In regard to this new rejection, the examiner stated "Watkins has been introduced in response to new claim 18, and it has been determined that Watkins may be appropriately applied to claims 11 and 13-17" (see page 4, final Office action of November 8, 2007).

In response to the final Office action of November 8, 2007, applicants filed this petition under 37 CFR § 1.181 on January 8, 2008, requesting that the final Office action mailed November 8, 2007 be withdrawn.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition, applicants argue that the new rejection set forth by the examiner over claims 11 and 13-17 as being anticipated by Watkins et al. in the final Office action was premature. Applicants contend that while newly presented claim 18 contained embodiments not previously considered by the examiner, that claims 11 and 13-17 did not include these new limitations and hence assert that the rejection of claims 11 and 13-17 as being anticipated by Watkins et al. was a new rejection not necessitated by applicants' amendments to the claims. Applicants specifically argue:

> In the present case, new claim 18 was added, but claims 11 and 13-17 were not substantively amended. Claims 11 and 13-15 were not amended at all and claims 16 and 17 were amended by inserting the article "a" before "histone deacetylase -inhibiting compound" merely to correct an informality, which did not necessitate the new grounds of rejection. Despite this, the Examiner issued a Final Office Action, dated November 8, 2007, in which the Examiner set forth a new rejection against claims 11 and 13-17 based on Watkins as mentioned above. For the first time in the Final Office Action dated November 8, 2007, the Examiner cited this new reference against claims that were not substantively amended as discussed above. Thus, Applicants' amendments have not necessitated this new ground of rejection.

Applicants cite a passage from MPEP § 706.07(a) in support of their contentions; a more detailed excerpt from the passage is provided below:

> Furthermore, a second or any subsequent action on the merits in any application or patent undergoing reexamination proceedings *will not be made final if it includes a rejection, on newly cited art, other than information submitted in an information disclosure statement filed under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p), of any claim not amended by applicant or patent owner* <u>*in spite of the fact that other claims may have been amended to require newly cited art*</u>...(emphasis added)

Thus, the MPEP precisely states that in order to make a second or subsequent action final, non-amended claims must not be rejected over newly-cited prior art, even if an amended claim requires a new rejection over a newly-cited art reference, unless the newly-cited art reference was submitted in an IDS. Watkins et al. was newly cited by the examiner to reject claim 18 which contained limitations not previously considered by the examiner. In strict accordance with the MPEP, although the Watkins et al. reference is applicable to claims 11 and 13-17 under 35 U.S.C. 102(b) in addition to claim 18, the new rejection of claims 11 and 13-17 over Watkins et al. in the Office action mailed November 8, 2007 precluded the finality of said Office action.

It is thus decided that the finality of the Office action mailed by the examiner on November 8, 2007 was improper and premature because per the provisions set forth in the MPEP § 706.07(a), the rejection of claims 11 and 13-17 under 35 U.S.C. 102(b) as being anticipated by Watkins et al. was a new rejection which was not necessitated by applicants' amendments to claims 11 or 13-17.

DECISION

The petition is **GRANTED.**

This application will be forwarded to the examiner for an action not inconsistent with this decision.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Bruce Kisliuk
Director, Technology Center 1600

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Noboru YAMAJI, et al.

Appln. No.: 10/525,015

Confirmation No.: 5025

Filed: February 17, 2005

Docket No: Q86324

Group Art Unit: 1654

Examiner: Andrew D. KOSAR

For: AN AGENT FOR INHIBITING ARTICULAR CARTILAGE EXTRACELLULAR MATRIX DEGRADATION

PETITION TO WITHDRAW FINALITY
UNDER 37 C.F.R. § 1.181

ATTN: Technology Director
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant submits that the final Office Action dated November 8, 2007, improperly has been made final and thus respectfully solicits withdrawal of the finality of the Office Action.

Specifically, the Examiner has raised a new ground of rejection based on a newly cited reference. The Examiner states that the rejection is necessitated by the amendments to the claims, particularly the introduction of new claim 18. The Examiner also states that Watkins, a new reference may be appropriately applied to claims 11 and 13-17, which were <u>not</u> amended substantively. Contrarily, the MPEP § 706.07(a) states:

> a second or any subsequent action on the merits in any application or patent undergoing reexamination proceedings will <u>not</u> be made final if it includes a rejection, on newly cited art . . . of any claim not amended by applicant or patent owner in spite of the fact that other claims may have been amended to require newly cited art (emphasis added).

In the present case, new claim 18 was added, but claims 11 and 13-17 were not substantively amended. Claims 11 and 13-15 were not amended at all and claims 16 and 17 were amended by inserting the article "a" before "histone deacetylase –inhibiting compound" merely to correct an informality, which did not necessitate the new grounds of rejection. Despite this, the Examiner issued a Final Office Action, dated November 8, 2007, in which the Examiner propounded a new rejection against claims 11 and 13-17 based on Watkins as mentioned above. For the first time in the Final Office Action dated November 8, 2007, the Examiner cited this new reference against claims that were not substantively amended as discussed above. Thus, Applicants' amendments have not necessitated this new ground of rejection.

Since the Examiner applied the newly cited reference to claims not substantively amended, i.e., claims 11 and 13-17, Applicants submit that the final rejection is improper.

Further, since Applicants are limited in the action that can be taken after a final rejection as a matter of right, Applicants submit that making the rejection final is improper as a procedural matter for the reasons set forth above.

For the reasons discussed above, Applicant requests that the finality of the Office Action be withdrawn.

PETITION TO WITHDRAW FINALITY
U.S. Appln. No.: 10/525,015

Attorney Docket No.: Q86324

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

Jennifer M. Hayes
Registration No. 40,641

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860
WASHINGTON DC SUGHRUE/265550
65565
CUSTOMER NUMBER

Date: January 8, 2008

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OFFICE OF PETITIONS

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Patent No. 7,531,346	:	
Eguchi et al.	:	DECISION ON
Issue Date: May 12, 2009	:	REQUEST FOR
Application No. 10/525,022	:	RECONSIDERATION OF
Filed: October 6, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 024918-0121	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed July 8, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from three hundred and eighty-seven (387) days to six hundred and forty (640) days.

Applicant requests that the decision on this request for reconsideration of patent term adjustment be deferred or delayed until a final decision has been rendered in Wyeth v. Dudas. There is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abeyance.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On May 12, 2009, the above-identified application matured into US Patent No. 7,531,346 with a patent term adjustment of 387 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 C.F.R. § 1.705(d).

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

Patentees request recalculation of the patent term adjustment to include this 272-day period of adjustment pursuant to 37 C.F.R. § 1.703(b). Patentees maintain entitlement to a period of

adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), of 272 days and the period of adjustment due to other examination delay, pursuant to 37 CFR §§ 1.702(a)(1) and (a)(2), of 419 days.

Under 37 CFR § 1.703(f), Patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR § 1.702 reduced by the period of time equal to the period of time during which Patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR § 1.704. In other words, the period of Office delay reduced by the period of applicant delay.

The period of reduction of 32 days for applicant delay is not in dispute.

The period of 419 days for Office delay is not in dispute.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (272 days) and the period of Examination Delay (419 days) to the extent that these periods of delay are not overlapping. However, Patentees contend that 19 days of the Three Year Delay period overlaps with the period of 14-month examination delay. Accordingly, Patentees submit that the total period of adjustment for Office delay is 672 days, which is the sum of the period of Three Year Delay (272 days) and the period of Examination Delay (419 days), reduced by the period of overlap (19 days).

As such, Patentees assert entitlement to a patent term adjustment of 640 days (272 + 419 reduced by 19 overlap - 32 (applicant delay)).

The Office agrees that the application was pending 3 years and 272 days after the commencement date, as of the filing of the RCE. The Office agrees that certain actions were not taken within the specified time frames, and thus, the entry of a period of adjustment of 419 days for Office delay is correct. At issue is whether Patentees should accrue 253 days of patent term adjustment for the Office taking in excess of three years to issue the patent (272 days less the 19 days of overlap), as well as 419 days for Office failure to take certain actions within a specified time frame (or examination delay).

The Office contends that the entire 272-day period overlaps. 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 37 C.F.R. § 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.

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 6, 2005 to November 19, 2008 (the date on which the RCE was filed). 419 days of patent term adjustment were accorded prior to the filing of the RCE for the Office failing to respond within specified time frames during the pendency of the application. All of the 272 days for Office delay in issuing the patent overlap with the 419 days of Office delay. During that time, the issuance of the patent was delayed by 419 days, not 419 + (272 - 19 = 253) days. Other than the periods of Office delay pursuant to 37 C.F.R. §§ 1.702(a)(1) and (a)(2) which total 419 days, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes.

Nonetheless, given the initial 419 days of Office delay and the 32 days of applicant delay and the time allowed within the time frames for processing and examination, as of the filing of the RCE, the application was pending three years and 272 days after the commencement date. The Office did not delay 419 days and then an additional 253 days. The 272 days attributed to the delay in the issuance of the patent overlaps with the adjustment

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

of 419 days attributable to the grounds specified in 37 C.F.R. §§ 1.702(a)(1) and (a)(2). 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. 419 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 272 days over three years to the filing of the RCE.

In view thereof, no adjustment to the patent term will be made.

Telephone inquiries specific to this matter should be directed to Paul Shanoski, Senior Attorney, at (571) 272-3225.

Anthony Knight
Supervisor
Office of Petitions

1 6 NOV 2007

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49443
PEARL COHEN ZEDEK, LLP
10 Rockefeller Plaza
Suite 1001
New York, NY 10020

In re Application of	:	
DAVIDOVICH *et al*	:	
U.S. Application No.: 10/525,025	:	
PCT No.: PCT/IL2003/000686	:	
Int. Filing Date: 18 August 2003	:	**DECISION**
Priority Date: 19 August 2002	:	
Attorney's Docket No.: P-4032-US	:	
For: METHOD AND SYSTEM OF CALCULATING	:	
FOCUS ON AN ITEM	:	

This is a decision on the papers filed 24 October 2005 and 11 January 2007. No petition fee is required.

BACKGROUND

On 18 February 2005, applicant filed papers to enter the national stage of international application PCT/IL2003/000686 which were accompanied by, *inter alia*, an executed declaration and the Basic National fee.

On 14 September 2005, the DO/EO/US mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) indicating a date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements and all 35 U.S.C. 371 requirements of 18 February 2005. A filing receipt indicating a "Filing or 371(c) Date" of "02/18/2005" was also mailed.

On 24 October 2005, applicant filed a "Request for Corrected Filing Receipt."

On 11 January 2007, applicants filed a "Status Inquiry."

DISCUSSION

Petitioners claim that the above-captioned application was originally submitted on 17 February 2007, not 18 February 2007 and have requested that the filing receipt be changed to reflect this fact.

A review of the subject application indicates that the original documents are

stamped as received by the Office on 18 February 2005[1]. However, the fees are charged as received by the Office of Finance on 17 February 2005.

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicants have provided a copy of the date-stamped filing receipt for the original documents including the transmittal letter, declaration and preliminary amendment. The receipt clearly identifies the application by the name of the applicant, the title and the international application number. The postcard receipt is stamped "DT03 Rec'd PCT/PTO 17 FEB 2005" across its face.

Accordingly, applicants have provided *prima facie* evidence that the national stage application was originally filed on 17 February 2005.

CONCLUSION

Applicants' petition to correct the filing receipt is hereby **GRANTED**.

The Form PCT/DO/EO/903 and Filing Receipt mailed 14 September 2005 now contain erroneous data and are both hereby **VACATED**.

This application is being forwarded to the Office of Patent Application Processing for continued processing including mailing a corrected From PCT/DO/EO/903 and Filing Receipt indicating that the completion of all 35 U.S.C. 371 requirements of 17 February 2005.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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[1] While most documents are stamped as received on 18 February 2005, several documents are stamped as received on 17 February 2005. The transmittal letter (Form PTO-1390) appears to have been originally stamped as received on 17 February 2005 then changed by hand to 18 February 2005.

2 7 DEC 2007

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PEARL COHEN ZEDEK, LLP
1500 Broadway 12th Floor
New York, NY 10036

In re Application of	:	
DAVIDOVICH *et al*	:	
U.S. Application No.: 10/525,025	:	
PCT No.: PCT/IL2003/000686	:	
Int. Filing Date: 18 August 2003	:	**DECISION**
Priority Date: 19 August 2002	:	
Attorney's Docket No.: P-4032-US	:	
For: METHOD AND SYSTEM OF CALCULATING	:	
FOCUS ON AN ITEM	:	

This is a decision on the papers filed 24 October 2005 and 11 January 2007. No petition fee is required.

BACKGROUND

On 18 February 2005, applicant filed papers to enter the national stage of international application PCT/IL2003/000686 which were accompanied by, *inter alia*, an executed declaration and the Basic National fee.

On 14 September 2005, the DO/EO/US mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) indicating a date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements and all 35 U.S.C. 371 requirements of 18 February 2005. A filing receipt indicating a "Filing or 371(c) Date" of "02/18/2005" was also mailed.

On 24 October 2005, applicant filed a "Request for Corrected Filing Receipt."

On 11 January 2007, applicants filed a "Status Inquiry."

DISCUSSION

Petitioners claim that the above-captioned application was originally submitted on 17 February 2007, not 18 February 2007 and have requested that the filing receipt be changed to reflect this fact.

A review of the subject application indicates that the original documents are

stamped as received by the Office on 18 February 2005[1]. However, the fees are charged as received by the Office of Finance on 17 February 2005.

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicants have provided a copy of the date-stamped filing receipt for the original documents including the transmittal letter, declaration and preliminary amendment. The receipt clearly identifies the application by the name of the applicant, the title and the international application number. The postcard receipt is stamped "DT03 Rec'd PCT/PTO 17 FEB 2005" across its face.

Accordingly, applicants have provided *prima facie* evidence that the national stage application was originally filed on 17 February 2005.

CONCLUSION

Applicants' petition to correct the filing receipt is hereby **GRANTED**.

The Form PCT/DO/EO/903 and Filing Receipt mailed 14 September 2005 now contain erroneous data and are both hereby **VACATED**.

This application is being forwarded to the Office of Patent Application Processing for continued processing including mailing a corrected From PCT/DO/EO/903 and Filing Receipt indicating that the completion of all 35 U.S.C. 371 requirements of 17 February 2005.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

It is noted that this decision was originally mailed 16 November 2007 but returned as undeliverable. The correspondence address has been corrected.

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[1] While most documents are stamped as received on 18 February 2005, several documents are stamped as received on 17 February 2005. The transmittal letter (Form PTO-1390) appears to have been originally stamped as received on 17 February 2005 then changed by hand to 18 February 2005.

04 APR 2006

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Oliff & Berridge
P.O. Box 19928
Alexandria, VA 22320

In re Application of
KURIMOTO et al.
U.S. Application No. 10/525,032
PCT No.: PCT/JP02/10220
Int. Filing Date: 30 September 2002
Priority Date: 20 August 2002
Attorney Docket No.: 122778
For: RUST INHIBITOR

DECISION ON PETITION

This decision is in response to applicants' "Petition under 37 CFR 1.47(a)" filed 28 February 2006 to accept the application without the signature of joint-inventor, Kazuo Kobayashi. The petition fee has been submitted.

BACKGROUND

On 30 September 2002, applicants filed international application PCT/JP02/10220 which claimed a priority date of 20 August 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 04 March 2004. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 20 February 2005.

On 17 February 2005, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and a preliminary amendment.

On 30 August 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 28 February 2006, applicants filed the present petition under 37 CFR 1.47(a) and 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, (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 Kazuo Kobayashi has refused to sign the application. Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

A review of the present petition reveals that petitioner has not shown that a bona fide attempt was made to present the application papers (specification, claims, and drawings) to Kazuo Kobayashi. The "Declaration under 37 CFR 1.47(a)" states that a declaration was mailed to Kazuo Kobayashi on September 15, 2005 and October 11, 2005 and that he has failed to respond to the requests. However, it is unclear from the present petition and accompanying documents whether Kazuo Kobayashi has been presented with a complete copy of the application papers as required. As stated above, where a refusal of the inventor to sign the application papers is alleged, a statement of facts is needed from a person having first hand knowledge of the facts that a complete copy of the application papers (specification, claims, and drawings) were sent to Mr. Kobayashi, and when such

papers were sent. In addition, copies of documentary evidence such as a certified mail return receipt, cover letter of instruction, telegrams, etc., should be supplied with the declaration.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Kazuo Kobayashi under 37 CFR 1.47(a) at this time.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

16 JUN 2006

#8

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P.O. Box 19928
Alexandria, VA 22320

In re Application of
KURIMOTO et al.
U.S. Application No. 10/525,032
PCT No.: PCT/JP02/10220
Int. Filing Date: 30 September 2002
Priority Date: 20 August 2002
Attorney Docket No.: 122778
For: RUST INHIBITOR

DECISION ON PETITION

This decision is in response to applicants' "Renewed Petition under 37 CFR 1.47(a)" filed 31 May 2006 to accept the application without the signature of joint-inventor, Kazuo Kobayashi. The petition fee has been submitted.

BACKGROUND

On 30 September 2002, applicants filed international application PCT/JP02/10220 which claimed a priority date of 20 August 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 04 March 2004. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 20 February 2005.

On 17 February 2005, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and a preliminary amendment.

On 30 August 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 28 February 2006, applicants filed a petition under 37 CFR 1.47(a) and a four-month extension of time. In a decision dated 04 April 2006, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 31 May 2006, applicants filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17, (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.

A review of the papers filed 28 February 2006 and 31 May 2006 reveals that petitioner has paid the requisite petition fee, provided sufficient proof that non-signing inventor refused to execute the application, stated the last known address of the non-signing inventor, and provided an acceptable declaration. Accordingly, all of the requirements of items (1), (2), (3), and (4) above have been satisfied.

Accordingly, it is appropriate to accord the national stage application status under 37 CFR 1.47(a).

CONCLUSION

For the reasons above, applicants' petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record. A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is **28 February 2006**.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

United States Patent and Trademark Office

02 OCT 2006

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Alexandria, VA 22313-1450
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STEVENS DAVIS MILLER & MOSHER, LLP
1615 L STREET, NW
SUITE 850
WASHINGTON DC 20036

In re Application of	:	
Komaki	:	
Application No.: 10/525,036	:	
PCT No.: PCT/JP03/10520	:	
Int. Filing Date: 20 August 2003	:	DECISION
Priority Date: 21 August 2002	:	
Attorney Docket No.: L8612.05107	:	
For: Network Terminal Device, Address	:	
Management Server, Communication System,	:	
And Network Communication Method	:	

This is in response to the "Request For Corrected Filing Receipt" filed on 25 August 2006.

BACKGROUND

This international application was filed on 20 August 2003, claimed an earlier priority date of 21 August 2002, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 04 March 2004. The 30 month time period for paying the basic national fee in the United States expired at midnight on 21 February 2005. Applicants filed *inter alia* the basic national fee on 18 February 2005.

On 16 August 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 18 February 2005.

DISCUSSION

Counsel requests issuance of a "Corrected Filing Receipt reflecting the filing date as – February 17, 2005 – not –February 18, 2005 – so that all future correspondence will reflect the correct filing date." This request is accompanied by a copy of a return postcard receipt date stamped as received by "OIPE FEB 17 2005." However, counsel has not requested that relief be based on that postcard receipt, or otherwise made reference to it. Therefore, it would be inappropriate to grant the requested relief on the basis of the present record.

DECISION

The request is **DISMISSED**, without prejudice.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

George M. Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

14 NOV 2005

#5

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JACOBSON HOLMAN, PLLC
400 Seventh Street, NW
Suite 600
Washington, DC 20004

In re Application of:	:	
MARI, Giorgio, et al.	:	
U.S. Application No.: 10/525,044	:	DECISION ON PETITION
PCT No.: PCT/EP03/09174	:	UNDER 37 CFR 1.47(a)
International Filing Date: 19 August 2003	:	
Priority Date: 21 August 2002	:	
Attorney's Docket No.: P70417US0	:	
For: FILTER FOR THE DEPLETION OF	:	
LEUKOCYTES FROM BLOOD PRODUCTS	:	

This decision is issued in response to applicants' 01 August 2005 petition under 37 CFR 1.47(a). Applicants submitted $130 as the petition fee; the correct petition fee is $200. Deposit Account No. 06-1358 will be charged the remaining $70.

BACKGROUND

On 19 August 2003, applicants filed international application PCT/EP03/09174 which claimed a priority date of 21 August 2002 and which designated the United States. On 04 March 2004, 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., 21 February 2005.

On 18 February 2005, 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 07 July 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 was required.

On 01 August 2005, applicants filed a response to the Notification Of Missing Requirements that included a declaration executed by two of the three inventors, and the petition under 37 CFR 1.47(a) considered herein. The petition requests acceptance of the declaration without the signature of the remaining inventor, Alessandra ORI, whom applicants assert has refused to execute the present application.

DISCUSSION

A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the non-signing inventor; (3) an oath or declaration by the other inventors on behalf of themselves and the non-signing inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

The petition here was accompanied by partial payment of the petition fee, and the authorization to charge Deposit Account No. 06-1358 for additional fees, and it includes a statement of the nonsigning inventor's last known address. Items (1) and (2) are therefore satisfied.

Regarding item (3), section 409.03(a) of the Manual of Patent Examining Procedure ("MPEP") states that:

> An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, applicants have filed a declaration executed by two of the three inventors and including an unsigned signature box identifying the nonsigning inventor (Alessandra ORI). This declaration is treated as having been executed by the available inventors on their behalf and on behalf of the nonsigning inventor. Item (3) is therefore satisfied.

Regarding item (4), applicants assert 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." Applicants here have supplied a statement from Joseph G. CONTRERA, with accompanying exhibits, as evidence that the inventor has refused to sign the application. However, this statement and the attached correspondence refer only to a copy of the Declaration and Assignment forms being sent to the inventor; there is no evidence that the nonsigning inventor has been provided with a copy of the complete application, as required by the MPEP. In addition, Mr. CONTRERA is not the person who sent the attached correspondence to the nonsigning inventor and to whom the inventor's response was sent. Accordingly, applicant has not provided the required "statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made."

Based on the above, item (4) is not satisfied on the present record.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED WITHOUT PREJUDICE**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)" and must be accompanied by the materials needed to satisfy the outstanding requirement for a grantable petition, that is, firsthand evidence that the nonsigning inventor has been provided with a copy of the complete application and has refused to sign the required documents. Such evidence must be provided in compliance with MPEP § 409.03(d).

No additional petition fee is required.

Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Richard M. Ross
PCT Petitions Attorney
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

27 APR 2006

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400 Seventh Street, NW
Suite 600
Washington, DC 20004

In re Application of: MARI, Giorgio, et al.	:	
U.S. Application No.: 10/525,044	:	
PCT No.: PCT/EP03/09174	:	DECISION ON RENEWED
International Filing Date: 19 August 2003	:	PETITION UNDER
Priority Date: 21 August 2002	:	37 CFR 1.47(a)
Attorney's Docket No.: P70417US0	:	
For: FILTER FOR THE DEPLETION OF	:	
LEUKOCYTES FROM BLOOD PRODUCTS	:	

In a decision mailed 14 November 2005, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice for failure to provide all the requirements for a grantable petition under 37 CFR 1.47(a). Specifically, applicants had failed to provide the required firsthand evidence that a copy of the complete application papers and had been sent to the nonsigning inventor and that the inventor had refused to execute the application.

On 06 March 2006, applicants filed the renewed petition considered herein (with required extension fee). The renewed petition included the required showing that the nonsigning inventor has been provided with a copy of the complete application papers and has refused to execute the application. Taking these materials into consideration, applicants have now satisfied all the requirements 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 nonsigning inventor Alessandra ORI.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at the last known address set forth in the petition, and notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the PCT Operations Division for further processing in accord with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 01 August 2005.

Richard M. Ross
Attorney Advisor
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

27 APR 2006

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Alessandra ORI
Via Quattro Ville
251/1-41010 Modena
ITALY

In re Application of: MARI, Giorgio, et al.
U.S. Application No.: 10/525,044
PCT No.: PCT/EP03/09174
International Filing Date: 19 August 2003
Priority Date: 21 August 2002
Attorney's Docket No.: P70417US0
For: FILTER FOR THE DEPLETION OF LEUKOCYTES FROM BLOOD PRODUCTS

Dear Dr. ORI:

You are identified as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

Counsel of Record:
JACOBSON HOLMAN, PLLC
400 Seventh Street, NW
Suite 600
Washington, DC 20004

27 APR 2006

#7

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Chiron Corporation
Intellectual Property - R440
P.O. Box 8097
Emeryville, CA 94662-8067

In re Application of	:	
BRUCE et al.	:	
U.S. Application No.: 10/525,062	:	DECISION ON PETITION
PCT No.: PCT/US03/25879	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 20 August 2003	:	
Priority Date: 20 August 2002	:	
Attorney Docket No.: 002441.00123	:	
For: RANDOM TRANSPOSON INSERTION IN STAPHYLOCOCCUS AUREUS AND USE THEREOF TO IDENTIFY ESSENTIAL GENES	:	

This decision is issued in response to applicants' "Petition under 37 CFR 1.47(a)" filed 09 March 2006 to accept the application without the signature of joint-inventor, Kevin Hou.

BACKGROUND

On 20 August 2003, applicants filed international application PCT/US03/25879 which claimed a priority date of 20 August 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 20 February 2005.

On 18 February 2005, 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 preliminary amendment; and an information disclosure statement.

On 09 August 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 09 March 2006, applicants filed the present petition under 37 CFR 1.47(a) .

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17, (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) - (4) have been satisfied.

Regarding item (1), applicants have 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.: 19-0733.

As to Item (2), a review of the present petition and the accompanying papers reveals that applicants have satisfied item (2), in that the applicants have shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Kevin Hou. The steps taken by Michelle Couch are sufficient to show that the missing inventor, Kevin Hou, could not be reached after diligent effort.

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

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

27 APR 2006

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Kevin Hou
18123 NW Village Park Drive
Issaquah, WA 98027

In re Application of
BRUCE et al.
U.S. Application No.: 10/525,062
PCT No.: PCT/US03/25879
Int. Filing Date: 20 August 2003
Priority Date: 20 August 2002
Attorney Docket No.: 002441.00123
For: RANDOM TRANSPOSON INSERTION IN STAPHYLOCOCCUS AUREUS AND USE THEREOF TO IDENTIFY ESSENTIAL GENES

Dear Mr. Hou:

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:
Chiron Corporation
Intellectual Property - R440
P.O. Box 8097
Emeryville, CA 94662-8067

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7/20/07

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of:
KAYE, ALLAN
Serial No.: 10/525,063
Filed: Feb. 18, 2005
Docket: 540-551
Title: METHOD AND TOOL FOR FORMING A BRACKET IN COMPOSITE MATERIAL AND BRACKET

DECISION ON PETITION

This is a decision on the petition filed on Feb. 12, 2007 by which petitioner requests reconsideration and withdrawal of the restriction requirement mailed Jun. 8, 2006, and that non-elected claims 6-9 be rejoined and examined on the merits. Claims 1-5 and 10 were elected for prosecution. In addition, petitioner requests withdrawal of objections to the drawings and the specification in the non-final Office action dated Oct. 11, 2006. This petition is being considered pursuant to 37 CFR 1.144 and 37 CFR 1.181, and no fee is required.

The petition is **GRANTED-IN-PART**.

A review of the record reveals that on Jun. 8, 2006, a restriction requirement was made under 35 USC 121 and 372 between four disclosed and claimed inventions: I) claims 1-5 drawn to a method of forming a bracket, II) claims 6-7 drawn to a blank, III) claim 8 drawn to a bracket, and IV) claim 9 drawn to a tool for forming a bracket. This application was filed under 35 USC 371 and therefore the groups of inventions must be shown to be not so linked as to form a single general inventive concept under PCT Rule 13.1.

Petitioner argues that the examiner's rationale for restriction, i.e., "because the claims show different technical features, as stated in the Office Action filed June 8, 2006," is simply incorrect and is a statement of U.S. practice under 35 USC 111 and that the application of U.S. practice is not permitted with respect to national stage entry applications.

Relevant portions of MPEP 1850 Unity of Invention, states [emphasis added below]:

> An international application should relate to only one invention or, if there is more than one invention, the inclusion of those inventions in one international application is only permitted if all inventions are so linked as to form a single general inventive concept (PCT Rule 13.1). With respect to a group of inventions claimed in an international application, unity of invention exists only when there is a technical relationship among the claimed inventions involving one or more of the

> same or corresponding special technical features. The expression "special technical features" is defined in PCT Rule 13.2 as meaning those technical features that define a contribution which each of the inventions, considered as a whole, makes over the prior art. The determination is made on the contents of the claims as interpreted in light of the description and drawings (if any).
>
> Whether or not any particular technical feature makes a "contribution" over the prior art, and therefore constitutes a "special technical feature," should be considered with respect to novelty and inventive step. For example, a document discovered in the international search shows that there is a presumption of lack of novelty or inventive step in a main claim, so that there may be no technical relationship left over the prior art among the claimed inventions involving one or more of the same or corresponding special technical features, leaving two or more dependent claims without a single general inventive concept.
>
> Lack of unity of invention may be directly evident "*a priori*," that is, before considering the claims in relation to any prior art, or may only become apparent "*a posteriori*," that is, after taking the prior art into consideration. For example, independent claims to A + X, A + Y, X + Y can be said to lack unity *a priori* as there is no subject matter common to all claims. In the case of independent claims to A + X and A + Y, unity of invention is present *a priori* as A is common to both claims. **However, if it can be established that A is known, there is lack of unity *a posteriori*, since A (be it a single feature or a group of features) is not a technical feature that defines a contribution over the prior art.**

In judging the propriety of the restriction requirement, a lack of unity of invention must be either directly evident "*a priori*", that is, before considering the claims in relation to any prior art, or may only become apparent "*a posteriori*", that is, after taking the prior art into consideration.

The examiner indicated in the restriction requirement that the inventions listed as groups I-IV did not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features in that group I has the technical feature of curing, group II has a different technical feature of z-shaped, group III has a different technical feature of substantially planar, and group IV has a different technical feature of a hinge.

Therefore, the examiner attempted to show lack of unity of invention "*a priori*". However, the examiner's attempt to show lack of unity "*a priori*" is flawed in that the examiner relied on dependent claim 7 to show that group II has a different special technical feature of "z-shaped".

MPEP 1850 clearly states that "Unity of invention has to be considered in the first place only in relation to the *independent claims* in an international application and *not the dependent claims*." [emphasis added]. Therefore, the examiner's attempt to show lack of unity "*a priori*" was improper in that only the independent claims have to be considered.

After the examiner issued the restriction requirement and the applicant elected the group I invention (claims 1-5), the examiner issued a first action on the merits, non-final Office action dated Oct. 11, 2006. In the non-final Office action, the examiner rejected the elected independent claim 1 as being anticipated by Machida (USP 4,784,920). In addition, the examiner also rejected the elected independent claim 1 as being anticipated by Fogg III (USP 4,210,694). Claim 1 was the only independent claim in the elected group I.

Therefore, it became apparent "*a posteriori*", that is, after taking the prior art into consideration that lack of unity of invention exists. Because all of the features of claim 1 is known and does not avoid the prior art, there is no special technical feature that defines a contribution over the prior art that is common to all of the independent claims. In this situation, clearly there is lack of unity of invention.

For the reasons outlined above, the examiner's restriction requirement is considered proper. Petitioner's request to have the restriction requirement withdrawn will not be granted.

In the Oct. 11, 2006 non-final Office action, the examiner objected to the drawings as failing to comply with 37 CFR 1.84(p)(5) because figures 9 and 10 include reference characters that were not mentioned in the description. The examiner indicated that corrected drawing sheets in compliance with 37 CFR 1.121(d) or an amendment to the specification to add the reference characters in the description in compliance with 37 CFR 1.121(b) was required in reply to the non-final Office action in order to avoid abandonment of the application. In addition, the examiner indicated on pages 3-5 of the non-final Office action guidelines indicating the preferred layout of the specification.

Petitioner argues that page 9, lines 18-22 of the PCT application discusses the features in Figures 9 and 10 of the drawings. Petitioner states that each of the reference numerals utilized in Figures 9 and 10 of the drawings are discussed at the cited portions of page 9. Therefore, petitioner believes that there is no need for petitioner to add reference signs or characters to the drawings because they already exist in the formal drawings which are of record. In addition, petitioner argues that the arrangement of the specification is proper in view of PCT Article 27. Therefore, petitioner requests withdrawal of the objection to the drawings and the specification.

A review of the record reveals that petitioner submitted an amendment to pages 8 and 9 of the specification. The amended pages 8 and 9 of the specification clearly describe the reference characters shown in Figures 9 and 10 of the drawings. It appears that the amended pages 8 and 9 of the specification was mislabeled in the Image File Wrapper (IFW) of the application, thereby creating confusion as to what version of the specification should be considered. Adding to the confusion is that there are multiple versions of the specification that have been received including certain pages of the specification that have been amended. In the IFW of the application, there are four pages that have been labeled "Documents submitted with 371 Applications" which include the amended pages 8 and 9 of the specification. In order to clarify the application file record, this paper will be re-labeled "specification".

Although the examiner indicated on pages 3-5 of the non-final Office action the "preferred layout of the specification", the guidelines provided by the examiner are just the recommended layout that applicant's can use when drafting the specification and not a requirement that applicant's must follow.

Therefore, petitioner's request to withdraw the objection to the drawings and the specification is granted.

Conclusion

For the reasons outlined above, the restriction requirement issued on Aug. 15, 2006 is in accordance with proper Office procedure. Accordingly, the restriction requirement stands. The petitioner's request to withdraw the restriction requirement is dismissed. Petitioner's request to withdraw the objection to the drawings and the objection to the specification is granted.

The application is being forwarded to Supervisory Patent Examiner of Art Unit 3725 for further processing. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Any inquiry regarding this decision should be directed to Marc Jimenez, Training Quality Assurance Specialist, at (571) 272-4530.

The petition is GRANTED-IN-PART.

Frederick R. Schmidt, Director
Technology Center 3700

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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of:
Kaye, Allan.
Serial No. 10/525,063
Filed: February 18, 2005
Docket: 540-551
Title: METHOD AND TOOL FOR FORMING A BRACKET IN COMPOSITE MATERIAL AND BRACKET

DECISION ON PETITION

This is a decision on the petition filed September 20, 2007 requesting reconsideration of the decision dated July 20, 2007. The petition is filed under 37 CFR § 1.181 and no fee is required.

The petition is denied.

Background

The previous petition was granted-in-part. Withdrawal of objections to the drawings and specification were granted. A standing restriction requirement based on a holding of lack of unity, since the application is a National stage application filed under 35 U.S.C. § 171, was dismissed. The examiner had held there was no unity and that the restriction, therefore, is proper because the special technical feature to a fold line extending only partially across the claimed blank. On review, the technology center director concurred with the examiner.

Discussion and Analysis

In the present petition, petitioner asserts that the references do not, in fact, teach extending only partially across the blank along with non-folding portions at each end of the fold line.

Reviewing the patent to Machida (U.S. 4,784,920), it appears that non-folding portions can be considered wherever the blank is not deformed, including immediately adjacent above and below a deformed portion whether at the end or the middle of the deformed, i.e., folded portion. The folded portion can be considered as extending only partially across the blank since it does not consume the entire blank. Similar comments can be made of the fold lines in the patent to Fogg III (U.S. Pat. 4,210,694). In addition, aside from interpretation of claim

language, partial fold lines are well known in general. For example, see partial fold line 114 in the blank in the patent to Noland (U.S. Pat. 4,953,782) that appears to stop before the blank's edges in Fig. 1. A similar fold line appears to exist at at least 33 in Fig. 1 of the patent to Colletti (U.S. Pat. 4,830,185). Moreover, please note the partial fold lines in the blank in Fig. 1 of the patent to Howard (U.S. Pat. 3,290,092) and at 18 in Fig. 1 of the patent to St. Louis (U.S. Pat. 4,628,661).

In view of the evidence by the cited body of art, it would appear that the partial fold with non-folding portions at each end of the fold line is well established. Since this feature is old, concurrence with the holding that there is a lack of unity as set forth in the previous decision stands.

Conclusion

The issue raised on reconsideration has been responded to by the undersigned. The petition is unconvincing.

PETITION DENIED.

Any inquiry regarding this decision should be directed to Allan N. Shoap, Special Programs Examiner, at (571) 272-4514.

Karen M. Young
for Frederick R. Schmidt, Director
Technology Center 3700

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BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303

Mail Date: 04/21/2010

Applicant	: Morris Zelkha	: DECISION ON REQUEST FOR
Patent Number	: 7641931	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/525,064	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **900** 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.

06 MAR 2006

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SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, D.C. 20037-3213

In re Application of	DECISION ON
Heinz FOCKE et al	
PCT No.: PCT/EP2003/008524	
Application No.: 10/525,071	PAPERS FILED
Int. Filing Date: 01 August 2003	
Priority Date: 21 August 2002	
Attorney's Docket No.: Q-86252	UNDER 37 CFR 1.42
For: DEVICE FOR PRODUCING FILTER CIGARETTES	

This is a decision on the declaration filed 22 November 2003, which has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 18 February 2005, 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). Applicants, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because an executed oath or declaration was not provided at such time.

On 17 November 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by International application number and international filing date" must be submitted within two(2) months from date of this Notice or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

To satisfy the requirements of 35 U.S.C. 371(c)(4) that an oath or declaration of the inventor be submitted, applicant submitted on 13 January 2006 a declaration indicating that Jurgen Focke is the legal representative of the deceased inventor, Heinz FOCKE.

DISCUSSION

The declaration is accepted under 37 CFR 1.42 because it includes the citizenship and mailing addresses of Doris Focke and Jurgen Focke (legal representatives) and of deceased inventor, Heinz FOCKE. Accordingly, applicants have satisfied the requirements under 37 CFR 1.42.

Thus, the requirements under 35 USC 371(c) are satisfied.

CONCLUSION

For the above reasons, the submission of the declaration under 37 CFR 1.42 is **ACCEPTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations until commencement of national stage processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) is **13 January 2006**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 04/20/2010

Applicant	: Seong-Hwoon Kim	: DECISION ON REQUEST FOR
Patent Number	: 7639987	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/525,072	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **935** 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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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 05/17/2010

Applicant : Seong-Hwoon Kim
Patent Number : 7639987
Issue Date : 12/29/2009
Application No : 10/525,072
Filed : 08/12/2005

: 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 **1011** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

17 AUG 2005

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P O Box 1404
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In re Application of CHAN Serial No.: 10/525,073 PCT App. No.: PCT/IB03/02433 Int'l Filing Date: 24 June 2003 Priority Date: 25 June 2002 Attorney Docket No.: 007198-621 For: IMPROVED FOOD PROCESSING APPARATUS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 18 February 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing this application from the December 25, 2004, due date until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" has been interpreted as meaning that "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. If this is an incorrect interpretation in view of the rules, petitioner is required to promptly notify this office.

A review of the application file reveals that the basic national fee of $300 has been provided. The required petition fee of $1500 will be charged to applicant's deposit account per his authorization. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing including the issuance of the Notification of Missing Requirements indicating that the oath or declaration executed in compliance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period is required.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: 571-272-3286
Facsimile: 571-273-0459

27 SEP 2005
United States Patent and Trademark Office

#6

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Law Office of Stuart D. Frenkel
3975 University Drive
Suite 330
Fairfax, VA 22030

In re Application of Fukushima et al. Application No. 10/525,096 PCT No.: PCT/JP03/10047 Int. Filing Date: 07 August 2003 Priority Date: 21 August 2002 Atty. Docket No.: JP-A0330-AM For: Preventive Therapeutic Composition For Muscular Fatigue, Pulled Muscle And Disease Attributed Thereto	DECISION ON PETITION UNDER 37 CFR 1.10(c)

This is in response to the "Petition Under Rule 181 and 182" filed on 19 July 2005, which is being treated under 37 CFR 1.10(c).

BACKGROUND

This international application was filed on 07 August 2003, claimed an earliest priority date of 21 August 2002, and designated the U.S. The International Bureau communicated a copy of the published international application to the USPTO on 04 March 2004. The 30 month time period for paying the basic national fee in the United States expired at midnight on 22 February 2005 (since 21 February 2005 was a holiday).

On 12 July 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).

DISCUSSION

Counsel requests "that the National Stage filing date" of this application "be changed from February 22, 2005 to February 18, 2005" on the basis of Express Mail evidence. The correspondence in question, including *inter alia* the Transmittal Letter, the basic national fee, and the English translation of the international application, were accorded a receipt date of 22 February 2005, rather than the 18 February 2005 "filing date" requested by counsel. 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, EO907648960US, was recorded on a "Certificate of Mailing By 'Express Mail' (37 CFR 1.10)" accompanying the correspondence in question. The original copy of this "Certificate..." is

present in the application file, and it itemizes "the following correspondence: National Stage Application, IDS, Check for $1050, Preliminary Amendment."

The petition also complies with 37 CFR 1.10(c)(3). Counsel has provided a copy of a "CUSTOMER Online Record" which is formatted as an "Express Mail" mailing label and which bears a "Date-In" of "2 18 05." It is not clear whether this "date-in" was entered by a USPS employee. However, the USPS "Track & Confirm" Web page indicates that the "Express Mail" parcel in question was "Enroute, February 18, 2005, 5:30 pm, DULLES, VA 20102." In view of the totality of this evidence, it would be appropriate to conclude that the correspondence in question was in fact deposited with the USPS as "Express Mail" on 18 February 2005.

CONCLUSION

The petition is **GRANTED** to the extent described above.

This application is being returned to the National Stage Processing Branch for further processing. The period for response to the Notification of Missing Requirements mailed on 12 July 2005, and extendable under 37 CFR 1.136(a), continues to run.

for 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

09 MAY 2006

#6

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N. Paul Friederichs
P.O. Box 48755
Coon Rabids, MN 55448

In re Application of	:	
ABU NASSAR, et al.	:	
Application No.: 10/525,097	:	
PCT No.: PCT/IL03/00679	:	DECISION ON PETITION
Int. Filing Date: 17 August 2003	:	
Priority Date: 18 August 2002	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: A-0003-0008	:	
For: A DEVICE FOR ELECTRODE POSITIONING	:	

The petition to revive under 37 CFR 1.137(b) filed 16 February 2006 in the above-captioned application is hereby **GRANTED** as follows:

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. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National Fee. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application has an international filing date of 17 August 2003 under 35 U.S.C. 363 and will be given a date of **16 February 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

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INTELLECTUAL PROPERTY DEPARTMENT
41 SOUTH HIGH STREET, 28TH FLOOR
COLUMBUS, OH 43215-6194

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SEP 19 2007

OFFICE OF PETITIONS

In re Application of	:	
SHAPIRO, Allan	:	
Application No. 10/525,110	:	DECISION GRANTING PETITION
Filed: February 18, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **3995258**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 14, 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 September 10, 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 1751 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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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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WALTHAM MA 02451-1215

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OFFICE OF PETITIONS

In re Application of	:	
Bird et al.	:	DECISION ON APPLICATION
Application No. 10/525,111	:	FOR
Filed: February 18, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. 100812-1P US	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 154(b)(3)(B)(ii) & 37 C.F.R. § 1.705(b)," filed May 11, 2007. Applicants request that the initial determination of patent term adjustment be corrected from fifty-seven (57) to seventy-five (75) days.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is SEVENTY-FIVE (75) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 22, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 57 days. On May 11, 2007, applicants timely[1] submitted an application for patent term adjustment (with required fee). Applicants request correction of the PTA to 75 days. Applicants dispute the reduction of 18 days for the period from January 6, 2007 to January 23, 2007 associated with the response filed January 23, 2007. Applicants assert that this response was expressly requested by the examiner and thus, no reduction pursuant to 1.704(c)(8) is warranted.

[1] The Issue Fee payment was also received on May 11, 2007.

The record supports a conclusion that this additional response was expressly requested by the examiner. Accordingly, the PTA should not have been reduced by 18 days, the number of days beginning on the day after the date the initial reply was filed, January 5, 2007, and ending on the date that the supplemental reply or other such paper was filed, January 23, 2007 for the filing of the supplemental response. The reduction of 18 days has been removed.

In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is SEVENTY-FIVE (75) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Office of Patent Publication for issuance of the application.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

Day : Saturday
Date: 6/23/2007

PALM INTRANET

Time: 14:29:31

PTA Calculations for Application: 10/525111			
Application Filing Date:	02/18/2005	PTO Delay (PTO):	125
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	68
Post-Issue Petitions:	0	Total PTA (days):	75
PTO Delay Adjustment:	18		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
37	06/23/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	18		
28	02/22/2007	MAIL NOTICE OF ALLOWANCE			
27	02/16/2007	ISSUE REVISION COMPLETED			
26	02/16/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
25	02/16/2007	CASE DOCKETED TO EXAMINER IN GAU			
24	02/16/2007	NOTICE OF ALLOWABILITY			
23	02/01/2007	DATE FORWARDED TO EXAMINER			
22	01/23/2007	SUPPLEMENTAL RESPONSE		18	20
21	01/16/2007	DATE FORWARDED TO EXAMINER			
20	01/05/2007	RESPONSE AFTER NON-FINAL ACTION		50	17
19	12/07/2006	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
18	12/02/2006	DATE FORWARDED TO EXAMINER			
17.1	11/16/2006	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
17	11/16/2006	RESPONSE AFTER NON-FINAL ACTION			
16	08/21/2006	MAIL NON-FINAL REJECTION	125		-1
15	08/18/2006	NON-FINAL REJECTION			
14	08/31/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
13	02/18/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
12	11/01/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	11/01/2005	CASE DOCKETED TO EXAMINER IN GAU			
10	02/18/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

9	02/18/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
8	02/18/2005	PRELIMINARY AMENDMENT			
7	08/31/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6	07/18/2005	CLEARED BY OIPE CSR			
5	07/18/2005	CLEARED BY OIPE CSR			
4	02/18/2005	371 COMPLETION DATE			
3	07/08/2005	APPLICATION DISPATCHED FROM OIPE			
2	07/08/2005	NOTICE OF DO/EO ACCEPTANCE MAILED			
1	02/18/2005	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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PATENT

Attorney Docket No. 33508/US/1/RBC/VEJ
Application No. 10/525,143

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Mike Xiaoli MA

Application No. **10/525,143**

Filed: **February 16, 2005**

For: **TWIST-OPEN CLOSURE HAVING INCLINED FRANGIBLE MEMBRANE**

Art Unit: ***To be assigned*** 1761

Examiner: ***To be assigned*** Madsen, R

Docket No.: **33508/US/1/RBC/VEJ**

Certificate of Mail (37 C.F.R. § 1.8(a))
I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop PCT, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on July 14, 2005.

Patricia A. Diehl

Patricia A. Diehl

Mail Stop PCT
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

07/20/2005 LLANDGRA 00000081 502319 10525143
01 FC:1464 130.00 DA

PETITION TO MAKE SPECIAL ACCELERATED EXAMINATION

Sir:

Applicant hereby respectfully Petition the Commissioner to make the above-captioned new application special under M.P.E.P. § 708.02 VIII and 37 CFR § 1.102 (d).

Fees - M.P.E.P. § 708.02 VIII (A)

The Commissioner is hereby authorized to charge the accompanying fee of $130.00 as set forth in 37 C.F.R. § 1.17(h) to Deposit Account No. 50-2319 (Order No. 463678-00253; Docket No. 33508/US/2/RBC/VEJ).

Claims - M.P.E.P. § 708.02 VIII (B)

Submitted herewith is a PRELIMINARY AMENDMENT in which all claims are directed to a singled invention. In particular, there is one independent claim, and all remaining claims depend therefrom. Claim 1, the only independent claim, calls for:

PETITION GRANTED

William Krynski
Special Program Examiner
TC1700

DEC 7 2005

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-29-08

TO SPE OF : ART UNIT 3754

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/525143 Patent No.: 7337921

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the COCIN document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please Check Claims

Please complete the response (see below) and forward the completed response to scanning using document code COCX.

Carrie Young
Certificates of Correction Branch
703-308-9390 ext. 117

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.

Kevin Shaver
SPE

3754
Art Unit

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Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

Mail Date: 05/06/2010

Applicant	: Joachim Charzinski	: DECISION ON REQUEST FOR
Patent Number	: 7647425	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/525,153	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **947** 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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EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON MA 02205

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OFFICE OF PETITIONS

In re Application of	:	
YASUMA et al.	:	
Application No. 10/525,158	:	ON APPLICATION FOR
Filed: 02/22/2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. 66585(70820)	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b) filed October 28, 2008. Applicant requests that the determination of patent term adjustment be corrected from 545 days to a minimum of 794 days plus the number of days between the payment of the issue fee on October 28, 2008, and the issue date of the patent, which has yet to be determined. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, 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 three years. See 37 CFR 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 three 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 37 CFR 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

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 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, Christina Tartera Donnell, at (571) 272-3211.

Kery A. Fries

Kery A. Fries
Senior Legal Advisor
Office Patent Legal Administration

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OFFICE OF PETITIONS

In re Patent No. 7,514,441	:
Yasuma et al.	:
Issue Date: April 7, 2009	: DECISION ON REQUEST FOR
Application No. 10/525,158	: RECONSIDERATION OF
Filed: February 22, 2005	: PATENT TERM ADJUSTMENT
Attorney Docket No. 66585(70820)	:

This is in response to the "RENEWED REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(B)/1.705(d)" filed June 5, 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 five hundred eighty-three (583) days to at least nine hundred fifty-five (955) 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 583 days.

On April 7, 2009, the above-identified application matured into U.S. Patent No. 7,514,441 with a revised patent term adjustment of 583 days. The Office determined that the 410 days of Office delay, pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b),[1]

[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:

overlaps with the 583 days of Office delay,[2] pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) and (4),[3] accorded during the pendency of the application. As such, the Office allowed entry of only the period of adjustment of 583 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the 0 days of applicant delay, the patent issued with a revised patent term adjustment of 583 days.

On June 5, 2009, patentees timely submitted this request for reconsideration of patent term adjustment within two months of the issue date of the patent. See 37 CFR 1.705(d). Patentees

---

(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] A Restriction Requirement was mailed on October 19, 2007, 14 months and 545 days after the date on which the requirements under 35 U.S.C. 371 were fulfilled on February 22, 2005. Additionally, the patent issued on April 7, 2009, 4 months and 38 days after the payment of the issue fee on October 28, 2008.

[3] 37 CFR 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

. . .

(4) 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.

aver that the correct number of days of patent term adjustment is 955 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 state:

> The Wyeth court held that '[t]he only way that periods of time can 'overlap' is if they occur on the same day.' Id. Accordingly if a delay under § 154(b)(1)(A) occurs on one calendar day, and a delay under § 154(b)(1)(B) occurs on another day, 'they do not overlap, and § 154(b)(2)(A) does not limit the extension to one day.' Id.

Renewed Request, 06/05/09, p. 5.

Patentees maintain that the total period of Office delay is the sum of the period of Three Years Delay (410 days) and the period of examination delay (583 days) to the extent that these periods of delay are not overlapping. Patentees contend that the period of actual overlap of the delay attributable to grounds specified in 35 U.S.C. 154(b)(1)(B) and the delay pursuant to 35 U.S.C. 154(b)(1)(A) is 38 days as they occur on the same days in both periods. Patentees assert that this overlapping period is the 38 days running from March 1, 2009 to April 7, 2009. Thus, patentees assert entitlement to at least 955 days of patent term adjustment (i.e. the sum of 410 days under 35 U.S.C. 154(b)(1)(B) plus 583 days under 35 U.S.C. 154(b)(1)(A), reduced by 38 days of overlap).

The Office has considered patentees' interpretation of the period of overlap, but finds it inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[4] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 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).

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

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[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.

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 22, 2005 to April 7, 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) and (4), 583 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), 410 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).

All of the 410 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 583 days of patent term adjustment under 37 CFR 1.702(a)(1) and (4). Entry of both the 410 days and the 583 days is neither permitted nor warranted. 583 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, having considered the 410 days of Office delay under the three-year pendency provision.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 583 days.

The Office acknowledges the previous submission of the $200.00 fee set forth in 37 CFR 1.18(e) on October 28, 2008. No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

28 JUL 2005

#3

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Al AuYeung
SCHWABE, WILLIAMSON & WYATT, P.C.
1211 SW Fifth Avenue, Stes. 1600-1900
Portland, Oregon 97204-3795

In re Application of: CONKLIN, Gregory, J. U.S. Application No.: 10/525,164 PCT No.: PCT/US03/18963 International Filing Date: 12 June 2003 Priority Date: 08 July 2002 Attorney's Docket No.: 109905-141406 For: INTRA CODING VIDEO DATA METHODS AND APPARATUSES	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 22 February 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

Applicant has now submitted the 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 international application as filed included a declaration executed by the sole inventor pursuant to PCT Rule 4.17(iv). This declaration satisfies the requirements of 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. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 22 February 2005.

Richard M. Ross
PCT Petitions Attorney
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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23 FEB 2006

THE WEBB LAW FIRM, P.C.
700 Koppers Bldg.
436 Seventh Avenue
Pittsburg, PA 15219

In re Application of REMO, Meister U.S. Application No.: 10/525,165 PCT No.: PCT/CH02/00470 Int. Filing Date: 28 August 2002 Priority Date: None Attorney Docket No.: 0115-050397 For: TWO-STAGE EVAPORATION SYSTEM COMPRISING AN INTEGRATED LIQUID SUPERCOOLER . . .	**DECISION**

Applicant's "Request to Correct Filing Receipt" filed via facsimile on 31 January 2006 is treated as a petition under 37 CFR 1.181 and hereby **GRANTED** as follows:

The filing receipt mailed 12 October 2005 recorded the assignee for the published patent application as "BMS - ENERGIETECHINK."

The correct spelling is "BMS - ENERGIETECHNIK."

Accordingly, the filing receipt mailed 13 January 2006 is **VACATED**.

A new filing receipt will be mailed with this decision.

This application is being forwarded to Tech Center 3744 for further processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,166	02/27/2006	Ashish Gogia	RLL-280US	5883

7590 02/13/2008

RANBAXY INC.
600 COLLEGE ROAD EAST
SUITE 2100
PRINCETON, NJ 08540

EXAMINER
CARTER, KENDRA D

ART UNIT	PAPER NUMBER
1617	

MAIL DATE	DELIVERY MODE
02/13/2008	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☒ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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OFFICE OF PETITIONS

Applicant: Peter Gingras
Appl. No.: 10/525,193
International Filing Date: August 25, 2003
Title: Three Dimensional Implant
Attorney Docket No.: 14118-003US1
Pub. No.: US 2006/0106419 A1
Pub. Date: May 18, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on July 20, 2006, 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 whereby text is missing from Figure 9D.

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 missing text in the publication is not an error of the Office. The missing text in Figure 9D was not submitted in the original patent application as filed. Text that is not in the original application cannot be added in the publication. It should be noted that the missing text is also not in the application file. New matter cannot be added to the file by requesting a re-publication.

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

[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).

Applicants' request for a corrected patent application publication on July 20, 2006, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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United States Patent and Trademark Office
P.O. Box 1450
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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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OFFICE OF PETITIONS

In re Application of	:	
Fushimi et al.	:	
Application No. 10/525197	:	ON APPLICATION FOR
Filing or 371(c) Date: 02/22/2005	:	PATENT TERM ADJUSTMENT
Atty. Dkt. No. Q86306	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER TO 37 C.F.R. § 1.705, filed July 16, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is at least 946 days, not 479 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. The request is properly treated under 37 CFR 1.705(b).

Applicants request this correction on the basis that the Office will take in excess of three years to issue this patent. Applicants also indicate the adjustment is subject to a further reduction of 34 days in connection with the amendment filed June 11, 2009. Applicants also make reference to the Notice of Appeal filed April 9, 2009, of which a reduction of patent term has not been assessed.

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.

Accordingly, the reduction 34 days referenced by applicants is not reflected in the initial determination of patent term adjustment and will presumably be reflected in the final determination of patent term adjustment to issue prior to issuance of the patent

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected

issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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 Attorney Derek Woods at (571) 272-3232.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 05/17/2010

Applicant	: Nobuhiko Fushimi	: DECISION ON REQUEST FOR
Patent Number	: 7635684	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/525,197	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1106** 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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RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON DC 20036

In re Application of	:	
Takagi et al.	:	
Application No. 10/525,203	:	
Filed: February 22, 2005	:	ON APPLICATION FOR
Attorney Docket No. SON-2815	:	PATENT TERM ADJUSTMENT
Title: Current Output Drive	:	
Circuit and Display Device	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b)" filed October 8, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is at least one thousand two hundred forty-eight (1,248) days, not six hundred fifty-four (654) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the

computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

Mail Date: 05/18/2010

Applicant	: Yuichi Takagi	: DECISION ON REQUEST FOR
Patent Number	: 7652650	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/525,203	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1189** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

13 JUL 2007

Harness, Dickey & Pierce, P.L.C.
P.O. Box 8910
Reston, VA 20195

In re Application of	:	
YAMAGUCHI et al.	:	
U.S. Application No.: 10/525,221	:	
PCT No.: PCT/JP03/10538	:	DECISION
International Filing Date: 20 August 2003	:	
Priority Date: 23 August 2002	:	
Attorney's Docket No.:12480-000098/US	:	
For: CONDENSED POLYCYCLIC	:	
PI-CONJUGATED . . . .ORGANIC MATERIAL	:	

This decision is issued in response to the "Letter Requesting Corrected Official Filing Receipt" filed 05 May 2006 which has been treated as a petition under 37 CFR 1.181 seeking a corrected filing receipt indicating 22 February 2005 as the filing date for the present application. Additionally, this decision is in response to applicants' "Letter Requesting Corrected Official Filing Receipt" dated 16 February 2006.

BACKGROUND

On 22 February 2005, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee; a copy of the international application; and an information disclosure.

On 18 November 2005, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 18 January 2006, applicants filed a declaration executed by three joint-inventors.

On 30 January 2006, the DO/EO/US mailed a Notification Of Acceptance Of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) identifying 18 January 2006 as the date of receipt of the 35 U.S.C. 371 requirements. Subsequently, a filing receipt was mailed to applicants. This filing receipt identified the "filing date" as 18 January 2006.

On 16 February 2006, applicants filed "Letter Requesting Corrected Official Filing Receipt."

On 05 May 2006, applicants filed the "Letter Requesting Corrected Official Filing Receipt" considered herein, which requests that the filing date of 18 January 2006 be changed to 22 February 2005.

DISCUSSION

Applicants request a corrected filing date (or 371(c) date) from 18 January 2006 to 22 February 2005. The actual filing date of the present application is the international filing date, i.e., 20 August 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 oath/declaration was filed with the USPTO on 18 January 2006, the date which the requirements set forth in 35 U.S.C. 371(c) for entry into the national stage was completed. Therefore, the correction of the "FILING DATE" on the filing receipt to indicate a date of 22 February 2005 is not proper since applicants completed the requirements set forth in 35 U.S.C. 371(c) on 18 January 2006. (See MPEP section 1893.03(b)).

Applicants request a correction of the title of invention to "CONDENSED POLYCYCLIC Π-CONJUGATED . . .ORGANIC MATERIAL" however, the PALM database does not have capacity to enter this mathematic/scientific symbol into its system. Therefore, the request to correct the title of invention is dismissed without prejudice and the title will remain CONDENSED POLYCYCLIC **PI**-CONJUGATED . . . .ORGANIC MATERIAL.

CONCLUSION

For the reasons above, applicants' request under 37 CFR 1.181 to change the filing date on the filing receipt is **DISMISSED** without prejudice.

Any reconsideration on the merits of these petition(s) must be filed within **TWO (2) MONTHS** from the mail date of this decision to file a response. No 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.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

0 3 DEC 2007

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Squire, Sanders & Dempsey, LLP
8000 Towers Crescent Drive
14th Floor
Tysons Corner, Virginia 22182-2700

In re Application of	:	
GOMI et al.	:	
U.S. App. No. 10/525,222	:	DECISION ON PETITION
PCT No.: PCT/JP03/10076	:	UNDER 37 CFR 1.181
Int. Filing Date: 07 August 2003	:	
Priority Date: 28 August 2002	:	
Attorney Docket No.: .059349.00023	:	
For: LEGGED MOBILE ROBOT		

This decision is in response to applicants' "Petition under 37 CFR 1.181" filed 25 October 2007 to reconstruct the application and accord a receipt date of 22 February 2005 to the above-identified national stage application under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 07 August 2003, applicants filed international application PCT/JP03/10076 which claimed a priority date of 28 August 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 11 March 2004. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 28 February 2005.

On 25 October 2007, applicants filed the present petition forwarding copies of papers filed on 22 February 2005. These papers consisted of, *inter alia*: 1) a transmittal requesting entry into the national stage in the United States; 2) an English language translation of the International Application of PCT/JP03/10076; 3) an oath or declaration of the inventors; 4) an Information Disclosure Statement; 5) an assignment for recording; 6) a first preliminary amendment; and 6) a copy of a postcard receipt dated 22 February 2005.

DISCUSSION

Applicants state in their present petition that a U.S. National Stage application was received at the United States Patent and Trademark Office on22 February 2005. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

> A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

As stated above, the best evidence of what was actually received by the Office on a particular date is a copy of a stamped postcard receipt that was filed with papers in question and contains a specific itemization of all items being submitted. In the present instance, applicants have provided a post card receipt dated 22 February 2005 which shows the following papers being filed: a 1) a transmittal requesting entry into the national stage in the United States; 2) an English language translation of the International Application of PCT/JP03/10076; 3) an oath or declaration of the inventors; 4) an Information Disclosure Statement; 5) an assignment for recording; 6) a first preliminary amendment. The papers filed 25 October 2007 are accepted as the contents of application number 10/525,222 and will be used to reconstruct the PTO application file. The papers will be given a receipt date of 22 February 2005.

The evidence submitted by petitioner is sufficient to establish that on 22 February 2005 the United States Designated/Elected Office (DO/EO/US) received national stage application papers for this application including the basic national fee.

Applicants are reminded that the actual filing date of the present application is considered to be the international filing date, 07 August 2003. The date in the filing date portion on the filing receipt of a national stage application is the date upon which the requirements set forth in 35 U.S.C. 371(c) for entry into the national stage are completed. (See MPEP §1895.01)

CONCLUSION

Applicants' petition requesting that the application papers filed on 25 October 2007 be accorded a receipt date of 22 February 2005 is **GRANTED**.

The application is being returned to United States Designated/Elected Office for further processing.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

Mail Date: 04/20/2010

Applicant	: Marco Frentsch	: DECISION ON REQUEST FOR
Patent Number	: 7659084	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/525,238	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **710** 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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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

Mail Date: 05/17/2010

Applicant : Marco Frentsch
Patent Number : 7659084
Issue Date : 02/09/2010
Application No : 10/525,238
Filed : 10/12/2005

: 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 **795** 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).

31 AUG 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Thomas P Liniak
Liniak Berenato & White
6550 Rock Spring Drive
Suite 240
Bethesda MD 20817

In re Application of YI et al. Application No.: 10/525,241 PCT No.: PCT/US03/26356 Int. Filing Date: 22 August 2003 Priority Date: 23 August 2002 Attorney Docket No.:7512.145 For: ASSEMBLY OF CHITOSAN ONTO AN ELECTRODE SURFACE	DECISION ON DECLARATION

This is a decision on applicants' "Response to Notification of Defective Response", filed on 16 May 2006 in the United States Patent and Trademark Office (USPTO), requesting acceptance of the declaration in the above reference application. Applicant also submitted a copy of the "Request to Correct Inventorship under Rule 92*bis*" filed in the corresponding PCT application on 22 February 2005.

BACKGROUND

On 22 February 2005, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee. On the same day, applicant also filed a "Request to Correct Inventorship under Rule 92*bis*" in the corresponding PCT application.

On 19 August 2005, a Notification of Missing Requirements was mailed to applicant indicating that the oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required. The Notification set a two month time limit within which to respond. Extensions of time were available under 37 CFR 1.136(a).

On 17 March 2005, applicant filed a declaration, identifying the international application and listed Li-Qun Wu and Mark J. Kastantin, among those listed in the published international application, as inventors. Applicant did not provide Form PCT/IB/306 adding Li-Qun Wu and Mark J. Kastantin as co-inventors.

On 19 April 2006, a Notification of Defective Response was mailed to applicant indicating that the declaration was unacceptable because (1) it was not executed in accord with 37 CFR 1.66 or 1.68 and (2) inventors Li-Qun Wu and Mark J. Kastantin were not listed on the published application. Applicant was advised to provide information regarding how the inventors were added to the international application, that is, Form PCT/IB/306. The Notification advised applicant that he must provide a complete response within the time limit of ONE month from the date of the Notification (or by 19 May 2006) or within the time remaining in the response set forth in the Notification of Missing Requirements (19 March 2006), whichever was longer. Applicant was also advised that "no extension of this time limit may be granted under 37 CFR

1.136 but the period for response set in the Notification of Missing Requirements may be extended under 37 CFR 1.136(a)."

On 19 May 2006, applicant filed the instant response along with a copy of the Request for Recording of A Change to add Li-Qun Wu and Mark J. Kastantin as a co-inventors under PCT Rule 92*bis*.

DISCUSSION

A review of international application PCT/US03/26356 reveals that Li-Qun Wu and Mark J. Kastantin were not named as inventors in the published international application. On 22 February 2005, applicant requested the Recording of A Change to add Li-Qun Wu and Mark J. Kastantin as a co-inventors under PCT Rule 92*bis* in PCT/US03/26356. However, a review of the international application filed indicates that on 02 June 2006, a Communication in Cases for Which No Other Form Is Applicable (FORM PCT/RO/132) was mailed from the U.S. Receiving Office (RO/US) to applicant. The Communication refused to add Li-Qun Wu and Mark J. Kastantin as inventors because the request was made to the RO/US on 22 February 2005, one day prior to the expiration of the 30 month period and thus, the Office was unable to transmit such request to the International Bureau in due time for recording under PCT Rule 92*bis*. A copy of said communication is enclosed.

The declaration submitted on 16 May 2006 erroneously identifies Li-Qun Wu and Mark J. Kastantin as co-inventors and thus is not in compliance with 37 CFR 1.497(a) and (b). Since Li-Qun Wu and Mark J. Kastantin were not accepted under PCT Rule 92*bis* as co-inventors, it is improper to accept the declaration identifying them as co-inventors. Applicant may wish to consider filing a petition under 37 CFR 1.497(d) to add Li-Qun Wu and Mark J. Kastantin as inventors.

Furthermore, even if Li-Qun Wu and Mark J. Kastantin were properly added as inventors, the declaration as submitted is not in compliance with 37 CFR 1.497(a) and (b). The declaration is comprised of three pages, containing one page 1 and three duplicate page 2 signature pages and three duplicate page 3 signature pages. Each page 2 and page 3 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

The declaration executed by Li-Qun Wu and Mark J. Kastantin as a joint inventors in the above referenced application is unacceptable and not in compliance with 37 CFR 1.497(a) and (b). A new declaration, in compliance with 37 CFR 1.497(a) and (b), and executed by the inventors as listed in the published international application, is required.

The application is now ABANDONED for failure to provide a proper reply to the Notification of Missing Requirements within the time period set forth in the Notification.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571)272-3286
Facsimile: (571)273-0459

Enclosure: FORM PCT/RO/132

PATENT COOPERATION TREATY

From the RECEIVING OFFICE

To:

THOMAS P. LINIAK
LINIAK BERENATO & WHITE LLC
6550 ROCK SPRING DRIVE
SUITE 240
BETHESDA, MARYLAND 20817

PCT

COMMUNICATION IN CASES FOR WHICH NO OTHER FORM IS APPLICABLE

Date of mailing *(day/month/year)*	02 Jun 2006
Applicant's or agent's file reference: 7512.145	**REPLY DUE** See paragraph 1 below
International application No.: PCT/US03/26356	International filing date *(day/month/year)*: 22 Aug 2003
Applicant: UNIVERSITY OF MARYLAND BIOTECHNOLOGY INSTITUTE	

1. ☐ REPLY DUE within _____ months / days from the above date of mailing

☐ NO REPLY DUE, however, see below _____

☒ IMPORTANT COMMUNICATION

☐ INFORMATION ONLY

2. COMMUNICATION:

This is in response to applicants' "REQUEST TO CORRECT INVENTORSHIP UNDER RULE 92bis" filed 22 February 2005 and 16 May 2006 to add two more inventors, Le-Qun Wu and Mark J. Kastantin, to the present application. Applicants' request is REFUSED because under PCT Rule 92bis.1(b) "The International Bureau shall not record the requested change if the request for recording is received by it after the expiration of 30 months from the priority date." In the present case, the request was made to the RO/US one day prior to the expiration of the 30 months mentioned above, and therefore, this Office was unable to transmit such request to the International Bureau in due time for recording under PCT Rule 92bis.

Name and mailing address of the receiving Office: Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450	Authorized officer: Ngoc-Ho Nguyen
Facsimile No. 703-305-3230	Telephone No. 571-272-3290

Form PCT/RO/132 (July 1992)

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14 DEC 2006

Thomas P Liniak
Liniak Berenato & White
6550 Rock Spring Drive
Suite 240
Bethesda MD 20817

In re Application of YI et al. Application No.: 10/525,241 PCT No.: PCT/US03/26356 Int. Filing Date: 22 August 2003 Priority Date: 23 August 2002 Attorney Docket No.:7512.145 For: ASSEMBLY OF CHITOSAN ONTO AN ELECTRODE SURFACE	DECISION ON DECLARATION

This is a decision on applicants' "Petition for Revival of an Application for Patent Abandoned Unintentionally" "Request for Correction of Inventive Entity" and "Submission of Declaration under 37 CFR 1.497(d)", filed on 20 September 2006 in the United States Patent and Trademark Office (USPTO), requesting acceptance of the declaration in the above reference application.

BACKGROUND

On 17 March 2006, applicant filed a declaration in response to the 19 August 2005 Notification of Missing Requirements, identifying the international application and listed Li-Qun Wu and Mark J. Kastantin, among those listed in the published international application, as inventors. Applicant did not provide Form PCT/IB/306 adding Li-Qun Wu and Mark J. Kastantin as co-inventors.

On 19 April 2006, a Notification of Defective Response was mailed to applicant indicating that the declaration was unacceptable because (1) it was not executed in accord with 37 CFR 1.66 or 1.68 and (2) inventors Li-Qun Wu and Mark J. Kastantin were not listed on the published application.

On 16 May 2006, applicant filed a response along with a copy of the Request for Recording of A Change to add Li-Qun Wu and Mark J. Kastantin as a co-inventors under PCT Rule 92*bis*.

On 31 August 2006, a decision was mailed on the submission indicating that the declaration as submitted was not in compliance with 37 CFR 1.497(a) and (b) and that the application was abandoned. A Notification of Abandonment was mailed to applicant on 8 September 2006

On 20 September 2006, applicant filed a petition to revive along with "Request for Correction of Inventive Entity" and "Submission of Declaration under 37 CFR 1.497(d)".

DISCUSSION

As previously indicated, Li-Qun Wu and Mark J. Kastantin were not named as inventors in the published international application PCT/US03/26356. The declaration submitted on 16 May 2006 identifies Li-Qun Wu and Mark J. Kastantin as co-inventors and thus is not in compliance with 37 CFR 1.497(a) and (b). Since Li-Qun Wu and Mark J. Kastantin were not accepted under PCT Rule 92*bis* as co-inventors, it is improper to accept the declaration identifying them as co-inventors. Applicant now files a petition under 37 CFR 1.497(d) to add Li-Qun Wu and Mark J. Kastantin as inventors.

Petition under 37 CFR 1.497(d)

Where the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and 37 CFR 1.497(d) names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor that any error in inventorship occurred without deceptive intention on his or her part; (2) the fee set forth in § 1.17(I); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee(s) (See 37 CFR 3.73(b)).

Applicants satisfied Items (1) and (2) above.

With regard to Item (3), applicant provided a Written Consent of The University of Maryland Biotechnology Institute, The University of Maryland, College Park and The University of Maryland, Baltimore County (assignees) to correct the inventorship under 37 CFR 1.497(d)(3) consenting to the addition of Li-Qun Wu and Mark J. Kastantin as inventors in this application. However, this statement was signed by: Claude Nash, identified as VP-ORD for The University of Maryland Biotechnology Institute; James A. Poulos, III, Executive Director, The University of Maryland Office of Technology Commercialization; and Stephen Anvil, Director, Technology Development The University of Maryland, Baltimore County.

The submission establishing ownership by the assignee must be signed by a party who is authorized to act on behalf of the assignee. The submission is not in compliance with 37 CFR 3.73(b)(2)(I) as it is not clear from the written consent that Mr. Poulos or Mr. Anvil has such authority.

The submission may be signed by a person in the organization having apparent authority to sign on behalf of the organization. An officer (chief executive officer, president, vice-president, secretary, or treasurer) is presumed to have authority to sign on behalf of the organization. The signature of the chairman of the board of directors is acceptable, but not the signature of an individual director. Modifications of these basic titles are acceptable, such as vice-president for sales, executive vice-president, assistant treasurer, vice-chairman of the board of directors. In foreign countries, a person who holds the title "Manager" or "Director" is normally an officer and is presumed to have the authority to sign on behalf of the organization. A person having a title (administrator, general counsel) that does not clearly set forth that person as an officer of the assignee is not presumed to have authority to sign the submission on behalf of the assignee. A power of attorney to a patent practitioner to prosecute a patent application executed by the applicant or the assignee of the entire interest does not make that practitioner an official of an assignee or empower the practitioner to sign the submission on behalf of the assignee. The submission may be signed by any person, if the submission sets forth that the person signing is authorized (or empowered) to act on behalf of the assignee, i.e., to sign the submission on behalf of the assignee. 37 CFR 3.73(b)(2)(I). The submission may be signed by a person empowered by an organizational resolution (e.g., corporate resolution, partnership resolution) to sign the

submission on behalf of the assignee, if a copy of the resolution is submitted in the record. A statement that the person having apparent authority to sign on behalf of the assignee is required. Item (3) above has not yet been satisfied.

Accordingly, applicant has not met all of the requirements to add Li-Qun Wu and Mark J. Kastantin as co-inventor in the above-identified international application.

Furthermore, even if Li-Qun Wu and Mark J. Kastantin were properly added as inventors, the declaration as submitted is not in compliance with 37 CFR 1.497(a) and (b). The declaration is comprised of three pages, containing one page 1 and three duplicate page 2 signature pages and four duplicate page 3 signature pages. Each page 2 and page 3 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

The declaration executed by Li-Qun Wu and Mark J. Kastantin as a joint inventors in the above referenced application is unacceptable and not in compliance with 37 CFR 1.497(a) and (b). A new declaration, in compliance with 37 CFR 1.497(a) and (b), and executed by the inventors as listed in the published international application, is required.

The petition to revive under 37 CFR 1.137(b) and Request for Correction of Inventive Entity in the above-captioned application are hereby **DISMISSED**. The proper reply, a declaration in compliance with 37 CFR 1.497(a) and (b), has not yet been submitted.

The application remains **ABANDONED** for failure to provide the proper reply.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571)272-3286
Facsimile: (571)273-0459

Enclosure: FORM PCT/RO/132

PATENT COOPERATION TREATY

From the RECEIVING OFFICE

To:

THOMAS P. LINIAK
LINIAK BERENATO & WHITE LLC
6550 ROCK SPRING DRIVE
SUITE 240
BETHESDA, MARYLAND 20817

PCT

COMMUNICATION IN CASES FOR WHICH NO OTHER FORM IS APPLICABLE

Date of mailing *(day/month/year)*	02 Jun 2006
Applicant's or agent's file reference: 7512.145	**REPLY DUE** See paragraph 1 below
International application No.: PCT/US03/26356	International filing date *(day/month/year)*: 22 Aug 2003
Applicant: UNIVERSITY OF MARYLAND BIOTECHNOLOGY INSTITUTE	

1. ☐ REPLY DUE within _____ months / days from the above date of mailing

☐ NO REPLY DUE, however, see below _____

☒ IMPORTANT COMMUNICATION

☐ INFORMATION ONLY

2. COMMUNICATION:

This is in response to applicants' "REQUEST TO CORRECT INVENTORSHIP UNDER RULE 92bis" filed 22 February 2005 and 16 May 2006 to add two more inventors, Le-Qun Wu and Mark J. Kastantin, to the present application. Applicants' request is REFUSED because under PCT Rule 92bis.1(b) "The International Bureau shall not record the requested change if the request for recording is received by it after the expiration of 30 months from the priority date." In the present case, the request was made to the RO/US one day prior to the expiration of the 30 months mentioned above, and therefore, this Office was unable to transmit such request to the International Bureau in due time for recording under PCT Rule 92bis.

Name and mailing address of the receiving Office Mail Stop PCT, Commissioner for Patents P.O. Box 1450, Alexandria, VA 22313-1450 Facsimile No. 703-305-3230	Authorized officer Ngoc-Ho Nguyen N.Ho Telephone No. 571-272-3290

Form PCT/RO/132 (July 1992)

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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0 6 APR 2007

Thomas P Liniak
Liniak Berenato & White
6550 Rock Spring Drive
Suite 240
Bethesda MD 20817

In re Application of YI et al. Application No.: 10/525,241 PCT No.: PCT/US03/26356 Int. Filing Date: 22 August 2003 Priority Date: 23 August 2002 Attorney Docket No.:7512.145 For: ASSEMBLY OF CHITOSAN ONTO AN ELECTRODE SURFACE	DECISION ON DECLARATION

This is a decision on applicant's' "Request for Reconsideration and Renewed Petition for Revival of an Application for Patent Abandoned Unintentionally", "Request for Correction of Inventive Entity" and "Submission of Declaration under 37 CFR 1.497(d)", filed on 08 January 2007 in the United States Patent and Trademark Office (USPTO), requesting acceptance of the declaration in the above reference application.

BACKGROUND

On 17 March 2006, applicant filed a declaration in response to the 19 August 2005 Notification of Missing Requirements, identifying the international application and listed Li-Qun Wu and Mark J. Kastantin, among those listed in the published international application, as inventors. Applicant did not provide Form PCT/IB/306 adding Li-Qun Wu and Mark J. Kastantin as co-inventors.

On 19 April 2006, a Notification of Defective Response was mailed to applicant indicating that the declaration was unacceptable because (1) it was not executed in accord with 37 CFR 1.66 or 1.68 and (2) inventors Li|-Qun Wu and Mark J. Kastantin were not listed on the published application.

On 16 May 2006, applicant filed a response along with a copy of the Request for Recording of A Change to add Li-Qun Wu and Mark J. Kastantin as a co-inventors under PCT Rule 92*bis*.

On 31 August 2006, a decision was mailed on the submission indicating that the declaration as submitted was not in compliance with 37 CFR 1.497(a) and (b) and that the application was abandoned. A Notification of Abandonment was mailed to applicant on 8 September 2006

On 20 September 2006, applicant filed a petition to revive along with "Request for Correction of Inventive Entity" and "Submission of Declaration under 37 CFR 1.497(d)".

On 14 December 2006, a decision dismissing the petition was mailed indicating that the

written consent of the assignees was unacceptable and the declarations were not in compliance with 37 CFR 1.497(a) and (b).

On 8 January 2007, applicant filed the instant request for reconsideration and renewed petitions.

DISCUSSION

As previously indicated, Li-Qun Wu and Mark J. Kastantin were not named as inventors in the published international application PCT/US03/26356. The declaration submitted on 16 May 2006 identified Li-Qun Wu and Mark J. Kastantin as co-inventors and thus was not in compliance with 37 CFR 1.497(a) and (b). Since Li-Qun Wu and Mark J. Kastantin were not accepted under PCT Rule 92*bis* as co-inventors, it is improper to accept a declaration identifying them as co-inventors. Applicant asks reconsideration of his petition under 37 CFR 1.497(d) to add Li-Qun Wu and Mark J. Kastantin as inventors.

Petition under 37 CFR 1.497(d)

As previously stated, where the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and 37 CFR 1.497(d) names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor that any error in inventorship occurred without deceptive intention on his or her part; (2) the fee set forth in § 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee(s) (See 37 CFR 3.73(b)).[1]

Applicant previously satisfied Items (1) and (2) above.

With regard to Item (3), applicant has now provided evidence of the signatory authority of James A. Poulos, III, Executive Director, The University of Maryland Office of Technology Commercialization; and Stephen Anvil, Director, Technology Development The University of Maryland, Baltimore County. Thus, the Written Consent of The University of Maryland Biotechnology Institute, The University of Maryland, College Park and The University of Maryland, Baltimore County (assignees) to correct the inventorship under 37 CFR 1.497(d)(3) consenting to the addition of Li-Qun Wu and Mark J. Kastantin as inventors in this application is acceptable. Item (3) above has now satisfied.

Accordingly, applicant has now met all of the requirements to add Li-Qun Wu and Mark J. Kastantin as co-inventor in the above-identified international application. The petition under 37 CFR 1.497(d) is hereby granted.

Separate newly executed declarations were also submitted and meet the requirements of 37 CFR 1.497 (a) and (b). The proper reply to the petition under 37 CFR 1.137(b), a declaration in compliance with 37 CFR 1.497(a) and (b), has been submitted. The declaration executed by all inventors including Li-Qun Wu and Mark J. Kastantin as a joint inventors in the above referenced application is acceptable and in compliance with 37 CFR 1.497(a) and (b). The petition under 37 CFR 1.137(b) is hereby granted.

---

[1] The submission establishing ownership by the assignee must be signed by a party who is authorized to act on behalf of the assignee.

CONCLUSION

The petition to revive under 37 CFR 1.137(b) and Request for Correction of Inventive Entity in the above-captioned application are **GRANTED**.

The declarations are executed by all inventors including Li-Qun Wu and Mark J. Kastantin as a joint inventors in the above referenced application, are acceptable and in compliance with 37 CFR 1.497(a) and (b).

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 **8 January 2007.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571)272-3286
Facsimile: (571)273-0459

Enclosure: FORM PCT/RO/132

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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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WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249 6th Floor
HOUSTON TX 77070

MAILED

MAY 05 2010

OFFICE OF PETITIONS

In re Application of	:	
Nachiket KHARALKAR et al.	:	
Application No. 10/525,255	:	DECISION ON PETITION
Filed: February 23, 2005	:	TO WITHDRAW
Attorney Docket No. **D8562-27**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 05, 2010.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Wong, Cabello, Lutsch, Rutherford & Brucculeri, L.L.P. has been revoked by the assignee of the patent application on April 16, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **LAW OFFICE OF DAVID MCEWING**
P.O. BOX 231324
HOUSTON, TX 77023

15 SEP 2005

#9

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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BASF CORPORATION
ANNE GERRY SABOURIN
26701 TELEGRAPH ROAD
SOUTHFIELD, MI 48034-2442

In re Application of POPPE et al	:	
U.S. Application No.: 10/525,268	:	
PCT Application No.: PCT/EP03/10922	:	
Int. Filing Date: 02 October 2003	:	
Priority Date Claimed: 10 October 2002	:	DECISION
Attorney Docket No.: PAT-10150	:	
For: NANOPARTICLES, METHOD FOR MODIFYING THEIR SURFACES, DISPERSION OF NANOPARTICLES, METHOD FOR THE PRODUCTION AND THE UTILIZATION THEREOF	:	

This is in response to applicant's "Petition to Revive an Unintentionally Abandoned Application" filed 23 August 2005, which is being treated under 37 CFR 1.137(b).

BACKGROUND

On 02 October 2003, applicant filed international application PCT/EP03/10922, which claimed priority of an earlier Germany application filed 10 October 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 29 April 2004. The thirty-month period for paying the basic national fee in the United States expired on 10 April 2005.

On 22 February 2005, applicant filed purported national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was not accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

International application PCT/EP03/10922 became abandoned as to the United States for failure to timely pay the basic national fee.

On 23 August 2005, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 02 October 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 23 August 2005.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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LARSON AND LARSON
11199 69TH STREET NORTH
LARGO, FL 33773

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OFFICE OF PETITIONS

In re Application of	:	
Margrit Bodinek	:	
Application No. 10/525,272	:	ON PETITION
Filed: February 22, 2005	:	
Attorney Docket No. 195.53	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 3, 2006, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee/publication fee in a timely manner in reply to the Notice of Allowance mailed January 30, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 2, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue fee/publication fee; (2) the petition fee; and (3) the required statement of unintentionally delay have been received. Accordingly, the issue fee/publication fee are accepted as having been unintentional delayed.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division.

Wan Laymon
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Pepper Hamilton LLP
400 Berwyn Park
899 Cassatt Road
Berwyn PA 19312-1183

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OFFICE OF PETITIONS

In re Application of	:	
Gavin Paul Vinson, et al.	:	
Application No. 10/525,277	:	DECISION GRANTING PETITION
Filed: February 22, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No.	:	
133088.00301(P33791US)		

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, November 3, 2009 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 25, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 1643 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed .

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

03 AUG 2005

#3

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ALEXANDRIA, VA 22313-1450
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Friedrich Kueffner
317 Madison Avenue
Suite 910
New York, NY 10017

In re Application of :
FEHLEMANN et al. :
Application No.: 10/525,289 :
PCT No.: PCT/EP03/03081 :
Int. Filing Date: 25 March 2003 :
Priority Date: 13 June 2002 :
Attorney Docket No.: HM-620PCT :
For: CONTINUOUS CASTING MOLD FOR LIQUID METALS, ESPECIALLY LIQUID STEEL

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 16 February 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration and a translation of the international application are required.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

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OFFICE OF PETITIONS

PARFOMAK, ANDREW N.
875 THIRD AVE, 8TH FLOOR
NEW YORK, NY 10022

In re Application of McCue et al. :
Application No. 10/525,291 :
Filing Date: February 16, 2005 :
Atty. Docket No. 102792-414/11088P3US :

Decision on Petition

This is a decision on the petition filed June 30, 2009, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

The Office mailed a Notice of Allowance on February 25, 2009. The Notice set a statutory period for reply of three (3) months.

A reply to the Notice of Allowance was not matched with the file. As a result, the Office considers the application abandoned as of May 27, 2009. The Office mailed a Notice of Abandonment on June 24, 2009.

Petitioner states that a reply was timely facsimile transmitted on March 20, 2009. Petitioner states the reply included the issue fee transmittal form (PTOL-85b). Petitioner has submitted a copy of the previously transmitted correspondence. The issue fee transmittal form bears a certificate of mailing/transmission dated March 20, 2009, which is on or before the due date of May 26, 2009.[1] Petitioner has also supplied a copy of the sending unit's report confirming transmission. The report includes an image of the issue fee transmittal form transmitted and the following language:

> TRANSMISSION OK
> ...
> DESTINATION ADDRESS 9500*1*1*15712732885
> ...

[1] May 25, 2009, was a holiday. Therefore, the last date the issue fee could have been timely paid was May 26, 2009.

ST. TIME	3/20 11:43
...	
PGS.	1
RESULT	OK

One may prove the timely filing of papers by providing a showing in compliance with 37 CFR 1.8(b). 37 CFR 1.8(b) states,

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The instant petition does not comply with requirement (3) above. Specifically, the petition is not accompanied by a statement by the individual with personal knowledge regarding the timely transmission of the correspondence. Allyson Ross signed the certificate of mailing or transmission. Therefore, Allyson Ross is assumed to be the individual who transmitted the correspondence. Therefore, a statement from Allyson Ross should be supplied.

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

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

PARFOMAK, ANDREW N.
875 THIRD AVE, 8TH FLOOR
NEW YORK, NY 10022

In re Application of McCue et al. :
Application No. 10/525,291 :
Filing Date: February 16, 2005 :
Atty. Docket No. 102792-414/11088P3US :

Decision on Petition

This is a decision on the petition filed December 9, 2009, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **granted**.

The Office mailed a Notice of Allowance on February 25, 2009. The Notice set a statutory period for reply of three (3) months. A reply to the Notice of Allowance was not matched with the file. As a result, the Office considers the application abandoned as of May 27, 2009. The Office mailed a Notice of Abandonment on June 24, 2009.

Petitioner states that a reply was timely facsimile transmitted on March 20, 2009. Petitioner states the reply included the issue fee transmittal form (PTOL-85b). Petitioner has submitted a copy of the previously transmitted correspondence. The issue fee transmittal form bears a certificate of mailing/transmission dated March 20, 2009, which is on or before the due date of May 26, 2009.[1] Petitioner has also supplied a copy of the sending unit's report confirming transmission. The report includes an image of the issue fee transmittal form transmitted and the following language:

TRANSMISSION OK	
...	
DESTINATION ADDRESS	9500*1*1*15712732885
...	
ST. TIME	3/20 11:43
...	
PGS.	1
RESULT	OK

Petitioner has supplied a statement by Allyson Ross, the individual who transmitted the reply on March 20, 2009.

[1] May 25, 2009, was a holiday. Therefore, the last date the issue fee could have been timely paid was May 26, 2009.

Petitioner has satisfied the requirements of 37 CFR 1.8(b) and established a reply to the Notice of Allowance was filed on March 20, 2009.

The holding of abandonment for failure to timely file a reply to the Notice of Allowance is hereby withdrawn and the application restored to pending status.

The copy of the reply filed with a prior petition on June 30, 2009, will be accepted in place of the reply shown to have been transmitted by facsimile on March 20, 2009.

The Office of Data Management, Patent Publication Branch, will be informed of the instant decision and the application will be issued as a patent 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

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OFFICE OF PETITIONS

Haynes and Boone, LLP
901 Main Street, Suite 3100
Dallas, TX 75202

In re Application of :
Mark Shuster et al. :
Application No. 10/525,332 : DECISION ON PETITION
Filed: July 5, 2005 : TO WITHDRAW
Attorney Docket No. 25791.119.03 : 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 Terri Williams at 571-272- 2991.

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **King & Spalding, L.L.P.**
Todd Mattingly
1100 Louisiana Street, Suite 4000
Houston, TX 77002

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Fildes & Outland, P.C.
20916 Mack Avenue
Suite 2
Grosse Pointe Woods MI 48236

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OFFICE OF PETITIONS

In re Application of
Luiz Roberto MIRANDA et al.
Application No. 10/525,366
Filed: February 23, 2005
Attorney Docket No. 10008.006

DECISION ON PETITION

This is a decision on the petition, filed June 24, 2009, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of January 2, 2008, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before April 2, 2008.

Petitioner states that a timely reply was mailed via certificate of mailing on July 2, 2008, which included the following papers: an amendment and a petition for an extension of time. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated July 2, 2008, which would have rendered the reply timely if received.

A review of the file record reveals the papers were received in the Office on July 7, 2008. Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of January 2, 2008 is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this decision should be directed to Ron Abelson at (571) 272-3165 or in his absence, the undersigned at (571) 272-7099.

This application is being referred to Technology Center AU 1626 for appropriate action in the normal course of business on the reply received with petition.

David Bucci
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

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 04/21/2010

Applicant	: Rickard Berg	: DECISION ON REQUEST FOR
Patent Number	: 7593850	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/525,370	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/04/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **902** 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

Haynes and Boone, LLP
901 Main Street, Suite 3100
Dallas, TX 75202

In re Application of	:	
Mark Shuster et al.	:	
Application No. 10/525,402	:	DECISION ON PETITION
Filed: February 23, 2005	:	TO WITHDRAW
Attorney Docket No. 25791.120.05	:	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 Terri Williams at 571-272- 2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **King & Spalding, L.L.P.**
Todd Mattingly
1100 Louisiana Street, Suite 400
Houston, TX 77002

07 MAR 2005
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#3

Alcon Research
Attn: Barry L Copeland
6201 South Freeway
Fort Worth TX 76134-2099

In re Application of	:	
FENG, Zixia et al.	:	
Application No.: 10/525,410	:	DECISION
PCT No.: PCT/US02/39316	:	
Int. Filing Date: 09 December 2002	:	ON PETITION UNDER
Priority Date: 20 December 2001	:	
Docket No.: 2345F USA	:	37 CFR 1.10(e)
For: NOVEL ... TREATMENT OF	:	
GLAUCOMA	:	

This decision is in response to applicant's "Petition Under 37 CFR 1.10," filed in the United States Patent and Trademark Office on 26 January 2005. No petition fee is required.

BACKGROUND

On 09 December 2002, applicant filed international application PCT/US02/39316, claiming a priority date of 20 December 2001. The deadline for entry into the national stage in the United States was 21 June 2004 (20 June 2004 was a Sunday).

On 26 January 2005, applicant filed a petition under 37 CFR 1.10, accompanied by a transmittal letter, a copy of an express mail label and a declaration.

DISCUSSION

37 CFR 1.10(e) states:

> (e) Any person mailing correspondence addressed as set out in §1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";
>
> (3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if

the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

Items (1) and (4) have been satisfied. The petition was filed promptly. Applicant states that the papers are a true copy of the earlier submission.

As to item (2), a review of the correspondence does not reveal the Express Mail mailing label number. See MPEP 513, III. "Express Mail" Mailing Label Number. Applicant indicates that the Express Mail mailing label number was on the postcard, but the postcard does not constitute correspondence filed with the Office.

As to item (3), applicant has provided what applicant claims to have submitted, along with an Express Mail log and corporate mail account records, but the original correspondence is not marked with the Express Mail mailing label number, and is not tied to the label that applicant has provided.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.10(e) 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(e)."

The application is **ABANDONED**.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

08 JUL 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alcon Research
Attn: Barry L Copeland
6201 South Freeway
Fort Worth TX 76134-2099

In re Application of	:	
FENG, Zixia et al.	:	
Application No.: 10/525,410	:	DECISION
PCT No.: PCT/US02/39316	:	
Int. Filing Date: 09 December 2002	:	ON PETITION UNDER
Priority Date: 20 December 2001	:	
Docket No.: 2345F USA	:	37 CFR 1.137(b)
For: NOVEL ... TREATMENT OF GLAUCOMA	:	

Applicants' "Petition to Revive Under 37 C.F.R. §1.137(b)," filed in the above-captioned application on 30 June 2005 is **GRANTED**. It was accompanied by a postcard receipt indicating that a petition to revive was received by the Office on 05 April 2005. Applicants indicated that the accompanying petition is a copy of the 05 April 2005 petition. The 30 June 2005 petition is accepted as having a receipt date of 05 April 2005.

Applicants state that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a)-(b) has been submitted. The fee for late filing of the oath or declaration has been paid.

The transmittal letter accompanying this application has a new correspondence address, but it is not accompanied by a power of attorney, authorizing the change.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a date of 26 January 2005 under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4).

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

cc: Kilyk & Bowersox PLLC
53 A East Lee Street
Warrenton, VA 20136

19 MAY 2006

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P.O. Box 1450
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Alcon Research
Attn: Barry L Copeland
6201 South Freeway
Fort Worth TX 76134-2099

In re Application of	:	
FENG, Zixia et al.	:	
Application No.: 10/525,410	:	DECISION
PCT No.: PCT/US02/39316	:	
Int. Filing Date: 09 December 2002	:	ON PETITION UNDER
Priority Date: 20 December 2001	:	
Docket No.: 2345F USA	:	37 CFR 1.181
For: NOVEL ... TREATMENT OF	:	
GLAUCOMA	:	

This decision is in response to applicant's "Petition Under 37 CFR 1.181," filed with the United States Patent and Trademark Office on 29 August 2005.

As indicated in Decision On Petition Under 37 CFR 1.137(b) mailed 08 July 2005, complied with 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) on 26 January 2005.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed 11 August 2005 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision, including issuance of a corrected Notification of Acceptance (Form PCT/DO/EO/903) and filing receipt, indicating that the requirements under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) were satisfied on 26 January 2005.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

21 MAR 2006

#7

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26111
STERNE KESSLER GOLDSTEIN & FOX PLLC
1100 New York Avenue, N.W.
Washington, DC 20005

In re Application of	:	
MACPHEE, Martin J. *et al*	:	
U.S. Application No.: 10/525,415	:	
PCT No.: PCT/US03/28100	:	
Int. Filing Date: 09 September 2003	:	**DECISION**
Priority Date: 10 September 2002	:	
Attorney's Docket No.: 1327.0690001/ELE/SJE	:	
For: HEMOSTATIC DRESSING	:	

This is a decision on the request to add two inventors in the above-captioned application pursuant to 37 CFR 1.497(d) filed 27 February 2006.

BACKGROUND

On 10 August 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required. Applicants were given two months to respond with extensions of time available.

On 10 January 2006, applicants submitted a declaration listing three inventors along with a three-month extension and fee.

On 27 January 2005, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration submitted 10 January 2006 was not in compliance with 37 CFR 1.497(a) and (b) because two inventors listed on the declaration were not recorded as inventors in the international application. Applicants were given one month to respond, or any time remaining on the Form PCT/DO/EO/905.

On 27 February 2006, applicants filed a reply which was accompanied by, *inter alia*, the processing fee; a copy of an assignment; a declaration; two documents titled "Statement Under 37 CFR § 1.497(d)(1) of a Person to be Added or Deleted as an Inventor"; a power of attorney from assignee; a document titled "Consent of Assignee Under 37 CFR §1.497(d)(3)"; and a "Statement Under 37 CFR 3.73(b)."

DISCUSSION

Applicants request to add Dawson Beall and Stanley Friedman as inventors in the above-captioned application. 37 CFR 1.497(d) applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)). 37 CFR 1.497(d) states, in part:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:
>
> > (1) A statement from each person being added as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
> >
> > (2) The processing fee set forth in § 1.17(l); and
> >
> > (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees.

Here, applicants filed a statement by Dawson Beall who requests to be added as an inventor in the above-captioned application. Mr. Beall states that the "inventorship error occurred without deceptive intention on my part." Applicants also filed a statement by Stanley Friedman requesting to be added as an inventor in the above-captioned application. Mr. Friedman states that the "inventorship error occurred without deceptive intention on my part." The processing fee of $130.00 has been paid.

Applicants also submitted a document titled "Consent of Assignee Under 37 CFR § 1.497(d)" consenting to the change of inventorship in the above-identified application. This document was signed by the Roger Dodd, Vice President, Research & Development. This position is presumed to have the authority to sign for a corporation. *See* § 324 MPEP. A "Statement Under 37 CFR 3.73(b)" was also provided as required.

Therefore, all the requirements of 37 CFR 1.497(d) are complete.

CONCLUSION

Applicants' request under 37 CFR 1.497(d) is **GRANTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 09 September 2003, under

35 U.S.C. 363, and a 35 U.S.C. 371 date of 10 January 2006.

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

06 MAR 2006

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BLANK ROME LLP
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WASHINGTON, DC 20037

In re Application of KELLY et al	:	
U.S. Application No.: 10/525,418	:	
PCT Application No.: PCT/EP03/09349	:	DECISION
Int. Filing Date: 22 August 2003	:	
Priority Date Claimed: 23 August 2002	:	
Attorney Docket No.: 119508-00281	:	
For: TORQUE SENSOR ADAPTOR	:	

This is in response to applicant's "Petition Under 37 C.F.R. § 1.47(b)" filed 28 October 2005, which is being treated under 37 CFR 1.47(a).

BACKGROUND

On 22 August 2003, applicant filed international application PCT/EP03/09349, which claimed priority of an earlier United Kingdom application filed 23 August 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 04 March 2004. The thirty-month period for paying the basic national fee in the United States expired on 23 February 2005.

On 23 February 2005, 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 31 August 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 28 October 2005, applicant filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2)

factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, applicant has submitted a declaration signed by the available inventor David Kelly on his own behalf and on behalf of the nonsigning inventor.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition states that joint inventor Lutz May refuses to sign the application papers. Petitioner has adequately established that a bona fide attempt was made to present a copy of the application papers to May for signature (see affidavit of Alexander Straus, ¶13). However, the petition does not sufficiently establish that May refuses to sign. Specifically, an English translation of the letter dated 30 August 2005 (Annex VI) has not been provided. Furthermore, inventor May purportedly indicated in the 30 August 2005 letter that more time was needed to review the situation before responding (see Straus affidavit, ¶14), which is not an express refusal to sign.

With regard to item (3) above, applicant is advised that effective 22 November 2004, the fee for a petition under 37 CFR 1.47 increased to $200.00. Any deficiency in the petition fee will be charged to Deposit Account No. 23-2185 as authorized by applicant.

With regard to item (4) above, the petition states the last known address of the nonsigning inventor.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely file a proper response will result in abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

27 JUN 2006

#7

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BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037

In re Application of KELLY et al	:	
U.S. Application No.: 10/525,418	:	
PCT Application No.: PCT/EP03/09349	:	DECISION
Int. Filing Date: 22 August 2003	:	
Priority Date Claimed: 23 August 2002	:	
Attorney Docket No.: 119508-00281	:	
For: TORQUE SENSOR ADAPTOR	:	

This is in response to applicant's "Renewed Petition Under 37 C.F.R. § 1.47(a)" filed 10 May 2006.

BACKGROUND

On 22 August 2003, applicant filed international application PCT/EP03/09349, which claimed priority of an earlier United Kingdom application filed 23 August 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 04 March 2004. The thirty-month period for paying the basic national fee in the United States expired on 23 February 2005.

On 23 February 2005, 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 31 August 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 28 October 2005, applicant filed a petition under 37 CFR 1.47(a).

On 06 March 2006, this Office mailed a decision dismissing the 28 October 2005 petition.

On 10 May 2006, applicant filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

Applicant has previously satisfied items (1), (3), and (4) above.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition states that joint inventor Lutz May refuses to sign the application papers. Petitioner has adequately established that a bona fide attempt was made to present a copy of the application papers to May for signature (see affidavit of Alexander Straus, ¶13). Furthermore, the petition sufficiently establishes that May refuses to sign. Specifically, May's failure to supply an executed declaration in response to the letter dated 24 August 2005 constitutes a constructive refusal to cooperate (see translation of 24 August 2005 letter and May's response dated 30 August 2005). Thus, it can be concluded with reasonable certainty that May refuses to sign the application papers.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 22 August 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 28 October 2005.

As set forth in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at the last known address of record and will be published in the *Official Gazette*.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

27 JUN 2006

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Lutz May
Wolfratshauser Strasse 23a
Gelting, 82538
Germany

In re Application of KELLY et al
U.S. Application No.: 10/525,418
PCT Application No.: PCT/EP03/09349
Int. Filing Date: 22 August 2003
Priority Date Claimed: 23 August 2002
For: TORQUE SENSOR ADAPTOR

Dear Lutz May:

You are named as a joint inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost set forth in 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you choose to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Bryan Tung
PCT Legal Examiner
PCT Legal Office
Telephone: 571-272-3303
Facsimile: 571-273-0459

BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037
Attorney Docket No.: 119508-00281

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19 JUL 2007

BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037

In re Application of KELLY et al	:	
U.S. Application No.: 10/525,418	:	
PCT Application No.: PCT/EP03/09349	:	DECISION
Int. Filing Date: 22 August 2003	:	
Priority Date Claimed: 23 August 2002	:	
Attorney Docket No.: 119508-00281	:	
For: TORQUE SENSOR ADAPTOR	:	

This is in response to applicant's "Letter" filed 11 July 2007, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 22 August 2003, applicant filed international application PCT/EP03/09349, which claimed priority of an earlier United Kingdom application filed 23 August 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 04 March 2004. The thirty-month period for paying the basic national fee in the United States expired on 23 February 2005.

On 23 February 2005, 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 31 August 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 28 October 2005, applicant filed a petition under 37 CFR 1.47(a).

On 06 March 2006, this Office mailed a decision dismissing the 28 October 2005 petition.

On 10 May 2006, applicant filed a renewed petition under 37 CFR 1.47(a).

On 27 June 2006, this Office mailed a decision granting the 10 May 2006 petition.

On 11 July 2007, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The present petition requests reconsideration of the decision mailed 27 June 2006. The petition states that the basis for such request is the submission of an English translation of a German court decision regarding ownership of the present application. However, ownership of the present application is not at issue because one of the inventors has executed a declaration.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181".

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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21 SEP 2006

BUCHANAN, INGERSOLL & ROONEY LLP
P.O. BOX 1404
ALEXANDRIA VA 22313-1404

In re Application of	:	
DREW, Daniel Maxwell	:	
Application No.: 10/525,420	:	DECISION ON
PCT No.: PCT/AU03/01090	:	
Int. Filing Date: 27 August 2003.	:	PETITION
Priority Date: 27 August 2002	:	
Attorney Docket No.: 034381-001	:	UNDER 37 CFR 1.181
For: PROCESS FOR TREATMENT ...	:	
RE-USE OF BIOSOLIDS	:	

This decision is in response to applicant's request to withdraw the abandonment, filed in the United States Patent and Trademark Office on 03 August 2006.

BACKGROUND

On 27 August 2003, applicant filed international application PCT/AU03/01090. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 11 March 2004. The deadline for entry into the national stage in the United States was 27 February 2005.

On 23 February 2005, applicant filed a submission for entry into the national stage in the United States which was accompanied by the basic national fee.

On 08 March 2006, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905), indicating that an oath or declaration of the inventors and the small entity surcharge for late filing of the search fee, examination fee or oath or declaration were required. The notification set a two month extendable period for reply.

On 18 July 2006, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application went abandoned for failure to timely reply to the Notification of Missing Requirements.

On 03 August 2006, applicant filed the instant petition claiming that the application was not abandoned and that the Notification of Abandonment had issued prematurely.

DISCUSSION

As indicated, the Notification of Missing Requirements mailed on 08 March 2006. The two month response period with a five month extension of time would allow applicant until 08

October 2006 to respond. That time period has not yet run. The Notification of Abandonment issued in error.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 18 July 2006 is **VACATED**.

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

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15 AUG 2007

BUCHANAN, INGERSOLL & ROONEY LLP
P.O. BOX 1404
ALEXANDRIA VA 22313-1404

In re Application of	:	
DREW, Daniel Maxwell	:	
Application No.: 10/525,420	:	
PCT No.: PCT/AU03/01090	:	DECISION ON
Int. Filing Date: 27 August 2003	:	
Priority Date: 27 August 2002	:	PETITION
Attorney Docket No.: 034381-001	:	
For: PROCESSES FOR TREATMENT OF WASTEWATER, SEPARATION, DEODORIZATION AND RE-USE OF BIOSOLIDS	:	UNDER 37 CFR 1.47(a)

This decision is in response to applicant's petition under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office on 06 October 2006.

BACKGROUND

On 27 August 2003, applicant filed international application PCT/AU03/01090. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 11 March 2004. The deadline for entry into the national stage in the United States was 27 February 2005.

On 23 February 2005, applicant filed a submission for entry into the national stage in the United States which was accompanied by the basic national fee.

On 08 March 2006, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905), indicating that an oath or declaration of the inventors and the small entity surcharge for late filing of the search fee, examination fee or oath or declaration were required. The notification set a two month extendable period for reply.

On 06 October 2006, applicants filed a declaration of the inventors accompanied by a petition under 37 CFR 1.47(a) and the fee for a five month extension of time.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the non-signing applicant.

Items (1) and (4) have been satisfied. The $200 petition fee has been paid. The declaration is in compliance with 37 CFR 1.497(a)-(b) and 1.47. Item (3) has been satisfied as to inventor Darryl K. Josey. His last known address is listed as: 15-17 Boardman Street; Kallangur, Queensland 4503; Australia.

Item (2) has not been satisfied. Applicants are claiming that inventors Drew and Josey have refused to sign an oath or declaration. However, applicants have not furnished evidence of receipt of the complete copy of the application papers, including the declaration, by the non-signing inventors. Both the petition and the letters indicate only that a declaration and an assignment were forwarded to the inventors. Failure to execute a declaration in the absence of presentation with a complete copy of the application papers is not ordinarily sufficient to establish refusal to join. MPEP 409.03(d).

Item (3) has not been satisfied as to Daniel Maxwell Drew. Applicants have listed two addresses as the last known address for the inventor. Under MPEP 605.03, applicant must provide the last known home address of the inventor, while additional contact addresses are appreciated. MPEP 409.03(e). It is not clear which address is the last known home 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

1 1 FEB 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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BUCHANAN, INGERSOLL & ROONEY LLP
P.O. BOX 1404
ALEXANDRIA VA 22313-1404

In re Application of	:	
DREW, Daniel Maxwell	:	
Application No.: 10/525,420	:	
PCT No.: PCT/AU03/01090	:	DECISION ON
Int. Filing Date: 27 August 2003	:	
Priority Date: 27 August 2002	:	PETITION
Attorney Docket No.: 034381-001	:	
For: PROCESSES FOR TREATMENT OF WASTEWATER, SEPARATION, DEODORIZATION AND RE-USE OF BIOSOLIDS	:	UNDER 37 CFR 1.47(a)

This decision is in response to applicant's renewed petition under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office on 07 December 2007.

BACKGROUND

On 15 August 2007, the Office mailed Decision On Petition Under 37 CFR 1.47(a), dismissing applicant's petition without prejudice.

On 19 November 2007, the Office mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application went abandoned for failure to timely reply to the 15 August 2007 decision.

On 07 December 2007, applicant filed this renewed petition under 37 CFR 1.47(a), accompanied by the fee for a two month extension of time.

DISCUSSION

The 15 August 2007 decision set a two month extendable period for reply. The 19 November 2007 Notification of Abandonment was mailed in error and is here by vacated.

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) and (4) were previously satisfied. The $200 petition fee has been paid. The declaration is in compliance with 37 CFR 1.497(a)-(b) and 1.47. Applicants have now furnished a declaration signed by Mr. Josey. As such, the petition is moot as to him.

Item (3) has been satisfied. Applicants state the last known address of Mr. Drew is 7 Francis Street; Warrandyte, Victoria 3113; Australia.

Item (2) has not been satisfied. Applicants are claiming that inventor Drew has refused to sign an oath or declaration. The declaration of Angus Craig states that he furnished a complete copy of the application papers to Mr. Drew, that Mr. Drew acknowledged receipt of them, but that a signed declaration has not been received. However, while Mr. Craig says that supporting documentation is attached, it was not part of the submission. The 21 September 2007 letter and attachments were not included and the tracking receipt or mail receipt was not included. Only the previous letters that do not indicate that a complete copy of the application papers were furnished, have been submitted.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 19 November 2007 is **VACATED**.

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

2 5 APR 2008

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BUCHANAN, INGERSOLL & ROONEY LLP
P.O. BOX 1404
ALEXANDRIA VA 22313-1404

In re Application of	:	
DREW, Daniel Maxwell	:	
Application No.: 10/525,420	:	
PCT No.: PCT/AU03/01090	:	DECISION ON
Int. Filing Date: 27 August 2003	:	
Priority Date: 27 August 2002	:	PETITION
Attorney Docket No.: 034381-001	:	
For: PROCESSES FOR TREATMENT OF WASTEWATER, SEPARATION, DEODORIZATION AND RE-USE OF BIOSOLIDS	:	UNDER 37 CFR 1.47(a)

This decision is in response to applicant's renewed petition under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office on 14 February 2008.

BACKGROUND

On 11 February 2008, the Office mailed Decision On Petition Under 37 CFR 1.47(a), dismissing applicant's petition without prejudice.

On 14 February 2008, applicant filed this renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the non-signing applicant.

Items (1), (3) and (4) were previously satisfied. The $200 petition fee has been paid. The declaration is in compliance with 37 CFR 1.497(a)-(b) and 1.47. Applicants state the last known address of Mr. Drew is 7 Francis Street; Warrandyte, Victoria 3113; Australia. Applicants have now furnished a declaration signed by Mr. Josey. As such, the petition is moot as to him.

Item (2) has now been satisfied. Applicants have now supplied the supporting documentation mentioned by Mr. Craig in his earlier statement.

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 **07 December 2007**.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

2 5 APR 2008

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P.O. Box 1450
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Daniel Drew
PO Box 5
Warrandyte, Victoria 3113
Australia

In re Application of
DREW, Daniel Maxwell
Application No.: 10/525,420
PCT No.: PCT/AU03/01090
Int. Filing Date: 27 August 2003
Priority Date: 27 August 2002
Attorney Docket No.: 034381-001
For: PROCESSES FOR TREATMENT OF WASTEWATER, SEPARATION, DEODORIZATION AND RE-USE OF BIOSOLIDS

Dear Mr. Drew:

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

BUCHANAN, INGERSOLL & ROONEY LLP
P.O. BOX 1404
ALEXANDRIA VA 22313-1404

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,438	02/13/2006	Mohammad Salman	RLL-268.1US	5082

7590 02/13/2008

RANBAXY INC.
600 COLLEGE ROAD EAST
SUITE 2100
PRINCETON, NJ 08540

EXAMINER
CHUNG, SUSANNAH LEE

ART UNIT	PAPER NUMBER
1626	

MAIL DATE	DELIVERY MODE
02/13/2008	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☒ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

30 AUG 2005

#3

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Finnegan, Henderson, Farrabow,
Garrett & Dunner, L.L.P.
901 New York Ave, N.W.
Washington, D.C. 20001-4413

In re Application of	DECISION ON
Li et al	
Application No.: 10/525,441	
PCT No.: PCT/US03/14609	
Int. Filing Date: 12 May 2003	
Priority Date: 17 May 2002	PETITION UNDER
Attorney's Docket No.: 08702.0110-00000	
For: INJECTABLE SOLID HYALURONIC ACID	
CARRIERS FOR DELIVERY OF OSTEOGENIC	
PROTEINS	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 on 22 February 2005.

BACKGROUND

On 12 May 2003, this international application was filed, claiming an earliest priority date of 17 May 2002.

This international application became abandoned with respect to the United States at midnight on 17 November 2004 for failure to pay the required basic national fee.

On 22 February 2005, applicants filed the instant petition under 37 CFR 1.137(b) and Transmittal letter for entry into the national stage in the United States, which was accompanied by the basic national fee, an executed declaration and the petition fee.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **22 February 2005.**

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

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P.O. Box 1450
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NXP, B.V.
NXP INTELLECTUAL PROPERTY DEPARTMENT
M/X41-SJ
1109 MCKAY DRIVE
SAN JOSE, CA 95131

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MAY 29 2008

OFFICE OF PETITIONS

In re Application of
Philippe GENTRIC, et al
Application No. 10/525,471
Filed: February 23, 2005
Attorney Docket No. FR 020090

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 11, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 14, 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 August 15, 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 $1540; and (3) an adequate 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 Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 2154 for appropriate action by the Examiner in the normal course of business on the reply received March 11, 2008.

April Wise
Petitions Examiner
Office of Petitions

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P.O. Box 1450
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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVENUE, SUITE 5400
SEATTLE WA 98104-7092

MAILED

OCT 08 2009

OFFICE OF PETITIONS

In re Application of	:	
Peter Bode, et al.	:	
Application No. 10/525,473	:	DECISION GRANTING PETITION
Filed: February 23, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 853563.441USPC	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 6, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 8, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2611 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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INTELLECTUAL PROPERTY & STANDARDS
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SAN JOSE CA 95131

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JAN 07 2008

OFFICE OF PETITIONS

In re Application of	:	
Kooyker, et al.	:	
Application No. 10/525,474	:	ON PETITION
Filed: February 23, 2005	:	
Attorney Docket No. NL 020791	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed July 31, 2007..

The petition under 37 CFR 1.137(b) 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)." No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a **proper** response to the final Office action mailed March 29, 2006, which set a shortened statutory period for reply of three (3) months. On May 10, 2006, applicants filed an amendment. However, by Advisory Action mailed May 24, 2006, the examiner informed applicants that the amendment would not be entered because it failed to place the application in condition for allowance. No further proper response having been received, the application became abandoned on June 30, 2006. A courtesy Notice of Abandonment was mailed on July 5, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee 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 this paragraph 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(d).

The instant petition lacks item (2), the required reply. The amendment submitted with the petition does not place the application in condition for allowance.

On renewed petition, petitioner must submit a proper reply in response to the final Office action mailed March 29, 2006. The proposed reply to a final Office action required for consideration of a petition to revive must be either (1) a Notice of Appeal (and fee required by law); (2) an amendment that *prima facie* places the application in condition for allowance; (3) the filing of a continuing application under 37 CFR 1.53(b) or if applicable, 1.53(d); or (4) a request for a continuing examination (RCE) under 37 CFR 1.114.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Kooyker, et al.	:	
Application No. 10/525,474	:	ON PETITION
Filed: February 23, 2005	:	
Attorney Docket No. NL 020791	:	

This is a decision on the renewed petition to revive under 37 CFR 1.137(b), filed February 6, 2008.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed March 29, 2006, which set a shortened statutory period for reply of three (3) months. On May 10, 2006, applicants filed an amendment. However, by Advisory Action mailed May 24, 2006, the examiner informed applicants that the amendment would not be entered because it failed to place the application in condition for allowance. No further proper response having been received, the application became abandoned on June 30, 2006. A courtesy Notice of Abandonment was mailed on July 5, 2007. Applicants filed a petition to revive under 37 CFR 1.137(b) on July 31, 2007. However, the petition was dismissed in a decision mailed on January 7, 2008. The amendment submitted with the petition did not place the application in condition for allowance.

With the instant petition, petitioner has submitted an RCE. The other requirements for a grantable petition were previously satisfied with the petition filed July 31, 2007.

The application is being forwarded to Group Art Unit 1761 for consideration of the RCE filed February 6, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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MAR 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Klaas Kooyker, et. al.	:	
Application No. 10/525,474	:	ON PETITION
Filed: February 23, 2005	:	
Attorney Docket No. NL 020791	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 14, 2009, to revive the above-identified application.

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Dicran Halajian appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party on whose behalf he/she acts. If Dicran Halajian desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

The application became abandoned for failure to file a proper reply to the non-final Office action mailed July 10, 2008. A Notice of Abandonment was mailed on October 30, 2008.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3742 for appropriate action by the Examiner in the normal course of business on the amendment filed with the present petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Dicran Halajian
Thorne & Halajian, LLP
111 West Main Street
Bay Shore, NY 11706

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1109 MCKAY DRIVE
SAN JOSE, CA 95131

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OFFICE OF PETITIONS

In re Application of	:	
Manish Garg, et. al.	:	
Application No. 10/525,488	:	ON PETITION
Filed: February 23, 2005	:	
Attorney Docket No. NL03 0363 US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 8, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

As authorized, the petition fee of $1,540 has been charged to petitioner's deposit account.

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 Michael J. Ure appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (1).

The application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action mailed April 16, 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). Since the amendment submitted on December 8, 2007, does not *prima facie* place the application in condition for allowance, the reply required should be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). A courtesy copy of the Advisory Action is being mailed with this decision on petition.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Courtesy Copy of the Advisory Action

Response to Amendment

Applicant's claims will not be entered because the amendments fail to place the claims in condition for allowance.

Applicant has amended the independent claims to recite a step of transitioning "from an active state to a standby state ***for the purpose of reducing power consumption***". On pp. 8 of applicant's remarks, applicant argued that Chang does not teach that the standby mode is entered for reducing power consumption. The examiner respectfully disagrees.

The examiner notes that on pp. 8 of applicant's remarks, the applicant appears to cite the "Response to Arguments" section from the Final Office Action dated 4/16/2008. However, a portion of that text has been excised. The original response (with emphasis) is re-printed below.

> Applicant's arguments filed on 2 February 2007 have been fully considered but they are not persuasive.
>
> In applicant's remarks, applicant states that Chang, U.S. Patent No. 7,127,228 B2, does not teach decreasing the regular power supply, but rather detecting a decrease in the regular power supply. ***Additionally, applicant states that Chang does not teach a power conservation mechanism***, and that Chang is directed towards a power failure recovery mechanism.
>
> In response, the examiner points to Chang, col. 2, lines 15-27 and col. 3, line 51 to col. 4, line 4. Based on these cited portions of Chang's disclosure, the examiner agrees with the applicant's assertion that Chang teaches detecting a decrease in the regular power supply. However, the examiner points out that when the context of the cited portions of Chang's disclosure are taken into account, it is clear that upon detecting a decrease in the regular power supply below a *threshold level*, the power supplied to the circuit is further decreased by cutting off the power supply. ***Additionally, Chang's disclosure teaches that the invention minimizes power consumption during the standby mode [col. 1, lines 63-67, col. 4, lines 19-25]***. That Chang's standby mode occurs in response to a power failure event is not relevant, since applicant's claim language does not restrict standby mode to only non-power failure situations.
>
> Additionally, the examiner notes that applicant has not addressed the objections/rejections unrelated to the prior art. Therefore, the prior grounds of rejection/objection remain standing.

Although Chang teaches that the standby mode is entered in response to a power failure, Chang also teaches that when the power failure occurs, certain necessary components remain powered while certain other components are disconnected [col. 3, lines 26-34, 30-41].

This step is carried out to minimize power consumption of a backup battery which provides power during a power failure [col. 1, lines 63-67]. Thus, the standby mode of Chang is defined by being powered by a backup battery during a power failure, which necessitates that unnecessary components are inoperative so as to reduce power consumption and therefore extend the time that the device can be powered by the battery.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JI H. BAE whose telephone number is (571)272-7181. The examiner can normally be reached on Monday-Friday, 10 am to 6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Lee can be reached on 571-272-3667. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JI H. BAE/
Examiner, Art Unit 2115
U.S. Patent and Trademark Office
571-272-7181
ji.bae@uspto.gov

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In re Application of	:	
Manish Garg, et. al.	:	
Application No. 10/525,488	:	ON PETITION
Filed: February 23, 2005	:	
Attorney Docket No. NL03 0363 US	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed on September 24, 2008, to revive the above-identified application.

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 Michael J. Ure appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

The renewed petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, with the $810 filing fee; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED.**

This application is being revived for consideration of the RCE filed on September 24, 2008.

This application is being referred to Technology Center Art Unit 2115 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment filed on December 8, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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FISH & RICHARDSON P.C.
P.O BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of :
Ebden, et al. : LETTER REGARDING PTA
Application No. 10/525,495 :
Filed: February 23, 2005 :
Atty. Dkt. No.: : 06275-443US1 :
100817-1P US

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT," filed September 22, 2008. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment mailed July 25, 2008 indicated that the above-identified application was entitled to a patent term adjustment ("PTA") of 438 days. Applicants indicate that this adjustment appears to be longer than appropriate because the Office neglected to assess a reduction in connection with the IDS filed July 10, 2008. The issue fee was received October 10, 2008.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 341 days.

As reflected in the Determination of Patent Term Adjustment mailed July 25, 2008, an adjustment of 529 can be attributed to the Office in accordance with 37 CFR 1.702(a)(1). As further reflected by the Determination of Patent Term Adjustment, the adjustment is properly reduced 91 days in accordance with 37 CFR 1.704(b) in connection with the response filed April 4, 2008.

However, as indicated by applicants, the Office failed to assess an adjustment in connection with the IDS filed July 10, 2008. Therefore, the adjustment is further properly reduced 97 days in accordance with 37 CFR 1.704(c)(8). The reduction commenced April 5, 2008, the day after the date that an initial reply to a non-final Office action was filed and ended July 10, 2008, the date that the IDS was filed.

Accordingly, at the time of allowance, the application is entitled to an adjustment of 341 days (adjustments totalling 529 days less reductions totalling 188 days).

As applicants are advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection with this matter.

The patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

This application is being forward to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the Alesia M. Brown at (571) 272-3205.

Kery A. Fries

Kery Fries
Senior Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation

Day : Tuesday
Date: 12/16/2008

PALM INTRANET

Time: 11:31:30

PTA Calculations for Application: 10/525495			
Application Filing Date:	02/23/2005	PTO Delay (PTO):	529
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	91
Post-Issue Petitions:	0	Total PTA (days):	341
PTO Delay Adjustment:	-97		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
38	12/16/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		97	
31	07/25/2008	MAIL NOTICE OF ALLOWANCE			
30	07/21/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
29	07/21/2008	CASE DOCKETED TO EXAMINER IN GAU			
28	07/21/2008	NOTICE OF ALLOWABILITY			
27	07/10/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	10/31/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
25	07/10/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	05/08/2008	DATE FORWARDED TO EXAMINER			
23	04/04/2008	RESPONSE AFTER NON-FINAL ACTION		91	17
22	04/04/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
21	10/31/2007	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
20	10/31/2007	MISCELLANEOUS INCOMING LETTER			
18	10/31/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	10/04/2007	MAIL NON-FINAL REJECTION	529		-1
16	09/28/2007	NON-FINAL REJECTION			
13	02/28/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
12	02/28/2006	REFERENCE CAPTURE ON IDS			
11.7	02/28/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

11	02/28/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	10/06/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	10/06/2005	CASE DOCKETED TO EXAMINER IN GAU			
8	02/23/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
7	02/23/2005	PRELIMINARY AMENDMENT			
6	09/29/2005	CLEARED BY OIPE CSR			
5	09/28/2005	CLEARED BY OIPE CSR			
4	02/24/2005	371 COMPLETION DATE			
3	09/16/2005	APPLICATION DISPATCHED FROM OIPE			
2	09/16/2005	NOTICE OF DO/EO ACCEPTANCE MAILED			
1	02/23/2005	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

In re Patent No. 7,482,355 :
Issued: January 27, 2009 :
Application No. 10/525,495 : PATENT TERM ADJUSTMENT
Filed: February 23, 2005 :
Dkt. No.: 06275-443US1 100817-1P US :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed March 27, 2009. Patentees request correction of the patent term adjustment from 341 days to 679 days. Patentees requested this correction on the sole basis that the Office took in excess of three years to issue the above-referenced patent.

The application for patent term adjustment (PTA) under 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,482,355 on January 27, 2009. The patent issued with a patent term adjustment of 341 days. The instant application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(d). Applicants argued that in view of Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), the patent was entitled to an adjustment of 679 days (529 days pursuant to 35 USC 154(b)(1)(A) *plus* 338 days pursuant to 35 USC 154(b)(1)(B) *less* 188 days applicant delay).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office asserts that as of the issuance of the patent on January 27, 2009, the application was pending three years and 338 days after national stage commenced under 35 U.S.C. 371(b) or (f) in an international application. The Office agrees that certain action was not taken within the specified time frame, and thus, the adjustment of 529 days pursuant to 37 CFR 1.702(a)(1) is correct. At issue is whether patentees should accrue 338 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 529 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 338 days of delay in issuance of the patent under 37 CFR 1.702(b) overlaps with the period of 529 days of examination delay under 37 CFR 1.702(a)(1). 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:

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).

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 national stage commenced, 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

---

[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.

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 beginning on the date that national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, February 24, 2005, and ending on the date that the patent issued, January 27, 2009.

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), the application was pending 14 months and 529 days prior to the issuance of the non-final Office action on October 4, 2007. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), the application was pending three years and 338 days prior to the issuance of the patent on May 5, 2009.

The 338 days of delay in issuance of the patent under 37 CFR 1.702(b) overlap with the 529 days of patent term adjustment under 37 CFR 1.702(a). Entry of both the 338 days and the 529 days is neither permitted nor warranted given that 529 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, having considered the 338 days of Office delay under the three-year pendency provision in conjunction with the 529 days of examination delay, reduced 188 days for applicant delay, the Office properly entered 341 days of patent term adjustment.

In view thereof, no adjustment to the patent term will be made.

Receipt is hereby acknowledged of the required patent term adjustment application fee of $200.00.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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FISH & RICHARDSON P.C.
P.O BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Mark Richard Ebden	: DECISION ON REQUEST FOR
Patent Number	: 7482355	: RECALCULATION of PATENT
Issue Date	: 01/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/525,495	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **678** 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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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

Mail Date: 04/21/2010

Applicant	: Valerie Bousquet	: DECISION ON REQUEST FOR
Patent Number	: 7629237	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/525,499	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **581** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Hiroya Inaoka	: DECISION ON REQUEST FOR
Patent Number	: 7629530	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/525,508	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **928** 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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ARLINGTON VA 22203

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APR 07 2009

OFFICE OF PETITIONS

In re Application of	:	
CAVALHEIRO, MARIO TEIXEIRA	:	
Application No. 10/525,511	:	DECISION ON PETITION
Filed: 02/24/2005	:	
Attorney Docket No. 5345-2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 28, 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 November 1, 2006, which set a shortened statutory period for reply of three (3) months. Petitioner did not submit a request for an extension of time within the six-month statutory period for reply pursuant to 37 CFR 1.136(a). Accordingly, the application became abandoned on February 2, 2007. On May 31, 2007, the Office mailed a Notice of Abandonment.

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) an acceptable 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 this paragraph was unintentional" be submitted. However, the statement presented will be accepted and construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the present petition.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555.00 extension of time fee was paid after 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) 272-3211.

This application is being referred to Technology Center AU 3745 for appropriate action by the Examiner in the normal course of business on the reply received on October 28, 2008.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

26 JUL 2005

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Garrett V. Davis
Roylance, Abrams, Berdo & Goodman, L.L.P.
1300 19th Street, N.W., Suite 600
Washington, D.C. 20036

In re Application of DE RUITER, Adrianus Application No.: 10/525,522 PCT No.: PCT/EP01/15382 Int. Filing Date: 20 December 2001 Priority Date: 20 December 2000 Attorney Docket No.: 48241 For: PHOTOVOLTAIC DEVICE FORMING A GLAZING	:	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 24 February 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration along with the $65 surcharge for filing the oath or declaration after the thirty-month period is required.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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24 APR 2007

27476
NOVARTIS VACCINES AND DIAGNOSTICS INC.
Corporate Intellectual Property R338
P.O. Box 8097
Emeryville, CA 94662-8097

In re Application of WONG *et al* U.S. Application No.: 10/525,535 PCT No.: PCT/US2003/026612 Int. Filing Date: 25 August 2003 Priority Date: 23 August 2002 Attorney Docket No.: PP019155.0004 For: COMPOSITIONS AND METHODS OF THERAPY FOR CANCERS CHARACTERIZED BY EXPRESSION OF THE TUMOR-ASSOCIATED ANTIGEN MN/CA IX	**DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)**

Applicants' petition to revive under 37 CFR 1.137(b) filed on 06 March 2007 is hereby **GRANTED** as follows:

A proper sequence listing and declaration in compliance with 37 CFR 1.497(a) and (b) were provided. The petition fee and $130.00 surcharge fee have been paid. Applicants made the required statement pursuant to 37 CFR 1.137(b)(3). A terminal disclaimer is not required.

Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 25 August 2003 under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 06 March 2007.

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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WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON, MA 02109

Mail Date: 04/27/2010

Applicant	: Frank Joseph Pompei	: DECISION ON REQUEST FOR
Patent Number	: 7596228	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/525,539	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1192** 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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Dwayne L. Bentley
Law Office of Dwayne L. Bentley
16 Court Street
Suite 1112
Brooklyn, NY 11124

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In re Application of	:	
Alexander Powell	:	
Application No. 10/525,548	:	DECISION ON PETITION
Filed: October 27, 2005	:	TO WITHDRAW
Attorney Docket No. 204-001PT	:	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 20, 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 does not meet any the conditions set forth in 37 CFR 10.40.

A courtesy copy of this decision is being mailed to the address noted on the request.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by the assignee.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Alexander A. Powell
975 Park Place
Brooklyn, NY 11213

27 SEP 2005

#3

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Bryan A. Shang
ABB, Inc.
940 Main Campus Drive, Ste. 500
Raleigh, NC 27606

In re Application of: UY, David, et al.	:	
U.S. Application No.: 10/525,554	:	DECISION ON PETITION FOR
PCT No.: PCT/US02/40259	:	REVIVAL OF ABANDONED
International Filing Date: 18 December 2002	:	APPLICATION UNDER
Priority Date: 19 December 2001	:	37 CFR 1.137(b)
Attorney's Docket No.: B010010	:	
For: METHOD AND SYSTEM FOR	:	
MONITORING AND CONTROL OF	:	
FIELD ELECTRICAL POWER	:	
EQUIPMENT	:	

The petition for revival under 37 CFR 1.137(b) filed 24 February 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

Applicant has now submitted the basic national fee, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

The 24 February 2005 submission included an executed declaration. However, this declaration is not in compliance with 37 CFR 1.497. Specifically, the five page declaration document submitted appears to be a compilation of multiple copies of the declaration.[1] 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"). Accordingly, a declaration in compliance with 37 CFR 1.497 is still required.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the mailing

[1] This is evidenced by the unusual layout of the signature pages (page "3 of 5" has two signature blocks completed, with the third signature block on the page left blank; page "4 of 5" and page "5 of 5" each have one completed signature box, with the two additional signature blocks on these pages left blank).

of a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 is required.

Richard M. Ross
PCT Petitions Attorney
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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Novak Druce + Quigg, LLP
1300 Eye Street, NW, Suite 1000
Suite 1000, West Tower
Washington, DC 20005

Mail Date: 04/21/2010

Applicant	: Hans-Jurgen Dohren	: DECISION ON REQUEST FOR
Patent Number	: 7603825	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/525,556	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/04/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1051** 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	:	
Ramos et al.	:	
Application No. 10/525,562	:	DECISION ON PETITION
Filed: October 3, 2005	:	
Attorney Docket No. 101.0083	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 9, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed December 5, 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 6, 2008. A Notice of Abandonment was mailed June 30, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response to the Restriction Requirement, (2) the petition fee of $1,540.00 and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571)272-7751.

This application is being referred to Technology Center AU 3672 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

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Hershkovitz & Associates, LLC
2845 Duke Street
Alexandria, VA 22314

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OFFICE OF PETITIONS

In re Werner Brennwald et al.
Application No.: 10/525,565
Filed: February 25, 2005
Patent No.: 7,424,856
Issued: September 16, 2008

DECISION GRANTING PETITION

This is a decision on the November 10, 2008 petition requesting issuance of a corrected patent pursuant to 35 U.S.C. 254 and 37 CFR 1.322(b) ("the November 10, 2008 petition").

The November 10, 2008 petition is before the Office of Patent Legal Administration (OPLA) for consideration.

The November 10, 2008 petition is **granted**.

The Image for U.S. Patent No. 7,424,856 in the USPTO Patent Full-Text and Image Database maintained by the Office has been updated and now includes the corrected patent in the form of the June 15, 2010 Certificate of Correction, in addition to the original, incorrectly printed patent. The Office also provided on June 15, 2010, a courtesy corrected reprint of U.S. Patent No. 7,424,856 for patent owner's records

Any inquiry concerning this decision should be directed to Raul Tamayo, Legal Advisor, at (571) 272-7728.

Brian E. Hanlon
Director
Office of Patent Legal Administration
Office of the Associate Commissioner
for Patent Examination Policy

07 SEP 2005

#4

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David Klein
Dekel Patent Ltd.
Beit HaRof'im
18 Menuha VeNahala Street, Room 27
Rehovot
ISRAEL

In re Application of BRILL et al	:	
U.S. Application No.: 10/525,568	:	
PCT Application No.: PCT/IL03/00373	:	
Int. Filing Date: 08 May 2003	:	DECISION
Priority Date Claimed: 09 May 2002	:	
Attorney Docket No.: 1538NOV-US	:	
For: AN OPTICAL SYSTEM OPERATING WITH	:	
VARYING ANGLE OF INCIDENCE	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 25 February 2005.

BACKGROUND

On 08 May 2003, applicant filed international application PCT/IL03/00373, which claimed priority of an earlier Israel application filed 09 May 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 20 November 2003. The thirty-month period for paying the basic national fee in the United States expired on 09 November 2004.

International application PCT/IL03/00373 became abandoned as to the United States for failure to timely pay the basic national fee.

On 25 February 2005, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless

previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 08 May 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 25 February 2005.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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GIFFORD, KRASS, SPRINKLE, ANDERSON & CITKOWSKI, P.C
P.O. BOX 7021
TROY, MI 48007-7021

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OFFICE OF PETITIONS

In re Patent No. 7,357,916	:	
Issue Date: April 15, 2008	:	
Application No. 10/525,571	:	ON PETITION
Filed: June 30, 2005	:	
Patentee(s): Pudur Jagadeeswaran	:	

This is a decision on the request under 37 CFR 3.81[1] filed September 6, 2008, to add the name of an assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED.**

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

[1] *See Official Gazette of June 22, 2004*

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14 SEP 2006

MADSON & METCALF
Gateway Tower West
15 West South Temple, Suite 900
Salt Lake City, UT 84101

In re Application of	:	
DOUGLAS *et al*	:	
U.S. Application No.: 10/525,581	:	
PCT No.: PCT/GB03/002855	:	
Int. Filing Date: 03 July 2003	:	**DECISION**
Priority Date: 22 August 2002	:	
Attorney Docket No.: 1512.2.148	:	
For: MOBILE 3-PART CRUSHER	:	
ASSEMBLY	:	

This decision is in response to applicants' petition under 37 CFR 1.137(b) and 37 CFR 1.47(a) filed 31 July 2006.

BACKGROUND

On 07 November 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. Applicants were given two months to respond with extensions of time available.

On 14 July 2006, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) for failure to respond to the Form PCT/DO/EO/905 within the time period set therein.

On 31 July 2006, applicants filed a petition to revive under 37 CFR 1.137(b) which was accompanied by, *inter alia*, a petition under 37 CFR 1.47(a); a declaration signed by one of the two named inventors; required fees; statements by Ian Frazier and William McLean Orr; and other assorted documentary evidence in support of the petition under 37 CFR 1.47(a).

DISCUSSION

Petition to Revive Under 37 CFR 1.137(b)

A petition to revive pursuant to 37 CFR 1.137(b) requires: (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 to 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).

Applicants submitted a declaration executed by one of the two named inventors and a petition under 37 CFR 1.47(a) for the nonsigning inventor. This is considered an appropriate response. Applicants provided the petition fee for a small entity of $750.00. Applicants' statement in the petition meets the requirement of 37 CFR 1.137(b)(3). A terminal disclaimer is not required.

Applicants' petition to revive under 37 CFR 1.137(b) is **GRANTED**.

Petition Under 37 CFR 1.47(a)

Applicants claim that co-inventor, Paul Douglas refuses to cooperate. A petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the missing joint inventors cannot be located or refuse to cooperate; (3) a statement of the last known addresses of the nonsigning joint inventors; (4) and an oath or declaration executed by the signing joint inventors on their behalf and on behalf of the nonsigning joint inventors.

Concerning item (1), the fee for a petition under 37 CFR 1.47 changed to $200.00 on 08 December 2004. Petitioners submitted a $130.00 petition fee using a credit card on 31 July 2006. The $70.00 difference has been charged to Deposit Account No. 23-3050 as authorized. Item (1) of 37 CFR 1.47(a) is complete.

With regards to item (3), the last known address of co-inventor Paul Douglas is listed as:

17 Woodvile Road
Hartshorne, Derbyshire
DE11 7ET, United Kingdom

Concerning item (4), the 37 CFR 1.47(a) applicant submitted a declaration signed by one of the two named 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).

Regarding item (2), applicants' burden in showing that an inventor refuses to cooperate is explained in section 409.03(d) of the MPEP. Several pertinent segments are listed below:

Where a refusal of the inventor to sign the application papers is

> **alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made . . .**
>
> **Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.**
>
> When 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.

Applicants claim that the conduct of the nonsigning inventor constitutes a refusal to cooperate and have provided documentary evidence that would likely constitute such a refusal. However, applicants must also show that a complete copy of the application (specification, claims and drawings) was sent to the nonsigning inventor for the refusal to be accepted. Here, applicants claim that a complete copy of the above-captioned application has been sent to the non-signing inventor, in fact the nonsigning inventor "received multiple copies of the application papers."

However, this assertion is <u>not</u> corroborated by any of the documentary evidence submitted. There is no indication that a copy of the application was sent to Mr. Douglas. Mr. Orr's statement in paragraph three that the international application was "duly reviewed by the inventors prior to filing the International application, on which the present United States application is based" is not sufficient to meet the requirements of the MPEP. Applicants must provide the inventors with a complete copy of the national stage application as filed for a refusal under 37 CFR 1.47 to occur.

For this reason, item (2) of 37 CFR 1.47(a) is not satisfied.

<u>CONCLUSION</u>

Applicants' 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. 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

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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21999
KIRTON AND MCCONKIE
60 East South Temple
Suite 1800
Salt Lake City, UT 84111

In re Application of DOUGLAS *et al* U.S. Application No.: 10/525,581 PCT No.: PCT/GB03/02855 Int. Filing Date: 03 July 2003 Priority Date: 22 August 2002 Attorney Docket No.: 1512.2.148 For: MOBILE 3-PART CRUSHER ASSEMBLY	:	**DECISION**

This decision is in response to applicants' renewed petition under 37 CFR 1.47(a) filed 13 February 2007.

BACKGROUND

On 14 September 2006, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Applicants were given two months to respond.

On 13 February 2007, applicants filed the renewed petition which was accompanied by, *inter alia*, a three-month extension of time and fee, a statement by Mr. William Orr and other documentary evidence.

DISCUSSION

Applicants claim that Paul Douglas refuses to cooperate.

Applicants failed to satisfy item (2) of 37 CFR 1.47(a) in their initial petition because they did not show that a copy of the subject application was sent to Mr. Douglas and received.

In the renewed petition, applicants submitted a statement by Mr. Orr who declares that a copy of the specification, claims and drawings of the subject application were included with the letter sent to Mr. Douglas on 14 November 2006. A copy of this letter was submitted along with postal receipts showing delivery. Another letter dated 28 November 2006 requesting that the nonsigning inventor execute the documents was then mailed to the nonsigning inventor. A copy of this letter was also submitted along with postal receipts showing delivery. Mr. Orr states that no response was made to these letters.

The evidence is sufficient to constitute a refusal to cooperate pursuant to section 409.03(d) of the MPEP.

Item (2) of 37 CFR 1.47(a) is now 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 03 July 2003 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 31 July 2006.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record and will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

18 MAY 2006

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Bozicevic Field & Francis
1900 University Avenue
Suite 200
East Palo Alto CA 94303

Li-Hsien (Lily) Rin-Laures
Marshall, Gerstein & Borun LLP
233 South Wacker Drive
6300 Sears Tower
Chicago, IL 6060-6357

In re Application of CRAGER et al	
Application No.: 10/525,583	DECISION ON
PCT No.: PCT/US03/26388	
Int. Filing: 21 August 2003	PETITION
Priority Date: 27 August 2002	
Attorney Docket No.: INTM-016	UNDER 37 CFR 1.47(a)
For: METHODS OF TREATING IDIOPATHIC PULMONARY FIBROSIS	

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 17 January 2006, to accept the application without the signature of joint inventor, Scott Harkonen.

BACKGROUND

On 23 February 2005, 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 June 2005, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating that an oath or declaration in accordance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period was required.

On 17 January 2006, applicant filed a Petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4). The petition requested the acceptance of the application without the signature of inventor, Scott Harkonen, alleging that Mr. Harkonen refuses to sign the appropriate forms.

DISCUSSION

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(h), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

Applicant provided the requisite petition fee of $200, satisfying Item (1). Item (3) is satisfied because the last known address of non-signing inventor, Scott Harkonen, was provided. With regard to item (4), the declaration was executed by the available joint inventors on their behalf and on behalf of the non-signing inventor and satisfies the requirements of 37 CFR 1.47(a).

Applicant attempted to satisfy Item (2) with the submission of the statement of facts in the petition under 37 CFR 1.47(a) from Paula A. Borden, attorney for applicant. Ms. Borden states that "Scott Harkonen's conduct constitutes a constructive refusal to sign". Ms. Borden states that applicant, InterMune, Inc. provided a copy of the application as filed to the inventors, including Scott Harkonen, as was their usual practice. However, Ms. Borden does not provide a first-hand statement from the person who provided a copy of the application to Mr. Harkonen to demonstrate that such was provided to the nonsigning inventor. Furthermore, the letters dated 29 April, 17 October and 2 December 2005 were attached do not indicate that a copy of the application (including specification, claims and drawings) was enclosed and sent to Mr. Harkonen. Ms. Borden's letter to Mr. Harkonen states that the only enclosures were the Declaration and Assignment.

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. Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP), Proof of Unavailability or Refusal.

Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which the conclusion is based should be stated in a statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

In sum, petitioner has not demonstrated: (1) a *bona fide* attempt was made to present a copy of the application papers for U.S. application 10/525,583 (specification, including claims, drawings, and declaration) to the nonsigning inventor for his signature and (2) Mr. Harkonen's refusal to sign, either in writing or by telephone, these documents.

The evidence submitted does not support a finding that the nonsigning inventor refuses to sign the application for the reasons set forth above. Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

Request to Withdraw as Attorneys of Record

The criteria for effecting a proper withdrawal of attorney are spelled out in Section 402.06

of the Manual of Patent Examining Procedure (MPEP) which reads, in part, as follows:

> In the event that a notice of withdrawal is filed by an attorney or agent of record... appropriate procedure will be followed pertaining to the withdrawal. The **withdrawal is effective when approved** rather than when received.
>
> To expedite the handling of requests for permission to withdraw as attorney, under 37 CFR 1.36(b), Form/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 later 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.

Since all of the criteria delineated in Section 402.06 of the M.P.E.P. have been complied with and since there are no outstanding responses due, the request to withdraw as attorney of record is **GRANTED** and is effective as of the mail date of this communication.

All future communications will be forwarded to Li-Hsien (Lily) Rin-Laures, Marshall, Gerstein & Borun, LLP at the address listed on this communication.

CONCLUSION

In view of the above discussion, counsel's Request for Withdrawal is **GRANTED**. The petition under 37 CFR §1.47(a) is **DISMISSED WITHOUT PREJUDICE.**

This application is being forwarded to the United States Designated/Elected Office for further processing.

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

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571) 272-3286

Facsimile (571) 272-0459