



18 DEC 2007

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MERCK AND CO., INC
P O BOX 2000
RAHWAY, NJ 07065-0907

In re Application of KATH et al	:	
U.S. Application No.: 10/536,120	:	
PCT Application No.: PCT/US2006/017368	:	
Int. Filing Date: 05 May 2006	:	
Priority Date Claimed: 11 May 2005	:	DECISION
Attorney Docket No.: 21767P	:	
For: METHOD AND APPARATUS FOR	:	
MEASURING THE VOLUME OF AN	:	
ANIMAL PAW	:	

This is in response to applicant's "Petition to the Commissioner Under 37 CFR 1.181" filed 30 November 2007.

BACKGROUND

On 05 May 2006, applicant filed international application PCT/US2006/017368, which claimed priority of an earlier United States application filed 11 May 2005. The thirty-month period for paying the basic national fee in the United States expired on 11 November 2007.

On 15 October 2007, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 30 November 2007, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

A review of USPTO records reveals that the national stage papers filed 15 October 2007 were mistakenly placed in the application file for international application PCT/US2006/017368 and not processed as a national stage application filed under 35 U.S.C. 371.

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 05 May 2006, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 15 October 2007.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision including: (1) transfer of the national stage papers filed 15 October 2007 from the application file for international application PCT/US2006/017368 to the application file for the present U.S. application number 10/536,120 and (2) processing U.S. application number 10/536,120 as a national stage application filed under 35 U.S.C. 371.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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



MERCK AND CO., INC
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MAILED

MAY 12 2010

OFFICE OF PETITIONS

In re Application of	:
Gary S. Kath et al.	: DECISION ON APPLICATION FOR
Application No. 10/536,120	: PATENT TERM ADJUSTMENT
Filed: October 15, 2007	:
Atty. Dkt. No.: 21767P	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT INDICATED IN THE NOTICE OF ALLOWANCE AND APPLICATION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705 (b)", filed December 18, 2009. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from two hundred thirty-four (234) days to two hundred eighty (280) days.

The request for correction of the initial determination of patent term adjustment (PTA) is GRANTED. The determination of PTA at the time of the mailing of the Notice of Allowance is two hundred eighty (280) days.

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 two hundred eighty (280) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On September 21, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. §154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is two hundred thirty-four (234) days.

The Office initially determined a patent term adjustment based on an adjustment for PTO delay of two hundred thirty-four (234) days, pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 CFR §§1.702(a)(1).

Applicant disputes the period of adjustment for Office failure to mail a first action under 35 U.S.C. 132. Applicant asserts that for the present application, October 15, 2007 is the date Applicants filed all the necessary requirements under 35 U.S.C. § 371(c).

The record supports a conclusion that the patent issuing from the application is not

subject to a terminal disclaimer.

A review of the application history confirms that the requirements of 35 U.S.C. 371 were fulfilled on October 14, 2007 and not on November 30, 2007 as indicated in the PTA Calculation and thus the number of days in the period of adjustment pursuant to § 1.703(a)(1) for the Office's mailing of a first action under 35 U.S.C. 132 on September 21, 2009, is 280 days. This period is counted beginning on the day after the date that is fourteen months after the date on which the application fulfilled the requirements of 35 U.S.C. 371, October 15, 2007, and ending on the date of the mailing of the first action under 35 U.S.C. 132, September 21, 2009.

Given the reduction of 280 days for PTO delay, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is two hundred eighty (280) days.

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

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

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

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



Anthony Knight
Director
Office of Petitions

Enclosure: Copy of Revised PALM Screen

PALM INTRANET

PTA Calculations for Application: 10/536120			
Application Filing Date:	10/15/2007	PTO Delay (PTO):	234
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	280
PTO Delay Adjustment:	46		

File Contents History					
Number	Date	Contents Description	PTO	APPL	START
41	02/19/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	46		
29	09/21/2009	MAIL NOTICE OF ALLOWANCE	234		11
28	09/18/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
27	09/18/2009	CASE DOCKETED TO EXAMINER IN GAU			
26	09/18/2009	ISSUE REVISION COMPLETED			
25	09/18/2009	DOCUMENT VERIFICATION			
24	09/18/2009	NOTICE OF ALLOWABILITY			
23	08/10/2009	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
22	07/27/2009	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
21	01/16/2008	REFERENCE CAPTURE ON IDS			
20	01/16/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	01/16/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
13	08/31/2009	CASE DOCKETED TO EXAMINER IN GAU			
12	08/28/2009	APPLICATION DISPATCHED FROM OIPE			
11	11/30/2007	371 COMPLETION DATE			
10	08/11/2009	SENT TO CLASSIFICATION CONTRACTOR			
9	08/11/2009	FILING RECEIPT			
8	08/11/2009	NOTICE OF DO/EO ACCEPTANCE MAILED			
7	01/29/2008	CLEARED BY OIPE CSR			
6	01/29/2008	IFW SCAN & PACR AUTO SECURITY REVIEW			
5	01/16/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
4	12/18/2007	MAIL-PETITION DECISION - GRANTED.			

3	12/17/2007	PETITION DECISION - GRANTED			
2	11/30/2007	PETITION ENTERED			

Search Another: Application#

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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In re Application of REEVES :
U.S. Application No.: 10/536,121 :
PCT Application No.: PCT/US2005/009439 : DECISION
Int. Filing Date: 21 March 2005 :
Priority Date Claimed: 26 March 2004 :
Attorney Docket No.: ATS001 :
For: REAL TIME PRIVILEGE MANAGEMENT :

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 23 November 2007.

BACKGROUND

On 21 March 2005, applicant filed international application PCT/US2005/009439, which claimed priority of an earlier United States application filed 26 March 2004. The thirty-month period for paying the basic national fee in the United States expired on 26 September 2006.

International application PCT/US2005/009439 became abandoned as to the United States for failure to timely pay the basic national fee.

On 23 November 2007, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has 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.

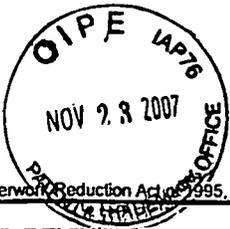
The application has an International Filing Date under 35 U.S.C. 363 of 21 March 2005, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 23 November 2007.

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

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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IAP16 Rec'd PCT/PTO 23 NOV 2007

IFW

PTO/SB/64/PCT (05-07)

Approved for use through 02/28/2010. OMB 0651-0021

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 INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional) **ATS001**

First Named Inventor: Robert B. Reeves

International (PCT) Application No.: PCT/US2005009439

U.S. Application No.: (if known)

Filed: March 21, 2005

Title: REAL TIME PRIVILEGE MANAGEMENT

RECEIVED 30 NOV 2007

Legal Staff International Division

Attention: PCT Legal Staff
Mail Stop PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

The above-identified application became abandoned as to the United States because the fees and documents required by 35 U.S.C. 371(c) were not filed prior to the expiration of the time set in 37 CFR 1.495(b) or (c) as applicable. The date of abandonment is the day after the date on which the 35 U.S.C. 371(c) requirements were due. See 37 CFR 1.495(h).

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee
- (2) Proper reply
- (3) Terminal disclaimer with disclaimer fee which is required for all international applications having an international filing date before June 8, 1995; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

Small entity - fee \$ 770. (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

Other than small entity - fee \$ _____ (37 CFR 1.17(m))

2. Proper reply

A. The proper reply (the missing 35 U.S.C. 371(c) requirement(s)) in the form of papers for application for US utility patent under 35 USC 371(c) (identify type of reply):

has been filed previously on _____

11/27/2007 GFREY 00000080 503562 11656568 is enclosed herewith.

01 FC:243 770.00 DA

[Page 1 of 2]

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

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



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Paper No. 3

RUSSELL H. WALKER
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OFFICE OF PETITIONS

In re Application of :
Igal R. Elfezouaty :
Application Number: 10/536122 : DECISION GRANTING PETITION
Filing Date: 02/01/2008 :
Attorney Docket Number: A7,039 :

This is a decision on the petition filed on February 28, 2008, under 37 CFR 1.10(e),¹ requesting that the above-identified application be accorded a filing date of February 1, 2008.

The petition is granted.

¹ 37 CFR 1.10(e) provides that:

Any person mailing correspondence properly addressed to the Office with sufficient postage utilizing "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 Director, 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.

Petitioner alleges that the application was deposited in "Express Mail" service with the U.S. Postal Service on February 1, 2008. In support, petitioner provided a copy of the Express Mail label, receipt No. EQ391934326US, showing a "Date-in" of "2-1-08". The same Express Mail receipt number was referred to on the itemized Utility Patent Application Transmittal sheet submitted with the application papers. Petitioner has also provided a copy of, *inter alia*, the application transmittal, 38 pages of specification (including eight (8) pages of claims and one (1) page of abstract), and 14 sheets of drawings.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label.² That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the USPS on February 1, 2008.

The application will be processed and examined with a filing date of February 1, 2008, using the copies of the application papers supplied with the present petition.

The application is being referred to the Office of Patent Application Processing for processing with a filing date of **February 1, 2008**, using the application papers present on filing.

Telephone inquiries specific to this matter should be directed to the undersigned at 571-272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

² MPEP 513.



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Paper No. 3

W-H ENERGY SERVICES, INC.
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HOUSTON, TX 77042

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In re Application of :
McElhinney et al. :
Application No. 10/536,124 : DECISION GRANTING PETITION
Filing Date: August 25, 2006 :
Atty Docket Number: PAT059US :

OFFICE OF PETITIONS

This is a decision on the petition under 37 CFR 1.10(e),¹ filed May 7, 2008, requesting that the above-identified application be accorded a filing date of August 25, 2006.

The petition is **granted**.

¹ 37 CFR 1.10(e) provides that:

Any person mailing correspondence properly addressed to the Office with sufficient postage utilizing "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 Director, 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.

Petitioner alleges that the application was deposited in "Express Mail" service with the U.S. Postal Service on August 25, 2006. In support, petitioner provided a copy of the Express Mail label, receipt No. ED437870125US, showing a "Date-in" of "08/25/08". The same Express Mail receipt number was referred to on the Utility Patent Application Transmittal sheet submitted with the application papers. Petitioner has also provided a copy of, *inter alia*, the application transmittal, 22 pages of specification (including five (5) pages of claims and one (1) page of abstract), five (5) sheets of drawings, a Declaration, and an Application Data Sheet.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label.² That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the USPS on August 25, 2006.

The duplicate papers received on August 25, 2006, will be used for examination purposes because the original nonprovisional application papers cannot be located in the USPTO. The application has been assigned nonprovisional application No. 10/536,124. All future correspondence concerning this nonprovisional application should be directed to that application number. Petitioner should notify this Office if the original nonprovisional application papers are subsequently discovered in the USPTO.

The application is being referred to the Office of Patent Application Processing for processing with a filing date of August 25, 2006, using the application papers present on filing.

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

Cc: PathFinder Energy Services, Inc.
15151 Sommermeyer Street
Houston, TX 77041

² MPEP 513.



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AUG 27 2008

In re Application of :
Jean Dubreuil, et al. :
Application No. 10/536,125 :
Filed: April 2, 2004 :
Docket No. 2993-406US-1 JR/as :

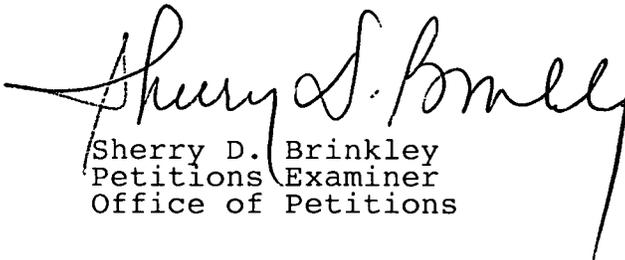
This is a decision on the petition filed April 26, 2007 requesting that the application papers filed April 2, 2004, based on prior application No. 10/232,591 be treated as an application under 37 CFR 1.53(b).

The original application papers have been located in the file of prior Application No. 10/232,591. The present petition and the application papers submitted on April 2, 2004 have been removed from the prior application and have been assigned Application No. 10/536,125. All future correspondence regarding this application should reference Application No. 10/536,125.

The \$400 petition fee is unnecessary and will be refunded to counsel's deposit account.

The application is being referred to the Office of Patent Application Processing (OPAP) for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at OPAP should be directed to their hotline at (571) 272-4000.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions



Paper No. 3

SEARETE LLC
CLARENCE T. TEGREENE
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OFFICE OF PETITIONS

In re Application of :
BOYDEN, EDWARD S. :
Application Number: 10/536,126 : DECISION GRANTING PETITION
Filing Date: October 23, 2007 :
Attorney Docket Number: 0807- :
002-001-000000 :

This is a decision on the petition under 37 CFR 1.10(e), filed October 3, 2008, requesting that a nonprovisional application entitled "Adaptive Dispensation in a Digestive Tract" (Attorney Docket No. 0807-002-001-000000) be assigned an application number and accorded a filing date of October 23, 2007.

The petition is granted.

Petitioner alleges that the application was deposited in "Express Mail" service with the U.S. Postal Service on October 23, 2007. In support, petitioner provided a copy of the Express Mail label, receipt No. EM002256159US, showing a "Date-in" of "10/23/07", as well as a USPS stamp of October 23, 2007. The same Express Mail label number appears on the copy of the original application papers.

Petitioner provided a copy of the original application papers, deposited on October 23, 2007, which consist of a New Utility Patent Application Transmittal and Fee Transmittal, 52 pages of specification, and 10 sheets of drawings (Figs. 1-17). Additionally, petitioner submitted an original Information Disclosure Statement, an original Form PTO-1449, and copies of 3 cited references (59 pages) on October 3, 2008.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label. MPEP 513. This is the date that verifies that the package was actually mailed.

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the USPS on October 23, 2007. Accordingly, the petition is granted. The application papers have been assigned Application No. 10/536,126. No petition fee is necessary.

This application is being forwarded to the Office of Patent Application Processing for further processing as a nonprovisional application with a filing date of October 23, 2007, using the copies of the application papers supplied with the present petition.

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



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EDEN PRAIRIE MN 55344

JUL 14 2008

In re Application of
CARMINCKE, et al.
Application No.: 12/046,617
Filing Date: 20 March 2008
Atty. Docket No.: H01.2I-13902-US01
For: TOOL ARRANGEMENT FOR THE PRODUCTION:
OF HELICAL TEETH IN GEAR WHEELS

DECISION ON PETITION

UNDER 37 CFR 1.182

This is a decision on applicant's "Petition Response to Notice of Incomplete Nonprovisional Application" filed on 20 May 2008 in the United States Patent and Trademark Office (USPTO). The petition is being considered under 37 C.F.R. § 1.182. Applicant has provided payment of the \$400.00 petition fee.

BACKGROUND

On 09 June 2006, applicant filed international application PCT/EP2006/008658, which claimed priority of an earlier application filed 13 September 2005. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 22 March 2007. 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 March 2008.

On 12 March 2008, applicant electronically filed a utility patent application in the United States via EFS-WEB, which was accompanied by, *inter alia*, a fee payment of \$1030, a "Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Submission Under 35 U.S.C. 371" (Form PTO-1390), an English translation of the international application as filed; a substitute specification and an Application Data Sheet. The application was processed as a filing under 35 U.S.C. 111(a).

On 20 March 2008, applicant was mailed a "Notice of Incomplete Nonprovisional Application"

On 20 May 2008, applicant filed the present petition which is being treated as a petition under 37 CFR 1.182 to convert the application from a U.S. utility application under 35 U.S.C. 111(a) to a U.S. National stage entry under 35 U.S.C. 371.

DISCUSSION

As confirmed in applicant's present filing, applicant's did not select the radio button for filing under 35 U.S.C. 371, but rather used the button for filing a "Utility under 35 USC 111(a)"

when electronically filing the above-captioned application on 07 April 2008. The PTO-1390 transmittal letter and Application Data Sheet did identify the application as a National stage entry of PCT International Application number PCT/EP2006/008658. Thus, it was unclear what type of application applicant was intending to file. Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). (See 37 CFR 1.494(f) and 37 CFR 1.495(g)). In addition, section 1893.03(a), page 1800-114 of the MPEP states that "[i]f there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a)." The use of the "Utility under 35 USC 111(a)" radio button is considered a conflicting instruction. As such, the application was properly treated as an application under 35 U.S.C. 111 and 37 CFR 1.53.

Furthermore, U.S. statutes and regulations do not make specific provision for the requested action and as such, the Office does not grant such petitions for conversion as a mere matter of course. The Office will only grant such petitions upon a showing by applicant of sufficient cause (i.e., the loss of patent rights) where no other remedy is available.

Applicant is 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, if this application (Application No. 12/046,617) and the international application (PCT/EP2006/008658) designating the United States were copending on 12 March 2008. In order to obtain benefit of the earlier international application, applicant must amend the beginning of the specification of this application by inserting a proper reference to the parent international application. An appropriate passage would be, "This is a continuation of international application PCT/EP2006/008658, filed 09 June 2006 which designated the United States and is now abandoned."

Applicant is reminded that in order to perfect the claim for priority under 35 U.S.C. 119, applicant must submit a certified copy of the priority document. The certified copy of priority document submitted to the International Bureau for the national stage cannot be relied upon to perfect the claim for priority. See MPEP § 1896.

In addition, applicant is advised that it is possible to revive the present international application in the National Stage in the United States pursuant to 37 CFR 1.137(b). This advice should not be construed as a statement as to whether said petition will be granted.

CONCLUSION

The petition to convert the application from a 35 U.S.C. 111 filing to a national stage application under 35 U.S.C. 371 is **DISMISSED**.

Applicant's request for refund of the \$400.00 petition fee is refused.

Application No.: 12/046,617

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



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08 APR 2009

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VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE MN 55344

In re Application of	:	
CARMINCKE, et al.	:	
U.S. Application No.: 10/536,167	:	DECISION ON PETITION
PCT No.: PCT/EP06/08658	:	
Int. Filing Date: 06 September 2006	:	UNDER 37 CFR 1.137(b)
Priority Date: 13 September 2005	:	
Attorney Docket No.: HO1.2-13902-US01	:	
For: TOOL ARRANGEMENT FOR THE	:	
PRODUCTION OF HELICAL TEETH IN	:	
GEAR WHEELS	:	

The petition to revive under 37 CFR 1.137(b) filed 21 November 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 required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National Fee. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

The application has an international filing date of 06 September 2006 under 35 U.S.C. 363 and will be given a date of **21 November 2008** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4). Applicant is advised that application serial number 10/536,167 is the U.S. National stage entry of international application PCT/EP06/08658.

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

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Michael J. Tota
268 Bell Canyon Rd.
Bell Canyon CA 91307

COPY MAILED

OCT 22 2008

OFFICE OF PETITIONS

In re Application of	:	
Tota et al.	:	
Application No. 10/536169	:	ON PETITION
Filing or 371(c) Date: 12/07/2007	:	
Title of Invention: PROCESS FOR	:	
CREATING MEDIA CONTENT	:	
BASED UPON SUBMISSIONS	:	
RECEIVED ON AN ELECTRONIC	:	
MULTI-MEDIA EXCHANGE	:	

This Decision is in response to the "Petition to Separate Continuations," filed December 7, 2007, and re-filed July 18, 2008, requesting the present application be accorded a filing date of October 30, 2007, based upon an Express Mailing. The petition is properly treated under 37 CFR 1.10(e).

The petition is **granted to the extent indicated herein**

Background

Applicant alleges that the present application, along with a second application, were deposited in the same Express Mail envelope and deposited in Express Mail service of the United States Postal Service on October 30, 2007. In support of this assertion, Applicant files copies of Express Mail label EB592471639US; copies of the USPS Track & Confirm for Express Mail label EB592471639US, copies of a Certificate of Mailing Under 37 CFR 1.8 that has written thereon Express Mail No. EB592471639US, and also written thereon, in relevant part, is "continuation application including Specification, Drawings and Claims." Applicant has also filed a copy of the putatively-filed application. A review of the application putatively-filed on October 30, 2007, reveals that the application papers do NOT include an Express Mail Label Number.

Applicant asserts that this application, along with a second continuation, were deposited in the same Express Mail envelope and deposited in Express Mail service of the United States Postal Service on October 30, 2007.

Office records

A review of Office records reveals that this Office received an application and accorded the application the serial number 11/978,781, and a filing date of October 30, 2007. The application included a Utility Patent Application Transmittal that listed Express Mail No. EB592471639US.

The Office has no record of receipt of the present application on October 30, 2007. The application papers were received in this Office on December 7, 2007, and placed in the application file of application no. 11/978,781.

Applicable Law, Rules and MPEP

The applicable rule, 37 CFR § 1.10, Filing of correspondence by "Express Mail", provides that

- (1) Any correspondence received by the U.S. Patent and Trademark Office (USPTO) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed with the USPTO on the date of deposit with the USPS.
- (2) The date of deposit with USPS is shown by the "date in" on the "Express Mail" label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the USPTO receipt date as the filing date. See § 1.6(a).
- (b) Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. **Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked.** The paper(s) or fee(s) that constitute the correspondence should also include the "Express Mail" mailing label number thereon. See paragraphs (c), (d) and (e) of this section.

Section (e) of 37 CFR 1.10 provides:

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 Director 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 Director, 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.

(f) The Office may require additional evidence to determine if the correspondence was deposited as "Express Mail" with the USPS on the date in question.

Analysis

The present petition lacks item(s) (2) and (3) as stated above.

As to item (2), Applicant has failed to demonstrate that the number of the "Express Mail" mailing label was placed on the application paper(s) that constitute the correspondence prior to the original mailing by "Express Mail."

As to item (3) the petition does not includes a copy of the originally deposited paper(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon.

Conclusion

The petition is dismissed. The application papers have been accorded application number 10/536169, with a filing date of December 7, 2007, the date that the application papers were received in this Office. See, 37 CFR 1.6.

The application is being forwarded to the Office of Patent Application Processing for processing of the application in the normal course of business.

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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Thaddius J. Carvis
 102 North King Street
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In re Application of
 VALENTINE, et al.
 Serial No.: 10/536,170
 PCT No.: PCT/US03/40263
 Int. Filing Date: 17 December 2003
 Priority Date: 17 December 2002
 Atty Docket No.: CDT PA112 US
 For: NOX CONTROL FOR IC ENGINES

DECISION ON PETITION

UNDER 37 CFR 1.10(e)

This decision is in response to applicant's correspondence filed 27 March 2006 in the United States Patent and Trademark Office (USPTO). The correspondence is being treated as a petition under 37 CFR 1.10(e). No petition fee is required.

BACKGROUND

On 17 December 2003, applicant filed international application PCT/US03/40263 which claimed priority to an earlier U.S. application filed 17 December 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 17 June 2005.

On 27 March 2006, applicant filed papers purporting to be a 17 June 2005 United States National stage filing for the above-identified international application. The papers are being treated as a petition under 37 CFR 1.10(e) for 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.

DISCUSSION

A review of USPTO finds that applicant's originally filed papers were received as filed on 17 June 2005 and assigned serial number 10/536,170. As such, applicant's petition under 37 CFR 1.10(e) is **DISMISSED AS MOOT**.

A review of the filed papers finds that the filing contains both a "Request For Filing a Continuing Application of an International Application" (Form PCT/SB/13/PCT) and a "Transmittal Letter to The United States Designated/Elected Office (DO/EO/US) Concerning a Submission Under 35 U.S.C. 371" (Form PTO-1390). Both papers contain the attorney docket number "CDT PA112 US."

Applicant is advised that pursuant to the Manual of Patent Examining Procedure (MPEP) section 1893.03(a) the present application is being accepted as filed under 35 U.S.C. 111(a).

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Application No.: 10/536,170

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Section 1893.03(a) provides that if there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a). In the present case, applicant included in the initial submission under 35 U.S.C. 371 both a "Request For Filing a Continuing Application of an International Application" (Form PCT/SB/13/PCT) and a "Transmittal Letter to The United States Designated/Elected Office (DO/BO/US) Concerning a Submission Under 35 U.S.C. 371" (Form PTO-1390).

Applicant is further advised that while applicant has provided a Form PCT/SB/13/PCT indicating that the application is a continuation of PCT/US2003/040263, it does not appear that applicant has included a specific reference to the prior international application either in an application data sheet nor in the first sentence of the specification. (See 37 CFR 1.78.)

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.10(e) is **DISMISSED as moot.**

This application is being returned to Office of Initial Patent Examination for continued processing as an application filed under 35 U.S.C. 111(a).



Derek A. Putonen
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PCT/US03/40263 .17062005

CDT PA112 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of :
 James M. Valentine, *et al.* :
 Serial No. Herewith : Examiner:
 (Continuation of PCT/US2003/040263)
 Filed: Herewith :
For: NOx Control for IC Engines :

Mail Stop PCT
 Commissioner for Patents
 PO Box 1450
 Alexandria, VA 22313-1450

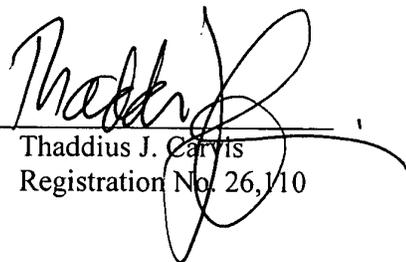
Certificate of Mailing by Express Mail

I hereby certify that the enclosed

- (1) Preliminary Amendment;
- (2) Request for Filing a Continuation or Division of an International Application;
- (3) Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a submission under 35 USC 371; and
- (4) a copy of PCT/US2003/040263

are today being sent by USPS Express Mail (No. ED 015701438 US to Mail Stop PCT, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

June 17, 2005

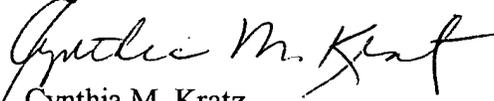


 Thaddius J. Carvis
 Registration No. 26,110

CONCLUSION

The request under 37 CFR 1.182 to correct a transliteration error in the name of the inventor to Toshifumi Matsumoto 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 **05 July 2005**.



Cynthia M. Kratz
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#3

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In re Application of:	:	
RA, Jang, Keon, et al.	:	DECISION ON PETITION FOR
U.S. Application No.: 10/536,174	:	REVIVAL OF ABANDONED
PCT No.: PCT/KR2003/002234	:	APPLICATION UNDER
International Filing Date: 22 October 2003	:	37 CFR 1.137(b)
Priority Date: 08 November 2002	:	
Attorney's Docket No.: 240-34	:	
For: DATABASE SYSTEM MONITORING	:	
METHOD WITHOUT CONNECTING	:	
THE DATABASE SYSTEM	:	

The petition for revival under 37 CFR 1.137(b) filed 23 May 2005 in the above-captioned application is hereby **GRANTED** as follows:

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

The 23 May 2005 submission was accompanied by a declaration that identified and was executed by only one of the two inventors of record herein. Accordingly, the declaration cannot be accepted under 37 CFR 1.497.

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

nee R

Richard M. Ross
PCT Petitions Attorney
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01 AUG 2006

OLIFF & BERRIDGE, PLC
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ALEXANDRIA VA 22320

In re Application of	:	
SHIBAO et al.	:	
Application No.: 10/536,179	:	
PCT No.: PCT/JP03/15036	:	DECISION
Int. Filing Date: 25 November 2003	:	
Priority Date: 25 November 2002	:	
Attorney Docket No.: 124043	:	
For: PRODUCTION EVALUATION MANAGING	:	
SYSTEM AND MANAGING METHOD	:	

This is a decision on applicants' "RESPONSE TO NOTIFICATION OF DEFECTIVE RESPONSE" filed 14 April 2006.

BACKGROUND

On 25 November 2003, applicant filed international application PCT/JP03/15036, which designated the United States and claimed a priority date of 25 November 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 06 October 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 25 May 2005.

On 24 May 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 an English translation of the international application.

On 16 September 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 of the inventors 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 were required.

On 16 November 2005, applicants submitted a response to the NOTIFICATION OF MISSING REQUIREMENTS, which was accompanied by a declaration of inventors and the surcharge under 37 CFR 1.492(h).

On 17 February 2006, the USPTO issued a NOTIFICATION OF DEFECTIVE

RESPONSE (Form PCT/DO/EO/916) indicating, *inter alia*, that the declaration of inventors submitted with the 16 November 2005 submission was not in compliance with 37 CFR 1.497(a)-(b) because the first inventor's first name is different on the declaration than on the International Application.

On 14 April 2006, applicants submitted the instant "RESPONSE TO NOTIFICATION OF DEFECTIVE RESPONSE".

DISCUSSION

The response filed 14 April 2006 concerns the correction of an inventor's name and notifies the Office that the correct translation of the inventor's name is as follows: **Satoru Shibao** as indicated in the declaration filed 16 November 2005 rather than Satoshi Shibao, as is indicated in the international application. The response explains that the international application contained an incorrect translation concerning the name of Mr. Shibao.

Applicants' explanation of the difference in the translation of Satoru Shibao's name is accepted and noted for the record.

The response filed 14 April 2006 is a proper reply to the notification mailed 17 February 2006. The declaration of inventors filed 16 November 2005 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

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

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


Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
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4



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13 FEB 2006

Andrew F. Young, P.C.
115 Orchid St.
Floral Park, NY 11001-3225

In re Application of	:	DECISION ON
Mr. Nikolaus LOLIS	:	
Application No.: 10/536,201	:	
PCT No.: PCT/DE2003/003458	:	
Int. Filing Date: 22 October 2003	:	PETITION UNDER
Priority Date: 25 October 2002	:	
Attorney's Docket No.: Y3-21	:	
For: PROTECTIVE CLOTHING OR LINING	:	37 CFR 1.137(b)

This decision is in response to applicant's "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 24 May 2005.

BACKGROUND

On 22 October 2003, this international application was filed, claiming an earliest priority date of 25 October 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 25 April 2005. This international application became abandoned with respect to the United States at midnight on 25 April 2005 for failure to pay the required basic national fee.

On 24 May 2005, applicant filed the instant petition under 37 CFR 1.137(b) and Transmittal letter for entry into the national stage in the United States, which was accompanied by 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

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25 MAY 2007



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Commissioner for Patents
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Jennifer D. Adamson
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Intellectual Property
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Houston, Texas 77252-2463

In re Application of:	:	
WEDLOCK, David John	:	
Application No.: 10/536,202	:	
PCT No.: PCT/EP03/06758	:	
International Filing Date: 25 June 2003	:	DECISION ON PETITION
Priority Date: 26 June 2002	:	
Attorney Docket No.: TS7614US	:	
For: LUBRICANT COMPOSITION	:	

This decision is in response to applicant's "Petition under 37 CFR 1.181" filed on 23 May 2005 which is being treated as a petition under 37 CFR 1.10(e) to accord a receipt date of 22 December 2004 to the above-identified U.S. National stage application. No petition fee is required.

BACKGROUND

On 25 June 2003, applicant filed international application PCT/EP03/06758 which claimed a priority date of 26 June 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 08 January 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, 26 December 2004.

On 22 December 2004, applicant allegedly submitted a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371" which included: an authorization to charge deposit account number 19-1800 the requisite basic national fee; a preliminary amendment; an executed declaration; and a postcard receipt.

On 23 May 2005, applicant filed the present petition forwarding copies of papers filed in the above-identified application on 22 December 2005 which included: a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371; an authorization to charge deposit account number 19-1800 the requisite basic national fee; a preliminary amendment; an executed declaration; and a postcard receipt. The submission was assigned U.S. application number 10/536,202.

On 08 November 2005, a Notification of Acceptance was issued identifying the 35 U.S.C. 371(c) date as 23 May 2005. Subsequently, an Official Filing Receipt was issued indicating a "FILING DATE" of 23 May 2005.

DISCUSSION

Applicant states in the present petition that the U.S. National Stage application was mailed via United States Express Mail to the USPTO on 22 December 2004.

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 "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 and original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

Applicants have satisfied Items (1) through (4). The evidence of record is sufficient to establish with reasonable certainty that the national stage application was deposited with the United States Postal Service as an "Express Mail" Mailing on 22 December 2004.

CONCLUSION

For the reasons discussed above, applicants' petition under 37 CFR 1.10(e) is

Application No.: 10/536,202

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GRANTED and the receipt date for transmittal letter and accompanying papers will be accorded a date of 22 December 2004.

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) and Official Filing Receipt are hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision, that is, for mailing of a NOTIFICATION OF ACCEPTANCE OF APPLICATION (Form PCT/DO/EO/903) and Official Filing Receipt which identifies a date of 22 December 2004 under 35 U.S.C. 371(c). Thereafter, the application will be forwarded to the appropriate Art Unit.



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

#6

06 SEP 2005



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Michael A. Glenn
Glenn Patent Group
3475 Edison Way, Suite L
Menlo Park, CA 94025

In re Application of	:
LEWIS et al.	:
Application No. 10/536, 216	:
PCT No.: PCT/US03/37885	: DECISION ON PETITION
Int. Filing Date: 24 November 2003	:
Priority Date: 22 November 2002	: UNDER 37 CFR 1.181
Attorney Docket No.: AOL0156-2	:
For: SYSTEM AND METHOD TO	:
FACILITATE REAL-TIME	:
COMMUNICATIONS AND CONTENT	:
SHARING AMONG USERS OVER A	:
NETWORK	:

This decision is in response to applicants' "Request for Corrected Serial Number" filed in the United States Patent and Trademark Office (USPTO) on 15 August 2005, which is being treated as a Petition under 37 CFR 1.181.

BACKGROUND

On 24 November 2003, applicants filed the above identified international application which claimed a priority date of 22 November 2002. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 22 May 2005.

On 23 May 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); a copy of the international; and an unexecuted declaration.

On 27 June 2005, applicants filed "Corrected Transmittal" which stated that, "the transmittal form submitted with above-referenced application on May 23, 2005 did not contain our correspondence information. A corrected transmittal sheet is enclosed and should replace the forms sent on May 23, 2005. However, a new serial number was inadvertently assigned to the application."

On 29 July 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 15 August 2005, applicants filed "Request for Corrected Serial Number."

DISCUSSION

Applicants state in the present request that, "[a] transmittal form was submitted on June 27, 2005 to replace the transmittal form filed with the original application on May 23, 2005. However, a new serial number was inadvertently assigned to this application." According to USPTO records, the subsequent transmittal letter was inadvertently treated as a new application. This error has been corrected and the subsequent transmittal letter has been forwarded to the appropriate application (10/536,216).

It is noted that the United States Designated/Elected Office used the correspondence address listed on the declaration in accordance with 37 CFR 1.33.

CONCLUSION

The petition under 37 CFR 1.181 is GRANTED.

The application is being returned to the United States Designated/Elected Office to await a response to the Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 29 July 2005.



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



MIRICK, O'CONNELL, DEMALLIE & LOUGEE, LLP
1700 WEST PARK DRIVE
WESTBOROUGH, MA 01581

COPY MAILED

MAR 24 2008

OFFICE OF PETITIONS

Applicant: Colpas et al.
Appl. No.: 10/536,220
Filing Date: November 21, 2003
Title: METHODS, BIOSENSORS, AND KITS FOR DETECTING AND IDENTIFYING FUNGI
Attorney Docket No.: 15535-46039
Pub. No.: US 2006/0292646-A1
Pub. Date: December 28, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on February 21, 2007, for the above-identified application.

The request is DISMISSED.

Applicants request that the application be republished because Barabara A. Appiah and Mitchell C. Sanders were not listed as inventors on the front page of the patent application publication.

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 or revised patent application publication other than 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 instant request does not identify a material mistake in the publication made by the Office under 37 CFR 1.221(b) with respect to the omitted inventor information. The error does not affect the public’s ability to appreciate the technical disclosure of the patent application publication, determine the scope of the patent application publication, or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

Applicants are 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 in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in

¹Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

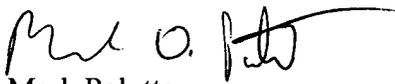
§ 1.17(i).” If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a) must be submitted via the EFS system as a “Pre-Grant Publication” and any questions or request for reconsideration of the decision should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

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



Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Motoyoshi Okumura	: DECISION ON REQUEST FOR
Patent Number	: 7626364	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/536,265	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **64** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



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Paper No.

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

MAILED

JUN 22 2010

OFFICE OF PETITIONS

In re Patent No. 7,591,973 : DECISION ON REQUEST
Takano et al. : FOR
Issue Date: September 22, 2009 : RECONSIDERATION OF
Application No. 10/536,275 : PATENT TERM ADJUSTMENT
Filed: May 25, 2005 : and
Atty Docket No. 272908US0PCT : NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 20, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred and twenty-three (923) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred and twenty-three (923) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred and twenty-three (923) days**.

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


Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,591,973 B2

DATED : September 22, 2009

DRAFT

INVENTOR(S) : Takano 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 438 days

Delete the phrase "by 438 days" and insert – by 923 days--



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

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DEC 13 2006

OFFICE OF PETITIONS

In re Patent No. 7,069,889 :
Issued: 4 July, 2006 :
Application No. 10/536,277 : ON PETITION
Filed: 24 May, 2005 :
For: CAMSHAFT, ESPECIALLY FOR :
AN INTERNAL COMBUSTION ENGINE :
OF A MOTOR VEHICLE, COMPRISING :
SHIFTABLE CAMS :

This is a decision on the petition under 37 CFR 1.183, filed on 14 August, 2006, requesting that the rules be suspended such that a supplemental declaration be accepted in the above-identified patented file.

The petition is **dismissed as immaterial.**

Petitioners request that the Office accept a supplemental oath or declaration as prescribed by 37 CFR 1.63 to correct the citizenship of one of the inventors. Specifically, petitioners state that the citizenship of joint inventor Martin Lechner was incorrectly indicated as an Austrian citizen on the declaration filed while the case was pending. In fact, aver petitioners, Mr. Lechner is a German citizen.

37 CFR 1.63 states, in pertinent part

(a) An oath or declaration filed under § 1.51(b)(2) as a part of a nonprovisional application must:

(1) Be executed, i.e., signed, in accordance with either § 1.66 or § 1.68. There is no minimum age for a person to be qualified to sign, but the person must be competent to sign, i.e., understand the document that the person is signing;

- (2) Identify each inventor by full name, including the family name, and at least one given name without abbreviation together with any other given name or initial;
- (3) Identify the country of citizenship of each inventor; and
- (4) State 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.

37 CFR 1.63 requires an oath or declaration to execute an application. The above-identified application has issued as a patent and is no longer pending, however. As such, there is no application for the supplemental oath or declaration to execute. Consequently, there is no requirement of a rule to waive, and the petition under 37 CFR 1.183 must therefore be dismissed.

Furthermore, 35 U.S.C. § 255 states:

Whenever a mistake of a clerical or typographical nature, or of minor character, which was not the fault of the Patent and Trademark Office, appears in a patent and a showing has been made that such mistake occurred in good faith, the Director may, upon payment of the required fee, issue a certificate of correction, if the correction does not involve such changes in the patent as would constitute new matter or would require reexamination. Such patent, together with the certificate, shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such corrected form.

As the citizenship of the inventors is not printed in the patent, there is no mistake which may be corrected by a certificate of correction.

As such, the petition is dismissed. However, the Office will place the supplemental declaration filed with the present petition in the official file which is laid open for public inspection.

Patent No. 7,069,889
Application No. 10/536,277

Page 3

Petitioners should note that the fee for a petition under 37 CFR 1.183 is \$400.00. The balance due will be charged to counsel's deposit account, as authorized in the present petition.

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



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions



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

Chief Intellectual Property Counsel
Bridgestone Americas Holding Inc
1200 Firestone Parkway
Akron, OH 44317-0001

Mail Date: 04/21/2010

Applicant	: Xiaorong Wang	: DECISION ON REQUEST FOR
Patent Number	: 7576155	: RECALCULATION OF PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/536,278	: 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 **826** 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	: Mikael Nutsos	: DECISION ON REQUEST FOR
Patent Number	: 7597269	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/536,314	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/04/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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SEP 21 2006

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

In re Application of :
Joel Plumas et al :
Serial No.: 10/536,318 : PETITION TO MAKE SPECIAL
Filed: May 26, 2005 :
Attorney Docket No.: 123978 :

This is in response to applicants' petition filed August 24, 2006, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII. Therefor the petition is **GRANTED**.

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision.

The application will be forwarded the examiner for action on the merits commensurate with this decision.

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

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



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

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AUG 26 2008

OFFICE OF PETITIONS

In re Application of
Tapesh Yadav
Application No. 10/536,323
Filed: October 7, 2005
Attorney Docket No. 037768-0126

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:

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 5, 2008.

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

A review of the file record indicates that the power of attorney to Foley and Lardner LLP has been revoked by the assignee of the patent application on July 2, 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 Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **PPG Industries Inc.**
Intellectual Property Dept.
One PPG Place
Pittsburgh, PA 15272



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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 06/17/2010

Applicant : Lars Örning : DECISION ON REQUEST FOR
Patent Number : 7632648 : RECALCULATION of PATENT
Issue Date : 12/15/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/536,327 : OF WYETH AND NOTICE OF INTENT TO
Filed : 12/19/2005 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **835** 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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BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

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JUL 25 2007

OFFICE OF PETITIONS

In re Application of :
Tanga et al. : DECISION ON
Application No. 10/536,357 : PETITION
Filed: January 17, 2006 :
Attorney Docket No. TANGA12 :

This is a decision on the "PETITION TO VACATE HOLDING OF ABANDONMENT," filed March 22, 2007.

The above-identified application became abandoned for failure to file a timely and proper reply to the restriction requirement mailed July 3, 2006. A courtesy Notice of Abandonment was mailed on February 28, 2007.

In response, applicants timely filed the instant petition. Petitioner states that applicant timely and properly responded within the time period established by the Office action by timely filing a response on July 12, 2006. However, said response contained the wrong application number and filing date. In support thereof, applicant provided a copy of their itemized return postcard and a copy of the response.

A postcard receipt, which itemizes and properly identifies the items, which are being filed, serves as prima facie evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of petitioner's postcard receipt reveals that: 1) it was date stamped as received in the USPTO on July 12, 2006; 2) it specifically identifies the items being filed, including a restriction and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. The evidence shows that a complete response should be considered timely filed on July 12,

2006. It is noted that the response misidentifies the application number, but properly identifies the title, inventor name, and docket no. of the application.

Accordingly, the Notice of Abandonment mailed February 28, 2007 is hereby **VACATED** and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 1637 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 re-supplied on petition filed March 22, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3219.

A handwritten signature in black ink, appearing to read "Nancy Johnson", with a long horizontal flourish extending to the right.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions



#7

17 JAN 2006

LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD, FL 33022-2480

In re Application of RENKEN	:	
U.S. Application No.: 10/536,368	:	
PCT Application No.: PCT/DE03/03822	:	
Int. Filing Date: 19 November 2003	:	DECISION
Priority Date Claimed: 28 November 2002	:	
Attorney Docket No.: S4-02P18261	:	
For: LOW-INDUCTANCE CIRCUIT	:	
ARRANGEMENT	:	

This is in response to applicant's "Petition" filed 12 January 2006, which is being treated under 37 CFR 1.181.

BACKGROUND

On 19 November 2003, applicant filed international application PCT/DE03/03822, which claimed priority of an earlier Germany application filed 28 November 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 10 June 2004. The thirty-month period for paying the basic national fee in the United States expired on 28 May 2005.

On 25 May 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) and an executed declaration.

On 27 December 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that the declaration filed 25 May 2005 was improper.

On 12 January 2006, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

A review of the declaration filed 25 May 2005 reveals that the title of invention is in the German language.

37 CFR 1.69(b) states,

Unless the text of any oath or declaration in a language other than English is in a form provided by the Patent and Trademark Office or in accordance with PCT Rule 4.17(iv), it must be accompanied by an English translation together with a statement that the translation is accurate, except that in the case of an oath or declaration filed under § 1.63, the translation may be filed in the Office no later than two months from the date applicant is notified to file the translation.

In the present case, although the submitted declaration uses USPTO Form PTO/SB/103, the title consists of text that is not in a form provided by Form PTO/SB/103. In other words, text which is preprinted on a form provided by the USPTO need not be translated. However, non-preprinted text must be translated. Because the declaration does not contain a translation of the title, the declaration is improper.

CONCLUSION

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

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

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



Bryan Tung
PCT Legal Examiner
PCT Legal Office

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



28 FEB 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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#9

LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD, FL 33022-2480

In re Application of RENKEN	:	
U.S. Application No.: 10/536,368	:	
PCT Application No.: PCT/DE03/03822	:	
Int. Filing Date: 19 November 2003	:	DECISION
Priority Date Claimed: 28 November 2002	:	
Attorney Docket No.: S4-02P18261	:	
For: LOW-INDUCTANCE CIRCUIT	:	
ARRANGEMENT	:	

This is in response to applicant's "Renewed Petition Under 37 C.F.R. 1.181" filed 26 January 2006.

BACKGROUND

On 19 November 2003, applicant filed international application PCT/DE03/03822, which claimed priority of an earlier Germany application filed 28 November 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 10 June 2004. The thirty-month period for paying the basic national fee in the United States expired on 28 May 2005.

On 25 May 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) and an executed declaration.

On 27 December 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that the declaration filed 25 May 2005 was improper.

On 12 January 2006, applicant filed a petition under 37 CFR 1.181.

On 17 January 2006, this Office mailed a decision dismissing the 12 January 2006 petition.

On 24 January 2006, applicant filed a newly executed declaration.

On 26 January 2006, applicant filed the present renewed petition under 37 CFR 1.181.

DISCUSSION

The renewed petition states that because the declaration filed 25 May 2005 met all of the requirements of 37 CFR 1.497, the application should have been accepted by initial processing and forwarded to the proper examining group. However, consideration of 37 CFR 1.497 must be preceded or accompanied by consideration of 37 CFR 1.69(b). Otherwise, e.g. in a situation where a declaration is submitted completely in a foreign language without any translation, the Office would have to determine if all of the 37 CFR 1.497 elements are present even though the declaration is not in a language readable by the Office. Clearly, such a result would be nonsensical.

37 CFR 1.497(c) specifically indicates that the requirements of 37 CFR 1.63 need not be met at the same time the requirements of 37 CFR 1.497 are met. See also MPEP 1893.01(e). However, there is no similar provision with respect to 37 CFR 1.69 which exempts applicant from complying with the language requirement until a later date.

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 19 November 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) of 24 January 2006.

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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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

COPY MAILED
MAR 04 2010

In re Application of :
Elaine Ostrander, et al. :
Application No.: 10/536,369 : ON PETITION
Filed: February 1, 2006 :
Attorney Docket No.: FHCR125375 :

This is a decision on the petition, filed March 3, 2010, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 3, 2010, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

The application is being referred to Technology Center AU 1631 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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



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VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

Mail Date: 04/21/2010

Applicant : Sten Kollberg : DECISION ON REQUEST FOR
Patent Number : 7669638 : RECALCULATION of PATENT
Issue Date : 03/02/2010 : TERM ADJUSTMENT IN VIEW
Application No : 10/536,424 : OF WYETH
Filed : 10/05/2005 :
:
:

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.



14 NOV 2005

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#4

John A. Sopp
MILLEN, WHITE, ZELANO & BRANIGAN
2200 Clarendon Blvd, Suite 1400
Arlington, VA 22201

In re Application of:	:	
KENDALL, Roger, V.	:	DECISION ON PETITION FOR
U.S. Application No.: 10/536,434	:	REVIVAL OF ABANDONED
PCT No.: PCT/US02/12425	:	APPLICATION UNDER
International Filing Date: 19 April 2002	:	37 CFR 1.137(b)
Priority Date: 20 April 2001	:	
Attorney's Docket No.: FSC-0008-A	:	
For: METHOD OF PREVENTING OR	:	
TREATING BREAST, PROSTATE,	:	
AND/OR CERVICAL CANCER WITH	:	
N,N-DIMETHYLGLYCINE	:	

The petition for revival under 37 CFR 1.137(b) filed 26 May 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 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.

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

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

02 OCT 2005



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23373
SUGHRUE MION PLLC
2100 Pennsylvania Avenue, N.W.
Suite 800
Washington, DC 20037

In re Application of
RESIAK, Bernard *et al*
Application No.: 10/536,455
PCT No.: PCT/FR2003/003516
Int. Filing Date: 27 November 2003
Priority Date: 27 November 2002
Attorney's Docket No.: Q87902
For: READY-USE LOW-CARBON STEEL
MECHANICAL COMPONENT FOR
PLASTIC DEFORMATION AND
METHOD FOR MAKING THE SAME

DECISION

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

BACKGROUND

On 25 May 2005, applicants filed papers to enter the national stage of PCT/FR2003/003516 using docket number Q87902 which was accompanied by, *inter alia*, fees to enter the national stage and authorization to charge any additional fees or credit any fees to Deposit Account No. 19-4880. This application was given U.S. application number 10/536,455.

On 27 May 2005, a duplicate national stage application for PCT/FR2003/003516 using docket number Q87815 was filed by the same firm. Applicants paid fees in the amount of \$1,000.00 for this application. The U.S. application number was denoted as 10/536,769.

DISCUSSION

As is evident from the above recited facts, two sets of papers to enter the national stage were submitted for international application PCT/FR2003/003516. 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/FR2003/003516.

-Applicants are advised that U.S. application No. 10/536,769 is no longer a valid U.S. National stage application.

Applicants must use only U.S. application No. **10/536,455** for all correspondence to the national stage application of PCT/FR2003/003516. The attorney docket number is Q87902.

The fees paid in U.S. application No. 10/528,609 have been credited back to Deposit Account No. 19-4880.

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



James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302



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

MAILED

APR 06 2010

OFFICE OF PETITIONS

In re Application of :
DEMIA et al. :
Application No. 10/536,477 : **ON PETITION**
Filed: 12/08/2005 :
Attorney Docket No. 979-141 :

This is a decision on the PETITION TO UNAVOIDABLY ABANDONED APPLICATION UNDER 37 CFR 1.137(B) filed August 7, 2009. As petitioner has paid the petition fee as set forth in 37 CFR 1.17(m) and made a statement of unintentional delay pursuant to 37 CFR 1.137(b)(3), the Office is treating the petition under the unintentional provisions of 37 CFR 1.137(b).

The petition is **DISMISSED**.

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

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 27, 2007, which set a three-month shortened statutory period for response. On January 16, 2008, petitioner submitted an amendment and a request for an extension of time for response within the second month pursuant to 37 CFR 1.136(a) in response to the final Office action. On March 20, 2008, the examiner mailed an Advisory Action, indicating that the amendment filed on January 16, 2008, did not place the application in condition for allowance.¹ Accordingly, the application became abandoned on February 28, 2007. A Notice of Abandonment was mailed on May 14, 2008.

¹ As petitioner asserted that petitioner did not receive a copy of the Advisory Action mailed March 20, 2008, the Office has enclosed a copy with this decision.

On August 7, 2009, petitioner filed the present petition. Petitioner stated that the required reply in the form of a Request for Continued Examination (RCE) accompanied the present petition. However, the Office has no record of receiving a RCE or the requisite RCE fee with the petition or to date.

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

- (1) The reply required to the outstanding Office action or notice, unless previously filed.
- (2) The petition fee as set forth in 37 CFR 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and
- (4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to 37 CFR 1.137(d).

The present petition does not satisfy requirement (1) above.

In a nonprovisional application abandoned for failure to reply to a final action, the 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).

With any renewed petition, petitioner must submit a proper reply to the outstanding final Office action.

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

Correspondence may also be submitted via the electronic filing system of the USPTO.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Advisory Action



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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,477	12/08/2005	Laurent Demia	979-141	4956
39600	7590	03/20/2008	EXAMINER	
SOFER & HAROUN LLP. 317 MADISON AVENUE, SUITE 910 NEW YORK, NY 10017			LUU, THANH X	
			ART UNIT	PAPER NUMBER
			2878	
			MAIL DATE	DELIVERY MODE
			03/20/2008	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.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/536,477	Applicant(s) DEMA ET AL.	
	Examiner Thanh X. Luu	Art Unit 2878	

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

THE REPLY FILED 1/16/08 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) The period for reply expires 3 months from the mailing date of the final rejection.
- b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

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

NOTICE OF APPEAL

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

AMENDMENTS

3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) They raise the issue of new matter (see NOTE below);
- (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. Applicant's reply has overcome the following rejection(s): _____.
6. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 1,2,4-11 and 13.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

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

/Thanh X Luu/
Primary Examiner, Art Unit 2878

Continuation of 3. NOTE: Applicant's proposed amendment adds further language requiring further consideration and/or search.



13 OCT 2006

LEYDIG, VOIT & MAYER, LTD.
Two Prudential Plaza, Suite 4900
180 North Stetson
Chicago, Illinois 60601-6780

In re Application of:	:	
HOFFMANN, Botho, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/536,494	:	
PCT No.: PCT/EP2003/014364	:	
International Filing Date: 17 December 2003	:	
Priority Date: 17 December 2002	:	
Atty Docket No.: 235811	:	
For: COPOLYAMIDES	:	

This decision is issued in response to the "Petition To Correct Filing Date Pursuant To 37 CFR 1.10(D)" and the "Request For Corrected Filing Receipt" filed 24 July 2006. No petition fee is required.

BACKGROUND

On 17 December 2003, applicants filed international application PCT/EP2003/014364. The application claimed a priority date of 17 December 2002, and it designated the United States. On 01 July 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., 17 June 2005.

In May 2005, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the U.S. basic national fee and a translation of the international application into English. Based on the "date in" on the "Express Mail" envelope, the USPTO assigned these materials a filing date of 25 May 2005.

On 03 July 2006, 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 on 25 May 2005.

Also on 03 July 2006, a filing receipt was issued identifying 25 May 2005 as the 371(c) date. The filing receipt identified the application as "a 371 of PCT/EP03/14364," but it did not include the foreign priority claim contained in PCT/EP03/14364.

On 24 July 2006, applicants filed the "Petition To Correct Filing Date Pursuant To 37 CFR 1.10(D)" and the "Request For Corrected Filing Receipt" considered herein. The petition seeks correction of the filing date to 24 May 2005, the date on which applicants assert the "Express Mail" envelope containing the materials initiating the present national stage application

was deposited with the USPS. The request for corrected filing receipt seeks to have the German priority application added to the filing receipt.

On 05 October 2006, applicants submitted via facsimile an executed declaration in compliance with 37 CFR 1.497.

DISCUSSION

A review of the application file reveals that the Notification Of Acceptance and filing receipt mailed 03 July 2006, both of which identified the 35 U.S.C. 371(c) date as 25 May 2006, were issued in error in that applicants had not yet satisfied the oath or declaration requirement of 35 U.S.C. 371(c)(4). The Notification Of Acceptance and filing receipt mailed 03 July 2006 are therefore appropriately vacated.

Applicants' 05 October 2006 submission of an executed declaration completed the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4). Accordingly, a new Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt will be issued which properly identify the 35 U.S.C. 371(c) date as 05 October 2006.

Based on the above, applicants petition to correct "the filing date" from 25 May 2005 to 24 May 2005 is moot, as the filing date of the materials initiating this national stage application is not the operative filing date for this application; rather, 05 October 2006, the date on which applicants completed the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is the date which will appear on the corrected Notification Of Acceptance and filing receipt to be issued herein. It is noted that: "for most legal purposes, the filing date [for a national stage application] is the PCT international filing date" (see MPEP section 1893.03(b)).

Pursuant to applicants' request for a corrected filing receipt, the German priority information set forth in the published international application and on the Application Data Sheet (ADS) will be added to the corrected filing receipt to be issued herein.

CONCLUSION

The Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt mailed 03 July 2006 are hereby **VACATED**.

For the reasons discussed above, applicants' petition to correct the filing date herein is **DISMISSED** as moot.

This application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a corrected Notification Of Acceptance (Form PCT/DO/EO/903) identifying the date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) as 05 October 2006, and the mailing of a corrected filing

receipt that sets forth the proper 35 U.S.C. 371(c) date and includes the claim of benefit to the German priority application (German Application No. 102 59 048.6, filed 17 December 2002).

A handwritten signature in black ink, consisting of a series of loops and a final vertical stroke, representing the name Richard M. Ross.

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



29 FEB 2008

THELEN REID & PRIEST
P.O. Box 640640
San Jose, CA 95164-0640

In re Application of
OUVRIER-BUFFET *et al*
U.S. Application No.: 10/536,505
PCT No.: PCT/FR2003/050125
Int. Filing Date: 20 November 2003
Priority Date: 25 November 2002
Attorney Docket No.: 034299-635
For: ENHANCED PROCESSING CIRCUIT
FOR SPECTROMETRY SYSTEM AND
SPECTROMETRY SYSTEM USING
SAME

DECISION

This is a decision on the "Correction to Filing Receipt" filed on 07 September 2007 and again on 19 December 2007 which is treated under 37 CFR 1.10(c).

BACKGROUND

Applicants filed papers to enter the national stage of international application PCT/FR2003/050125. These papers were deemed as received by the USPTO on 25 May 2005.

On 30 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 25 May 2005. A filing receipt indicating a "Filing or 371(c) Date" of "05/25/2005" was also mailed the same day.

On 07 September 2007 and again on 19 December 2007, applicants filed via facsimile the subject petition which was accompanied by, *inter alia*, a copy of the Customer Copy of Express Mail label No. EV310861215US.

On 28 February 2008, after a request by the undersigned, applicants resubmitted a copy of Express Mail label No. EV310861215US which had been partially cut off in receipt of the facsimile transmission.

DISCUSSION

Applicants claim that the above-captioned application was originally submitted with the USPS using Express Mail on 24 May 2005 and have requested that the filing

10/536,505

receipt and Form PCT/DO/EO/903 reflect this. Applicants also request that the city of residence of one of the inventors and the spelling of the assignee be corrected on the filing receipt. The city of residence of co-inventor, Loick Verger and the spelling of the assignee have been corrected.

Regarding the filing date, a review of the subject application indicates that the original documents are stamped as received by the Office on 25 May 2005. Nonetheless, any correspondence received by the United States Patent and Trademark Office ("Office") delivered by Express Mail will be considered filed in the Office on the date of deposit with the USPS. 37 CFR § 1.10(a). Moreover, 37 CFR § 1.10(c) states:

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

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

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

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

All the requirements of 37 CFR 1.10(c) have been satisfied.

The Express Mail label number is listed on the declaration filed with the original papers. Applicants included a copy of the Customer Copy of Express Mail label No. EV310861215US which appears to be stamped by the USPS on "MAY 24 2005" and has a Date In of "5 24 05."

CONCLUSION

Applicants' petition pursuant to 37 CFR 1.10(c) is **GRANTED**.

10/536,505

The Form PCT/DO/EO/903 and Filing Receipt mailed 09 December 2005 contain erroneous data and are both hereby **VACATED**.

This application is being forwarded to the Office of Patent Application Processing for processing including mailing a corrected Form PCT/DO/EO/903 and Filing Receipt indicating that the completion of all 35 U.S.C. 371 requirements and 35 U.S.C. 371(c) date of **24 May 2005**.


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
DW May-10

THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH PA 15219

MAILED
MAY 17 2010
OFFICE OF PETITIONS

In re Application of :
Rai et al. :
Application Number: 10/536533 : DECISION ON PETITION
Filing Date: 11/29/2005 :
Attorney Docket Number: 4544- :
051675 :

This is a decision on the petition filed on February 1, 2010, under 37 CFR 1.137(b),¹ to revive the above-identified application.

The petition is dismissed.

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

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

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

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

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

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

The application became abandoned on November 23, 2009, for failure to file a timely submit a proper reply to the final Office action mailed on May 22, 2009, which set a three (3) month shortened statutory period for reply. On November 23, 2009,² a three (3) month extension of time request was filed, along with an amendment after final rejection. On December 15, 2009, an Advisory Action Before the Filing of an Appeal Brief was mailed, stating that the reply filed on November 23, 2009, fails to place this application in condition for allowance. Notice of Abandonment was mailed on January 11, 2010.

The petition lacks the reply required by 37 CFR 1.137(b)(1). Specifically, the Request for Continued Examination (RCE) filed with the petition is not properly signed. 37 CFR 1.4(d)(2) requires that if an S-signature is used, the signer's name must be presented in printed or typed form preferably immediately below or adjacent to the S-signature. The RCE form filed with the petition, however, contains both the signature and the signer's name within slashes. As the name has not been provided without slashes, the signer's name has not been properly presented.

A properly signed RCE request form must be filed with a renewed petition.

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

² As November 22, 2009 fell on a Sunday, the reply filed on Monday, November 23, 2009, is considered timely filed. 37 CFR 1.7(a).

The centralized facsimile number is **(571) 273-8300**.

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

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



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions



APR 30 2010

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

In re Application of:
Christensen et al.
Application No. 10/536,535
Filed: February 28, 2006
For: CONNECTING PIECE FOR A TUBING

:
:
:
:
:
:

**DECISION ON PETITION
UNDER 37 CFR 1.181**

This is a decision in response to the submission denominated "Request for Consideration of References Previously Submitted" received on March 3, 2010. The paper is being treated as a petition under 37 CFR 1.181 to accept a late paper.

The petition is **DISMISSED as moot**.

Applicants assert that Information Disclosure Statements (IDSes) were timely filed May 26, 2005, July 14, 2005, March 24, 2006 and April 18, 2006.

A review of the file shows that the original IDSes have since been matched with the file. The original IDSes were timely filed before the issuance of the Notice of Allowance. Since the original of the IDSes in question are now in the file, there is no need to treat the petition on the merits and it is therefore dismissed as moot.

This application will be forwarded to the examiner for consideration of the IDSes.

Inquiries regarding this communication should be directed to Teri P. Luu, Quality Assurance Specialist, at (571) 272-7045



David L. Talbott, Director
Technology Center 3600
(571) 272-5150



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164 FRANKLIN TURNPIKE
P O BOX 444
WALDWICK, NJ 07463

COPY MAILED

DEC 30 2005

OFFICE OF PETITIONS

In re Application of	:	
Keikhosrow Irani	:	DECISION ON PETITION
Application No. 10/536,541	:	TO MAKE SPECIAL UNDER
Filed: May 26, 2005	:	37 CFR 1.102(c)(1)
Attorney Docket No. P-1560PCT/US	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 26, 2005, 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 Keikhosrow Irani attesting that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

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

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 1615 action on the merits commensurate with this decision.


 Amelia Au
 Petitions Examiner
 Office of Petitions



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AUG 07 2008

OFFICE OF PETITIONS

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

In re Application of	:	
Gunter Henning et al	:	
Application No. 10/536,554	:	ON PETITION
Filed: January 9, 2006	:	
Attorney Docket No. 00139-016001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 30, 2008, to revive the above-identified application.

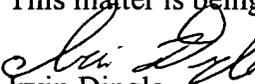
The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 30, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 31, 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 \$1050 extension of time submitted with the petition on April 30, 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 3735 for further processing.


 Irvin Dingle
 Petitions Examiner
 Office of Petitions



1 0 NOV 2008

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

27623
OHLAND, GREELEY, RUGGIERO & PERLE, LLP
One Landmark Square, 10th Floor
Stamford, CT 06901

In re Application of :
DVIR *et al* :
U.S. Application No.: 10/536,555 :
PCT No.: PCT/US02/12443 :
Int. Filing Date: 08 July 2005 :
Priority Date: 19 July 2004 :
Docket No.: 00022779USU/2279 :
For: APPARATUS AND METHODS FOR :
THE SEMI-AUTOMATIC TRACKING :
AND EXAMINING OF AN OBJECT OR :
AN EVENT IN A MONITORED SITE :

DECISION

This is a decision on applicants' "Letter" filed 05 June 2008 which is treated as a petition under 37 CFR 1.181.

BACKGROUND

On 24 October 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a \$130.00 surcharge fee must be provided. Applicants were given two months to respond with extensions of time available under 37 CFR 1.136(a).

On 05 March 2008, a "Status Request" was filed.

On 23 May 2008, the DO/EO/US mailed a Notification of a Defective Response (Form PCT/DO/EO/916) notifying applicants that the requirements set forth in the Form PCT/DO/EO/905 mailed 24 October 2007 were still required. Specifically, applicants were requested to provide a declaration in compliance with 37 CFR 1.497(a) & (b) and the surcharge fee. Applicants were given one month to respond, or within any time remaining in the Form PCT/DO/EO/905 mailed 24 October 2007.

On 05 June 2008, applicants filed the subject petition along with the \$130.00 surcharge fee.

On 08 September 2008, a "Second Status Request" was filed.

DISCUSSION

In the response filed 05 June 2008, applicants provided the \$130.00 surcharge fee as required. Applicants also state that a "Declaration and Power of Attorney form executed by Igal DVIR and Moti Shabti were included with the papers filed 05 June 2008.

HOWEVER, AN EXECUTED DECLARATION WAS NOT INCLUDED WITH THE PAPERS FILED 05 JUNE 2008.

Applicants claim that the Form PCT/DO/EO/905 mailed 24 October 2007 was not received until 02 June 2008 when Suzanne Lombardo checked PAIR after receiving the Form PCT/DO/EO/916. Applicants claim that were waiting for the Form PCT/DO/EO/905 to be issued to submit the declaration. Applicants state that they should not be charged an extension of time fee.

It is first noted that the Form PCT/DO/EO/916 provides applicants one month to respond with no extension of time fees. Therefore, the response filed 05 June 2008 (if it contained an acceptable declaration) would not have been charged an extension fee. However, applicants did not submit an executed declaration within this time period. Moreover, the time period with extensions of time under 37 CFR 1.136(a) noted in the Form PCT/DO/EO/905 mailed 24 October 2007 has expired.

As such, the above-captioned application is abandoned.

Regarding applicants' claim that the Form PCT/DO/EO/905 mailed 24 October 2007 was not received, the showing required to establish the failure to receive an Office communication consists of:

- (1) a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO;
- (2) a statement that the Office action was not received at the correspondence address of record;
- (3) a statement 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; and,
- (4) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed is required.

See § 711.03(c)(1)(A) MPEP.

In this case, applicants state that the Form PCT/DO/EO/905 was not received. Applicants must also provide a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record

with the USPTO. Moreover, applicants must provide a statement 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. Finally, applicants must provide a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed.¹

For these reasons, applicants have failed to establish the failure to receive the Form PCT/DO/EO/905 mailed 24 October 2007.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

The above-captioned application is hereby **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper response establishing nonreceipt of the Form PCT/DO/EO/905 mailed 24 October 2007 must be filed within **TWO (2) MONTHS** from the mail date of this decision. A declaration in compliance with 37 CFR 1.497(a) and (b) must also be provided with any response.

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.


James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

¹ Section 711.03(c)(1)(A) of the MPEP expands on the docket record requirement and states that:

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.



19 MAR 2009

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27623
OHLAND, GREELEY, RUGGIERO & PERLE, LLP
One Landmark Square, 10th Floor
Stamford, CT 06901

In re Application of :
DVIR *et al* :
U.S. Application No.: 10/536,555 :
PCT No.: PCT/US02/12443 :
Int. Filing Date: 08 July 2005 :
Priority Date: 19 July 2004 :
Docket No.: 00022779USU/2279 :
For: APPARATUS AND METHODS FOR :
THE SEMI-AUTOMATIC TRACKING :
AND EXAMINING OF AN OBJECT OR :
AN EVENT IN A MONITORED SITE :

DECISION

This is a decision on the petition to withdraw the holding of abandonment filed 14 January 2009.

BACKGROUND

On 10 November 2008, a decision was mailed indicating that an executed declaration purportedly filed 05 June 2008 was not located in the file.

On 19 December 2008, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) for failing to reply to the Form PCT/DO/EO/905 mailed 24 October 2007.

On 05 June 2008, applicants filed the subject petition which was accompanied by, *inter alia*, a copy of papers purportedly filed 05 June 2008 and a postcard receipt for those documents.

DISCUSSION

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 postcard receipt for documents submitted 05 June 2007. The postcard receipt records that among the papers received in the USPTO included a "Declaration." The postcard receipt is stamped "Rec'D PCT/PTO 05 JUN 2008" across its face. The U.S.

application number and docket number are listed on the postcard receipt. Applicants also provided a copy of the declaration and response filed 05 June 2007.

Applicants have provided *prima facie* evidence that the declaration was originally received by the USPTO on 05 June 2007. This response is within the time period given by the Form PCT/DO/EO/916 mailed 23 May 2008.

DECISION

For the reasons noted above, applicants' petition to withdraw the holding of abandonment is **GRANTED**.

The Form PCT/DO/EO/909 mailed 19 December 2008 is hereby **VACATED**.

The declaration originally filed 05 June 2007 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 08 July 2005 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 05 June 2007.

This application is being forwarded to the Office of Patent Application Processing for further processing in accordance with this decision.



James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302



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

MAILED

JUN 29 2009

OFFICE OF PETITIONS

In re Patent No. 7,396,602 :
Antonino Toro :
Issue Date: July 8, 2008 :
Application No. 10/536,561 : DECISION ON REQUEST FOR
Filed: May 25, 2005 : RECONSIDERATION OF
Attorney Docket No. 10585.0019 : PATENT TERM ADJUSTMENT
Title: Electrochemical :
Generator and Method For Its :
Utilisation :

This is a decision on the 1) Petition under 37 C.F.R. 1.183, requesting that the Office waive the rules and consider on the merits a Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) filed more than two months from the date the above-referenced patent issued; and on the 2) Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d), all of which were filed on December 31, 2008.

The petition under 37 CFR 1.183 is dismissed.

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is dismissed as untimely filed.

BACKGROUND

On July 8, 2008, the above-identified application matured into U.S. Patent No. 7,396,602, with a patent term adjustment of 350

days. No request for reconsideration of the patent term adjustment indicated in the patent was filed within two months of the date the patent issued. Patentee now petitions under 37 C.F.R. § 1.183 to (i) suspend or waive the requirement of 37 C.F.R. § 1.705(d) that a Request for Reconsideration of Patent Term Adjustment be filed within two months of the date the patent issued; and (ii) consider the enclosed Request for Reconsideration of Patent Term Adjustment. Patentee makes this request, in view of the recent decision in *Wyeth v. Dudas*, No. 07-1492 (D.D.C. Sept. 30, 2008).

**ON PETITION UNDER 37 CFR 1.183
TO WAIVE THE TWO-MONTH REQUIREMENT OF 37 CFR 1.705(d)**

The above-referenced patent issued on July 8, 2008. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until December 31, 2008. Petitioner requests that the Office waive the rules and consider on the merits the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

The relevant regulation, 37 CFR 1.705(d), provides that:

If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (emphasis added).*

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by September 8, 2008, the date two months from the date this patent issued, July

8, 2008. Rather, on December 31, 2008, over three months after the issuance of a decision in Wyeth v. Dudas on September 30, 2008, petitioner filed the instant request for waiver of the two-month requirement.

37 CFR 1.183 provides that:

In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

Preliminarily, it is recognized that the two-month requirement of 37 CFR 1.705(d) is a requirement of the regulations and not a statutory requirement. The statute, 35 U.S.C. 154, requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director. But, the statute allows the Director to establish the procedures for requesting such reconsideration. Those procedures¹ include pursuant to 37 CFR 1.705(d) setting a two-month period for filing a request for reconsideration of the revised patent term adjustment indicated in the patent. As

¹ 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b) (37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e) (37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

such, it is within the Director's authority to waive the two-month requirement.

Having considered petitioner's arguments, it is concluded that waiver of the two-month requirement is not warranted. The primary basis for requesting waiver set forth by petitioner is the ruling made by the court in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008). Specifically, petitioner states that in Wyeth, the U.S. District Court for the District of Columbia held that contrary to USPTO practice, a patentee is entitled to Patent Term Adjustment credit for examination delay under 37 CFR 1.702(b) in addition to any examination delay under 37 CFR 1.702(a), to the extent that the two periods of delay "do not occur on the same calendar day or days." Petitioner argues that they could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent.

First, of all, the issuance of the Wyeth Opinion is not an extraordinary situation. Wyeth followed the procedure set forth in 37 CFR 1.705 for requesting reconsideration of the patent term adjustment determination. Then, pursuant to 35 U.S.C. 154(b)(4)(A)², Wyeth timely filed a complaint in District Court seeking judicial review of the Office's decision. A Memorandum Opinion and Order, the Wyeth decision of September 30, 2008, directed to the parties involved was issued.

The fact that any relief ultimately granted in Wyeth would benefit patentee had they timely filed a request for reconsideration does not make the situation extraordinary. Petitioner chose not to challenge their revised patent term adjustment within the two-month period. Petitioner's argument that they could not have filed a Request for Reconsideration of

² 35 U.S.C. 154(b)(4)(A) APPEAL OF PATENT TERM ADJUSTMENT DETERMINATION. - (A) An applicant dissatisfied with a determination made by the Director under paragraph (3) shall have remedy by a civil action against the Director filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent. Chapter 7 of title 5 shall apply to such action. Any final judgment resulting in a change to the period of adjustment of the patent term shall be served on the Director, and the Director shall thereafter alter the term of the patent to reflect such change.

Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent, is not compelling. Petitioner could have filed a Request for Reconsideration of Patent Term Adjustment as Wyeth did. It is acknowledged that petitioner may have chosen not to file a request for reconsideration based on a conclusion that the Office's interpretation of 35 U.S.C. § 154(b)(2)(A) was correct. Nonetheless, the fact that the District Court has now issued an Opinion contrary to the Office's interpretation does not make the situation extraordinary. This is not unlike any other situation where a patentee (or applicant) challenges a final agency decision and the decision upon judicial review could have had applicability to another patentee (or applicant) had they taken such action. In fact, many patentees may be in the same situation as petitioner with respect to the Wyeth decision.

Petitioner simply fails to articulate how their failure to file a request for reconsideration of patent term adjustment within two months of the issue date of the patent was due to an extraordinary situation. Petitioner cannot rely on Wyeth's actions or the Wyeth decision to establish that their situation was extraordinary.

Moreover, justice does not require waiver of the two-month requirement. Justice requires that the Office continue to devote its resources to the adjudication of timely filed requests for reconsideration under 37 CFR 1.705(b) and (d). Further, upon ultimate resolution of the interpretation of 37 CFR 1.702, justice requires that the Office determine consistent with relevant law and practice, and appropriate Court or legislative guidance, the applicability of any changes as to all affected patentees who failed to timely seek administrative remedy, and thus, could not seek judicial review.

In view thereof, the petition under 37 CFR 1.183 for waiver of the two-month requirement of 37 CFR 1.705(d) is dismissed.

Accordingly, consideration now turns to the Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d).

ON REQUEST FOR RECONSIDERATION OF

PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)," filed December 31, 2008. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to three hundred fifty (350) days.

On July 8, 2008, the above-identified application matured into U.S. Patent No. 7,396,602 with a revised patent term adjustment of 350 days. The instant request for reconsideration was filed almost six months after the issuance of the patent, on December 31, 2008.

No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the PAIR system for this application. 37 CFR 1.705(d) provides the sole avenue before the Office for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed.**

CONCLUSION

It is determined that waiver of the requirement pursuant to 37 CFR 1.183 is not warranted. Accordingly, the request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) filed more than two months after the issue date of the patent is dismissed as untimely filed.

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

Kery A. Fries

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration



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P.O. BOX 1022
MINNEAPOLIS MN 55440-1022**

MAILED

MAY 21 2009

OFFICE OF PETITIONS

In re Application of :
Christoph Brabec, et al. :
Application No. 10/536,568 : DECISION GRANTING PETITION
Filed: October 24, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 15626-0049US1 / SA-17 :
US :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 20, 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 May 1, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

This application is being referred to Technology Center AU 2814 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

Terri Williams
Petitions Examiner
Office of Petitions

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



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Todd A. Benni
McDonald Hopkins Company
Suite 2100
600 Superior Avenue E
Cleveland, OH 44114

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MAY 12 2009

OFFICE OF PETITIONS

In re Application of :
Sean Phillips, et. al. :
Application No. 10/536,575 : **ON PETITION**
Filed: May 26, 2005 :
Attorney Docket No. 18801-00797 :

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

The application became abandoned for failure to file a reply to the final Office action mailed on July 8, 2008. A Notice of Abandonment was mailed on February 5, 2009.

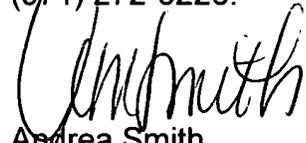
The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Stacy L. Emhoff appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party on whose behalf he/she acts.

Additionally, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and required submission under 37 CFR 1.114, with the \$810 fee; (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 3611 for processing of the RCE and 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.

A handwritten signature in black ink, appearing to read "Andrea Smith", written in a cursive style.

Andrea Smith
Petitions Examiner
Office of Petitions

28 SEP 2005



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DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK NY 10150-5257

In re Application of	:	
URY V. DIKUN	:	
Serial No.: 10/536,583	:	DECISION ON
PCT App. No.: PCT/RU03/00222	:	
Int'l Filing Date: 20 May 2003	:	PETITION UNDER
Priority Date: 24 October 2002	:	
Attorney Docket No.: 20484/0202904-USO	:	37 CFR 1.137(b)
For: METHOD FOR SURFACE PROCESSING;	:	
METHOD FOR SURFACE PREPARATION...	:	

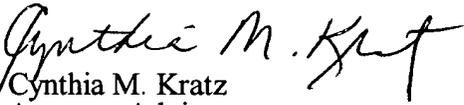
The petition to revive under 37 CFR 1.137(b) filed 24 May 2005 in the above-captioned application is hereby **GRANTED** as follows:

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 \$150 has been provided. The required petition fee of \$750 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

Applicant is advised that the declaration of inventors filed 24 May 2005 is not in compliance with 37 CFR 1.69(b) since applicant did not use one of the pre-approved foreign language forms or furnish the requisite statement attesting to the accuracy of the translation.

This application is being forwarded to the United States Designated/Elected Office for further processing including issuance of a Notification of Missing Requirements, indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), an English translation of the international application as filed, and the surcharge for filing the oath or declaration and the processing fee for filing the English translation after the thirty month period is required.


Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

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



FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK NY 10103-3198

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JUN 19 2008

OFFICE OF PETITIONS

In re Application of
Spindler et al.

Application No. 10/536,596

Filed: May 26, 2005

Attorney Docket No. HUBR-1282

Title of Invention: POLYAMIDE-BASED

WATER-SOLUBLE BIODEGRADABLE

COPOLYMERS AND THE USE THEREOF

ON PETITION

This is a decision on the petition, filed May 21, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition filed under 37 CFR 1.181 is **Dismissed**.

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This above-identified application became abandoned for failure to file a response to a Notice of Non-Responsive Amendment which was mailed on January 2, 2008. The Notice set an extendable one (1) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on February 3, 2008. A Notice of Abandonment was mailed on May 16, 2008.

Petitioner maintains that a the Notice was made in error because a complete reply to the Restriction Requirement was submitted on September 28, 2007. Petitioner states that upon receiving the Notice of Non-Responsive amendment, petitioner called the examiner to state that he believed the January 2, 2008 Notice was improper. Petitioner states that the Examiner left a phone message on January 24, 2008 indicating the



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OFFICE OF PETITIONS

In re Application of
Spindler et al.
Application No. 10/536,596
Filed: May 26, 2005
Attorney Docket No. HUBR-1282
Title of Invention: POLYAMIDE-BASED
WATER-SOLUBLE BIODEGRADABLE
COPOLYMERS AND THE USE THEREOF

ON PETITION

This is a decision on the renewed petition, filed June 24, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

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

This above-identified application became abandoned for failure to file a response to a Notice of Non-Responsive Amendment which was mailed on January 2, 2008. The Notice set an extendable one (1) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on February 3, 2008. A Notice of Abandonment was mailed on May 16, 2008. A petition was dismissed on June 19, 2008.

Petitioner maintains that a the Notice was made in error because a complete reply to the Restriction Requirement was submitted on September 28, 2007. Petitioner states that upon receiving the Notice of Non-Responsive amendment, petitioner called the examiner to state that he believed the January 2, 2008 Notice was improper. Petitioner states that the Examiner left a phone message on January 24, 2008 indicating the response was complete and that no further action needed to be taken. Petitioner states as a result of the examiner's message, no response was filed.

A review of the record shows that petitioner failed to reply to the Notice of Non-

Responsive Amendment. Pursuant to 37 CFR 1.2, 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

However, further review of the record shows that the application was prematurely abandoned. The Notice of Non-Responsive amendment provided petitioner with a one month extendable reply period. As such the extendable reply period expired on July 3, 2008. In light of the submission of the reply and five month extension of time, the application was improperly held abandoned and has been returned to pending status.

This application is being referred to Technology Center AU 1796 for appropriate action in the normal course of business on the reply received with petition.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.



Charlema R. Grant
Petitions Attorney
Office of Petitions



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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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666 FIFTH AVE
NEW YORK, NY 10103-3198

Mail Date: 04/21/2010

Applicant	: Christian Spindler	: DECISION ON REQUEST FOR
Patent Number	: 7612150	: RECALCULATION OF PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/536,596	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/26/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **703** 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	: Emmanuel Martin	: DECISION ON REQUEST FOR
Patent Number	: 7659238	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/536,607	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **754** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



1 1 MAR 2008

Joseph A. Sebolt
SAND & SEBOLT
Aegis Tower Suite 1100
4940 Munson Street NW
Canton, OH 44718-3615

In re Application of :
KEIGHTLEY *et al* :
Application No.: 10/536,615 :
PCT No.: PCT/AU2003/001596 :
International Filing Date: 01 December 2003 :
Priority Date: 29 November 2002 :
Attorney Docket No.: 1849023US1ANP :
For: DUAL LOCK APPARATUS :

DECISION

This is a decision on the petition under 37 CFR 1.78(a)(3) filed 06 August 2007 which is hereby **DISMISSED** without prejudice.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). 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 petition does not comply with item (1).

Applicants submitted an amendment that states, in part: "[t]his is a continuation-in-part of U.S. Application Serial No. 10/276,547, now Patent No. 6,964,183 having a 371(c) date of November 14, 2002; the application being a National Stage filing of PCT/AU01/00579 having an international filing date of May 18, 2001, which application claims priority from Australian Application PQ7576, filed May 18, 2000; the entire disclosures of which are incorporated herein by reference."

The reference to add the prior-filed applications is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (see 35 U.S.C. § 132(a)).

If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. See Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). Note MPEP §§ 201.06(c) and 608.04(b).

Moreover, applicants may not add a foreign priority benefit claim to a national stage application submitted under 35 U.S.C. 371. Foreign priority in a national phase application is governed by 35 U.S.C. 365(b), which requires, *inter alia*, compliance with the PCT and PCT Regulations. In the present case, the priority claim to Australian Application PQ7576 does not comply with PCT Rules 4.10 and 26*bis*. Thus, the request to add Australian Application PQ7576 as a foreign priority can not be accepted in this national phase application.

Any further correspondence with respect to this matter may be filed electronically via the USPTO EFS-Web, by facsimile to the Office of PCT Legal Administration at (571) 273-04559, 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.



Boris Milef
Legal Examiner
Office of Petitions and PCT Legal Administration



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

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AUG 08 2006

OFFICE OF PETITIONS

Applicant: Nakamori et al.
Appl. No.: 10/536,621
International Filing Date: November 27, 2003
Title: POLISHING PAD AND METHOD OF PRODUCING SEMICONDUCTOR DEVICE
Attorney Docket No.: UNIU86.001APC
Pub. No.: US 2006/0037699 A1
Pub. Date: February 23, 2006

This is a decision on the paper requesting a corrected publication under 37 CFR 1.221(b) received on April 21, 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 on the front page of the publication as the Office misprinted the title of the invention "Polishing Pad And Method of Producing Semiconductor Device" as "Polishing Pad And Method For Manufacturing Semiconductor Device".

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 instant request does not identify a material mistake in the publication made by the Office. The phrase "For Manufacturing" is used in the title of the invention on the cover page of the WIPO publication. The Office will normally use the title of the invention indicated on the cover page of the publication as the title of the national stage application that will appear on the filing receipt. The cover page will include an English translation of the title if the international application was published in a foreign language. See PCT Rule 48.3(c). Applicants desiring to

¹Changes 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).

have the filing receipt reflect a title that is different than the English language title appearing on the cover page must submit either a preliminary amendment amending the title or an application data sheet (37 CFR 1.76) with the desired title. See MPEP 1893.03(e).

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

Applicant's request for a Corrected Publication on April 21, 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.

On October 21, 2005, a Filing Receipt was mailed by the Office, which listed the title as "Polishing Pad And Method For Manufacturing Semiconductor Device." To avoid this type of problem or to make a change in the title in the future, applicant's representative should make request a corrected filing receipt along with a supplemental application data sheet.

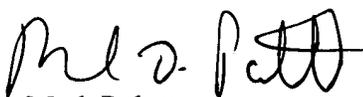
The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the 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



11 APR 2006

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TOWNSEND AND TOWNSEND AND CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834

In re Application of :
KENYON, Cynthia *et al* :
U.S. Application No.: 10/536,635 :
PCT No.: PCT/US2003/025266 :
Int. Filing Date: 11 August 2003 :
Priority Date: 09 August 2002 :
Attorney Docket No.: 023070-119970US :
For: EUKARYOTIC GENES INVOLVED IN :
ADULT LIFESPAN REGULATION :

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

Applicants' "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed on 26 May 2005 is hereby **GRANTED** as follows:

The basic national fee, surcharge fee and petition fee for a small entity have 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.

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). A search fee, examination fee, or oath or declaration late fee pursuant to 37 CFR 1.492(h) has been charged to Deposit Account No. 20-1430 as authorized.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 11 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 May 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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FOLEY & LANDNER LLP
1530 PAGE MILL ROAD
PALO ALTO, CA 94304

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AUG 28 2006

OFFICE OF PETITIONS

In re Application of :
Bernard C.B. Lim et al :
Application No. 10/536,651 : **ON PETITION**
Filed: :
Attorney Docket No. 355908-8251 :

This is a decision on the petition under 37 CFR 1.182, filed May 30, 2006, to change the name of Inventor Kathleen Muller to Kathleen Chancellor-Maddison.

The petition is **GRANTED**.

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

This matter is being referred to the Initial Patent Examination Unit for issuance of the corrected filing receipt.


Irvin Dingle
Petitions Examiner
Office of Petitions



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SEP 22 2008

OFFICE OF PETITIONS

Applicant: Lim et al.
Appl. No.: 10/536,651
International Filing Date: November 26, 2003
Title: MEDICAL TREATMENT CONTROL SYSTEM
Attorney Docket No.: 355908-8251
Pub. No.: US 2007/0191787 A1
Pub. Date: August 16, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on October 15, 2007, for the above-identified application

The request is dismissed.

Applicant requests that the application be republished because the patent application publication contains material errors, wherein the provisional application is published with a date of "2007" rather than "2002" and in 'RF ID' appears as "RP ID" in a paragraph and the preliminary amendment of May 26, 2007 was not published.

37 CFR 1.221 (b) is applicable "only when the Office makes a **material mistake** which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.¹

The errors noted by the requestor regarding the date of the provisional application and the misspelling are not material mistakes which hinder the public from understanding the application. The correct application number is printed and it is on the front page of the publication. The mistakes do not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

¹Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

The error noted by requestor with respect to the preliminary amendment is not an Office error. The patent application publication does not include a mistake regarding the failure to include the preliminary amendment to the priority data in the publication by the Office because patent application publications are not required to include preliminary amendments, according to 37 CFR 1.215(a),² which says the following, in part:

(a) . . . The patent application publication will be based upon the specification and drawings deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application. **The patent application publication may also be based upon amendments** to the specification (other than the abstract or the claims) that are reflected in a substitute specification under Sec. 1.125(b), amendments to the abstract under Sec. 1.121(b), amendments to the claims that are reflected in a complete claim listing under Sec. 1.121(c), and amendments to the drawings under Sec. 1.121(d), provided that such substitute specification or amendment is submitted in sufficient time to be entered into the Office file wrapper of the application before technical preparations for publication of the application have begun. (emphasis added)

§ 1.215(c) says the following:

(c) At applicant's option, the patent application publication will be based upon the copy of the application (specification, drawings, and oath or declaration) as amended, provided that applicant supplies such a copy in compliance with the Office electronic filing system requirements within one month of the mailing date of the first Office communication that includes a confirmation number for the application, or fourteen months of the earliest filing date for which a benefit is sought under title 35, United States Code, whichever is later.

Furthermore, while the patent application publication may now include a preliminary amendment, the Office is not required to use the preliminary amendment.

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.

²Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan; Final Rule, 69 FR 56482 (Sept. 21, 2004).

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

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



Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy



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United States Patent and Trademark Office
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Frank J Uxa
Stout Uxa Buyan & Mullins
Suite 300
4 Venture
Irvine, CA 92618

Mail Date: 04/21/2010

Applicant : Michael John Clarke : DECISION ON REQUEST FOR
Patent Number : 7625427 : RECALCULATION of PATENT
Issue Date : 12/01/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/536,659 : OF WYETH AND NOTICE OF INTENT TO
Filed : 11/23/2005 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **707** 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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Frank J Uxa
Stout Uxa Buyan & Mullins
Suite 300
4 Venture
Irvine, CA 92618

Mail Date: 05/18/2010

Applicant : Michael John Clarke : NOTICE CONCERNING IMPROPER
Patent Number : 7625427 : CALCULATION OF PATENT TERM
Issue Date : 12/01/2009 : ADJUSTMENT BASED UPON USPTO
Application No : 10/536,659 : IMPROPERLY MEASURING REDUCTION
Filed : 11/23/2005 : 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 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 **739** 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).

- 4 DEC 2009



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WRIGLEY & DREYFUS 28455
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

In re Application of	:	
ZUEHLKE, Julius W., et al.	:	
Application No.: 10/536,670	:	DECISION ON
PCT No.: PCT/US2004/028732	:	
Int. Filing Date: 02 September 2004	:	PETITION
Priority Date: None	:	
Attorney Docket No.: 1391/1650	:	UNDER 37 CFR 1.182
For: METHOD AND APPARATUS ...	:	
PRODUCTS PRODUCED THEREBY	:	

This is a decision on applicant's petition under 37 CFR 1.182, filed in the United States Patent and Trademark Office on 22 July 2008.

BACKGROUND

On 27 May 2005, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The transmittal letter indicated this application was a national phase of PCT/US2004/002873. Other papers listed international application no. PCT/US2004/028732.

On 22 July 2008, applicant filed this petition under 37 CFR 1.182 to correct the above discrepancy.

DISCUSSION

Applicants have explained that the paperwork was intended as a national stage entry of PCT/US2004/028732. The indications will be corrected in the file and the file will be processed as a national stage entry of PCT/US2004/028732.

CONCLUSION

For the reasons listed above, the Petition Under 37 CFR 1.182 is **GRANTED**.

This application is being forwarded to the National Stage Processing Division of the Office of the Patent Application Processing for continued processing consistent with this decision.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292

23 JUN 2006

United States Patent and Trademark Office



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Donald W. Margolis
P.O. Box 20338
Boulder, CO 80308-3338

In re Application of	:	
Ocondi	:	
Application No.: 10/536,676	:	DECISION
PCT No.: PCT/US03/34812	:	
Int. Filing Date: 30 October 2003	:	ON
Priority Date: 30 October 2002	:	
Attorney Docket No.: P4454-US	:	PETITION
For: Intelligent Wireless Multicast Network	:	

The petition to revive under 37 CFR 1.137(b) filed 27 May 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant states that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." This statement is being accepted in satisfaction of 37 CFR 1.137(b)(3).

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

The \$130.00 surcharge under 37 CFR 1.492(h) is being charged to counsel's Deposit Account No. 13-1705, as authorized by the Transmittal Letter filed on 27 May 2005.

This application is being forwarded to the United States Designated/Elected Office for further processing. The date of this application under 35 U.S.C. 371(c)(1), (2) and (4) is **27 May 2005**.

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

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



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VOLENTINE FRANCOS & WIHITT, PLLC
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE, SUITE 1260
RESTON, VA 20190

In re application of	:	DECISION ON PETITION
Mario Villena et al.	:	TO MAKE SPECIAL
Application No. 10/536,691	:	(ACCELERATED
Filed: September 28, 2005	:	EXAMINATION)
For: AUTOMATIC EVALUATION SYSTEM USING	:	
SPECIALIZED COMMUNICATIONS	:	
INTERFACES	:	

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

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

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

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

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

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



Steven N. Meyers
Quality Assurance Specialist
Technology Center 3600
571-272-6611

SNM/dew: 03/09/07

cc: B.Y. Mathis
Baker & Hostetler LLP
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, DC 20036



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NATH & ASSOCIATES
112 SOUTH WEST STREET
ALEXANDRIA, VA 22314

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In re Application of
Villena et al.
Application No. 10/536,691
Filed: September 28, 2005
Attorney Docket No. HXI.1521

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 8, 2008, to revive the above-identified design application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment; (2) the petition fee of \$770.00; (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 3689 for appropriate action by the Examiner in the normal course of business on the amendment submitted April 8, 2008.

Liana Walsh
Petitions Examiner
Office of Petitions

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VOLENTINE FRANCOS & WHITT, PLLC
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE SUITE 1260
RESTON, VA 20190

In re application of : **DECISION ON PETITION**
Mario Villena, et al : **TO MAKE SPECIAL**
Application No. 10/536,692 : **(ACCELERATED**
Filed: September 9, 2005 : **EXAMINATION)**
For: COMPUTERIZED SYSTEMS FOR
FORMATION AND UPDATE OF DATABASES

This is in response to the petition filed on May 3, 2006 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

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

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

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

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

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



Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(571) 272-6611

SNM/dcg: 7/26/06



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MAR 30 2007

TECHNOLOGY CENTER 3600

NATH & ASSOCIATES
112 SOUTH WEST STREET
ALEXANDRIA, VA 22314

In re application of	:	DECISION ON PETITION
Mario A. Villena et al.	:	TO MAKE SPECIAL
Application No. 10/536,693	:	(ACCELERATED
Filed: August 4, 2006	:	EXAMINATION)
For: COMPUTERIZED AGENT AND SYSTEMS	:	
FOR AUTOMATIC SEARCHING OF	:	
PROPERTIES HAVING FAVORABLE	:	
ATTRIBUTES	:	

This is in response to the petition filed on April 25, 2006 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

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

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

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

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

SUMMARY: Petition to Make Special GRANTED.



Steven N. Meyers
Quality Assurance Specialist
Technology Center 3600
571-272-6611

SNM/dew: 03/26/07

cc: VOLENTINE FRANCOS & WHITT PLLC
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE SUITE 1260
RESTON, VA 20190



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Homexperts
Attn: William Kennedy
Suite 401
10700 N Kendall Dr.
Miami FL 33176

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OFFICE OF PETITIONS

In re Application of :
Mario A. Villena, et al. :
Application No. 10/536,693 : **DECISION ON PETITION**
Filed: August 4, 2006 :
Attorney Docket No. Homexperts-693 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 8, 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 5, 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 6, 2007. The Notice of Abandonment was mailed April 8, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of \$770, and (3) a proper statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 3689 for appropriate action by the Examiner in the normal course of business on the reply received

A handwritten signature in black ink, appearing to read "Chris Bottorff". The signature is written in a cursive, slightly slanted style.

Chris Bottorff
Petitions Examiner
Office of Petitions



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of
Mario A. VILLENA et al.
10/536,693

Group Art Unit: 3629

Application No.: ~~10/526,693~~

Examiner: D. Ruhl

Filed: September 28, 2005

Docket No.: 28024U

For: COMPUTERIZED AGENT AND SYSTEMS FOR AUTOMATIC SEARCHING OF
PROPERTIES HAVING FAVORABLE ATTRIBUTES

**PETITION UNDER 37 CFR 1.137(b) TO REVIVE AN
UNINTENTIONALLY ABANDONED APPLICATION**

Mail Stop Petitions

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

11/20/2008 CKHLOK 00000011 140112 10536693
01 FC:2453 20.00 DA 750.00 OP

This is a Petition to Revive the above-captioned application under 37 CFR 1.137(b) as an unintentional abandonment.

By this Petition, Applicant respectfully submits a response to the non-final Office Action of March 18, 2005, accompanied by a check for the requisite fees.

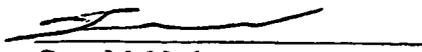
The entire delay in providing this response was unintentional, from the mailing of the Office Action until the filing of this petition. It is respectfully submitted that no terminal disclaimer is required in this case beyond that presently submitted.

Please charge any fee deficiency, or credit any overpayment, in connection with this matter to Deposit Account No. 14-0112.

Respectfully submitted,
NATH & ASSOCIATES PLLC

April 8, 2008

NATH & ASSOCIATES PLLC
112 South West Street
Alexandria, VA 22314-2891
Tel: 703-548-6284
Fax: 703-683-8396


Gary M. Nath
Registration No. 26,965
Jerald Meyer
Registration No. 41,134
B. Y. Mathis
Registration No. 44,907
Customer No. 20529

Adjustment date: 11/20/2008 CKHLOK
04/09/2008 MBELETE1 00000004 140112 10526693
01 FC:2453 20.00 CR -750.00 OP

04/09/2008 MBELETE1 00000004 140112 10526693
01 FC:2453 20.00 DA 750.00 OP



02 OCT 2006

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DIEHL SERVILLA LLC
77 Brant Avenue
Suite 110
Clark, NJ 07066

In re Application of :
MONTELIONE, Gaetano :
U.S. Application No.: 10/536,705 :
PCT No.: PCT/US2004/020244 :
Int. Filing Date: 26 June 2004 :
Priority Date: 27 June 2003 :
Attorney Docket No.: RUT0001-00US :
For: RIBOSOMAL RNA :
METHYLTRANSFERASES RlmA; :
TARGET VALIDATION AND :
PROCESSES FOR DEVELOPING AN :
INHIBITOR ASSAY . . . :

**DECISION ON
PETITION FOR REVIVAL
UNDER 37 CFR 1.137(a) and,
37 CFR 1.137(b)**

This decision is in response applicant's petition to revive under 37 CFR 1.137(a) and in the alternative, 37 CFR 1.137(b) filed on 23 August 2006.

BACKGROUND

On 09 January 2006, a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) was mailed indicating that additional claim fees, an executed declaration and surcharge fee was required. Applicants were given two months to respond with extensions of time available.

On 08 March 2006, applicant submitted a response which included, *inter alia*, an executed declaration, a preliminary amendment to change claims and authorization to charge the required fees to Deposit Account No. 50-1943.

On 13 July 2006, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed for failure to pay the required surcharge fee.

On 23 August 2006, 09 May 2006, applicant submitted the subject petition under 37 CFR 1.137(a) and 37 CFR 1.137(b) along with a copy of the documents previously filed 08 March 2006.

DISCUSSION

Petition Under 37 CFR 1.137(a)

A petition to revive an abandoned application pursuant to 37 CFR 1.137(a) must be accompanied by: (1) the required reply; (2) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; (3) any terminal disclaimer required pursuant to 37 CFR 1.137(c); and (4) the petition fee. Applicant submitted items (1), (3) and (4).

Regarding item (2), a check with Patricia Booker of the DO/EO/US reveals that the documents filed 08 March 2006 were received and the required fees were attempted to be collected from Deposit Account No. 50-1943. However, there were insufficient funds in the account to collect the required fee. For this reason, item (2) is not satisfied.

Accordingly, applicant's petition to revive under 37 CFR 1.137(a) is **DISMISSED**.

Petition Under 37 CFR 1.137(b)

Applicant's petition to revive under 37 CFR 1.137(b) filed in the alternative is hereby **GRANTED** as follows:

The required surcharge fee and the petition fee for a small entity have been paid. Applicant makes the required statement pursuant to 37 CFR 1.137(b)(3). A terminal disclaimer is not required.

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

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


James Thomson

Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

Old Ref. No.: RUT0001-00US
New Ref. No.: 70439-00003

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
UNITED STATES RECEIVING OFFICE (RO/US)**

In re International application of
RUTGERS, THE STATE UNIVERSITY, et al.

US Application No.: 10/536,705
International Application No.: PCT/US04/20244

Filed: 26 June 2004 (26.06.2004)

Title: RIBOSOMAL RNA METHYLTRANSFERASES
RlmA: TARGET VALIDATION AND
PROCESSES FOR DEVELOPING AN
INHIBITOR ASSAY AND IDENTIFICATION
OF CANDIDATE INHIBITORS

Date: November 8, 2006

RECEIVED

9 NOV 2006

Legal Staff
International Division

VIA FACSIMILE TO: 571-273-0459

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

**REQUEST TO PROCESS POWER OF ATTORNEY
WITH CHANGE OF CORRESPONDENCE ADDRESS,
AND REQUEST FOR CORRECTED FILING RECEIPT**

Dear Sir:

On January 9, 2006, a Notification of Missing Requirements with respect to above-identified application was sent by the PCT Branch of the U.S.P.T.O.

A response to the Notification of Missing Requirements was submitted to the PCT Branch of the Office on March 9, 2006. Enclosed with the response to the Notification was an Oath and Power of Attorney with a Correspondence Address indication. The Oath and Power of Attorney as signed by the inventors directed that both the power of attorney and correspondence address for this application be U.S.P.T.O Customer Number 29.880.

Application Serial No. 10/536,705
Attorney Docket No. 70439.00003 (Previously RUT00001-00US)

Due to a processing error, this application was abandoned. On August 23, 2006, a Petition to Revive this application was submitted on behalf of the Applicants. The Petition was granted on October 2, 2006.

However, it appears the instructions from the Petition's office to enter the Oath and Power of Attorney was inadvertently sent to the United States Patent and Trademark Office's Office of Initial Patent Examination instead of the PCT branch for processing.

This letter formally requests that the correspondence address and the power of attorney be entered, and that the Office's records be corrected to indicate that both the correspondence address and the power of attorney are to United States Patent and Trademark Office Customer Number 29,880.

It is also respectfully requested that a corrected filing receipt be issued for this application clearly showing the accurate correspondence address information.

Dated: November 8, 2006

Respectfully submitted,

By Gerard P. Norton
Gerard Norton
Registration No. 36,621
U.S.P.T.O. Customer No. 29,880
FOX ROTHSCHILD LLP
Princeton Pike Corporate Center
997 Lenox Drive, Building 3
Lawrenceville, NJ 08648-2311
Tel: 609.896.3600
Fax: 609.896.1469
Attorney for Applicant

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper, along with any paper referred to as being attached or enclosed, is being facsimile transmitted on the date indicated below to the Patent and Trademark Office.

BY: Gayle Ruckstuhl

[Signature]
Signature

DATE: November 9, 2006

*** RX REPORT ***

RECEPTION OK

TX/RX NO	6906
RECIPIENT ADDRESS	2152992150
DESTINATION ID	
ST. TIME	10/13 09:54
TIME USE	00'41
PGS.	2
RESULT	OK



30 JUN 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAGTIANI + GUTTAG
10363-A Democracy Lane
Fairfax, VA 22030

In re Application of:	:	
DEBRUYNE, Kristine, et al.	:	DECISION ON PETITION UNDER
U.S. Application No.: 10/536,714	:	37 CFR 1.47(a)
PCT No.: PCT/AU2003/001584	:	
International Filing Date: 28 November 2003	:	
Priority Date: 29 November 2002	:	
Attorney's Docket No.: COCH-0149-US1	:	
For: COCHLEAR IMPLANT DRUG	:	
DELIVERY DEVICE	:	

This decision is issued in response to applicants' "Petition Under 37 CFR 1.47(a) At Least One Joint Inventor Available" filed 04 May 2006. Applicants have paid the required petition fee.

BACKGROUND

On 28 November 2003, applicants filed international application PCT/AU2003/001584. The international application claimed a priority date of 29 November 2002 and it designated the United States. On 17 June 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., 29 May 2005.

On 27 May 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 04 October 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirement (Form PCT/DO/EO/905) indicating that an executed declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date was required.

On 04 May 2006, applicants filed a response to the Notification Of Missing Requirements (with required five-month extension fee). The submission includes the required surcharge payment and the petition under 37 CFR 1.47(a) considered herein. The petition seeks acceptance of the application without the signature of inventor Kristine DEBRUYNE, whom applicants assert has refused to execute the application.

DISCUSSION

A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the nonsigning inventor; (3) an oath or declaration executed by the other inventors on behalf of themselves and the nonsigning inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

Applicants here have submitted the required petition fee, and the petition expressly states the last known address of the nonsigning inventor. Items (1) and (2) are therefore satisfied.

Regarding item (3), section 409.03(a) of the Manual of Patent Examining Practice (MPEP) states that:

An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, the declaration materials filed by applicants include three copies of a declaration form that identifies four of the inventors and indicates that additional inventors are being named on attached sheet(s) (the declaration form does not indicate how many sheets are attached); each of these sheets is executed by one of the inventors listed thereon. Applicants have also submitted two copies of a page identified as "Page 2 of 2." These pages list the remaining two inventors of record, and each of these sheets is executed by one of the inventors listed thereon. This five-page declaration submission appears to be a compilation of multiple copies of a two-page declaration, and as such is not acceptable under 37 CFR 1.497 (See MPEP § 201.03(II)(B): "Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration.") Applicants must submit complete declarations acceptable under 37 CFR 1.497 executed by each of the signing inventors and containing an unsigned signature block for the non-signing inventor. Until the required declarations are submitted, item (3) is not satisfied.

Regarding item (4), MPEP section 409.03(d) states that "[a] copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney." The MPEP also states the following:

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Here, applicants have provided statements from Jayne ANDREWS and Kate KRALJ, with supporting documents, providing a firsthand description of the efforts made to obtain the inventor's signature. These materials provide the required showing that the non-signing inventor has been provided (via email) with a request for signature and a copy of the application papers, that the inventor orally confirmed receipt of these documents, and that the inventor expressly stated that she would not execute the application documents. Item (4) is satisfied.

CONCLUSION

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

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)" and must include the materials required to satisfy item (3) of a grantable petition, as discussed above. No additional petition fee is required.

Failure to file a proper response will result in abandonment of the application. Extensions of time are available under 37 CFR 1.136(a)

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



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



UNITED STATES PATENT AND TRADEMARK OFFICE

#7

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

23 AUG 2006

JAGTIANI + GUTTAG
10363-A Democracy Lane
Fairfax, VA 22030

In re Application of: DEBRUYNE, Kristine, et al. :
U.S. Application No.: 10/536,714 :
PCT No.: PCT/AU2003/001584 :
International Filing Date: 28 November 2003 :
Priority Date: 29 November 2002 :
Attorney's Docket No.: COCH-0149-US1 :
For: COCHLEAR IMPLANT DRUG :
DELIVERY DEVICE :

DECISION ON RENEWED
PETITION UNDER
37 CFR 1.47(a)

In a decision mailed by this Office on 30 June 2006, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice for failing to satisfy all the requirements of a grantable petition. Specifically, applicants had not submitted an acceptable a declaration executed by the inventors on their own behalf and on behalf of the non-signing inventor (the materials submitted by applicants appeared to be a compilation of multiple declaration documents).

On 09 August 2006, applicants filed the renewed petition considered herein. The renewed petition includes the complete two-page declaration executed by the four signing inventors; these declarations each contain an unsigned signature block for the non-signing inventor. These materials satisfy the declaration requirement of a grantable petition.

Applicants have now satisfied all the requirements for a grantable petition under 37 CFR 1.47(a). Accordingly, the renewed petition under 37 CFR 1.47(a) is **GRANTED**. The application is accepted without the signature of inventor Kristine DEBRUYNE.

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 non-signing inventor at her 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 09 August 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

23 AUG 2006

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

Kristine DEBRUYNE
R. Dodoensstraat 72
2800 Mechelen
BELGIUM

In re Application of: DEBRUYNE, Kristine, et al.
U.S. Application No.: 10/536,714
PCT No.: PCT/AU2003/001584
International Filing Date: 28 November 2003
Priority Date: 29 November 2002
Attorney's Docket No.: COCH-0149-US1
For: COCHLEAR IMPLANT DRUG DELIVERY DEVICE

Dear Ms. DEBRUYNE:

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:
JAGTIANI + GUTTAG
10363-A Democracy Lane
Fairfax, VA 22030



UNITED STATES PATENT AND TRADEMARK OFFICE

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JAGTIANI + GUTTAG
10363A DEMOCRACY LANE
FAIRFAX, VA 22030

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APR 01 2008

In re Application of
HABERLAND, et al.
Application No. 11/503,314
Filed: August 15, 2006
Attorney Docket No. **032528.0034**

OFFICE OF PETITIONS

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 3, 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 Ajay A. Jagtiani on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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


Monica A. Graves
Petitions Examiner
Office of Petitions

CC: **KRISTINE DEBRUYNE
SCHALIENHOEVEDREEF 201
MECHELEN, BELGIUM B-2900**

CC: **JAYNE ANDREWS, PATENT MANAGER
COCHLEAR LIMITED
14-16 MARS ROAD
LANE COVE, NSW AUSTRALIA 2066**

#8

26 SEP 2006



UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

In re Application of	:	
SANDNER, Bernhard et al.	:	
Application No.: 10/536,720	:	DECISION ON
PCT No.: PCT/EP03/14408	:	
Int. Filing Date: 17 December 2003	:	PETITION
Priority Date: 18 December 2002	:	
Attorney's Docket No.: 031309-011	:	UNDER 37 CFR 1.182
For: HIGHLY CONCENTRATED ...	:	
IN AQUEOUS SYSTEMS	:	

This decision responds to "Petition Pursuant to 37 C.F.R. §1.182," filed with the United States Patent and Trademark Office on 17 May 2006.

BACKGROUND

On 17 December 2003, applicant filed international application PCT/EP03/14408, claiming a priority date of 18 December 2002. A copy of the international application was transmitted to the Office by the International Bureau on 01 July 2004. The deadline for entry into the national stage in the United States was midnight 18 June 2005.

On 27 May 2005, applicant filed a submission for entry into the national stage in the United States which was accompanied by the basic national fee.

On 16 December 2005, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration and the surcharge for late filing the search fee, examination fee or oath or declaration were required.

On 27 January 2006, applicant submitted a declaration of the inventors and the surcharge for late filing of the search fee, examination fee or the oath or declaration.

On 28 March 2006, the Office mailed Notification of Defective Response (Form PCT/DO/EO/916) indicating that the last name of the second inventor did not match the last name on the international application.

On 17 May 2006, applicant submitted a petition under 37 CFR 1.182.

DISCUSSION

The declaration is executed by Cristina Stanica. The international application listed Cristina Schedlowski.

Applicant has supplied a statement signed by Cristina Stanica stating that she has legally changed her name. This is sufficient explanation. The balance of the \$200 petition fee will be charged to deposit account no. 02-4800, as authorized.

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 27 January 2006.

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

COPY MAILED

JUN 04 2009

OFFICE OF PETITIONS

In re Application of
Eric Desmicht, et al.
Application No. 10/536,732
Filed: May 27, 2005
Attorney Docket No. FR02 0129 US

:
:
:
:
:
:

ON PETITION

This is a decision in response to the petition, filed April 17, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed September 12, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on December 13, 2008. A Notice of Abandonment was mailed on April 1, 2009. In response, on April 17, 2009, the present petition was filed.

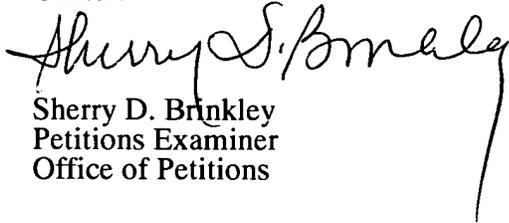
There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Thomas H. Ham appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. While a courtesy copy of this decision is being mailed Mr. Ham, all future correspondence will be directed solely to the address of record.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of \$1,620; and (3) an adequate statement of unintentional delay¹.

¹ 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The application is being referred to Technology Center AU 2432 for appropriate action by the Examiner in the normal course of business on the reply received April 17, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.



Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: THOMAS H. HAM
PMB: 348, 2530 BERRYESSA ROAD
SAN JOSE, CA 95132

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/15/08

TO SPE OF : Technology Center 2612

10/536744

SUBJECT : Request for Certificate of Correction on Patent No.: 7295125 B2

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

Please complete this form and return with file, within 7 days to:

Palm location 7580, Certificates of Correction Branch – South Tower – 9A22

If response is for an IFW, return to employee (named below) via PUBSCofC Team in MADRAS.

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Elisha Evans

Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

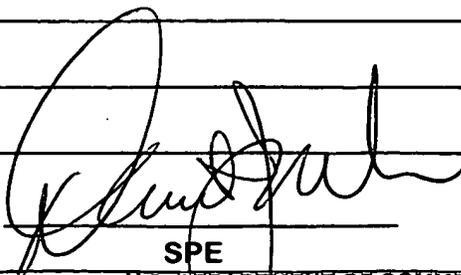
Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments:

Correction to priority should be made.



2612

SPE

Art Unit



19 JUL 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

#3

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

REED SMITH LLP
1301 K STREET, N.W.
SUITE 1100 EAST TOWER
WASHINGTON, DC 20005

In re Application of REIMERS	:	
U.S. Application No.: 10/536,758	:	
PCT Application No.: PCT/NO03/00390	:	
Int. Filing Date: 20 November 2003	:	DECISION
Priority Date Claimed: 20 November 2002	:	
Attorney Docket No.: 966917/00009	:	
For: METHOD AND DEVICE FOR	:	
ACTIVATION OF A DETONATOR	:	

This is in response to applicant's "Petition to Correct Filing Date Under 37 C.F.R. § 1.182" filed 22 June 2005, which is being treated under 37 CFR 1.181.

BACKGROUND

On 20 November 2003, applicant filed international application PCT/NO03/00390, which claimed priority of an earlier Norway application filed 20 November 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 02 December 2004. The thirty-month period for paying the basic national fee in the United States expired on 20 May 2005.

On 20 May 2005, applicant purportedly filed national stage papers in the United States Designated/Elected Office (DO/EO/US).

On 22 June 2005, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The evidence of record is sufficient to establish that the national stage papers were originally filed on 20 May 2005. Specifically, the copy of the return postcard, which includes the national stage papers in its itemized contents and which bears a USPTO date stamp of 20 May 2005, serves as *prima facie* evidence that the national stage papers were received by the USPTO on 20 May 2005.

CONCLUSION

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

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed.



Bryan Tung
PCT Legal Examiner
PCT Legal Office

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



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AUG 06 2007
OFFICE OF PETITIONS

DICKE, BILLIG & CZAJA
FIFTH STREET TOWERS
100 SOUTH FIFTH STREET, SUITE 2250
MINNEAPOLIS MN 55402

In re Application of :
Christian Paulus :
Application No. 10/536,764 : **ON PETITION**
Filed: December 21, 2005 :
Attorney Docket No. 1432.112.101/P29326 :

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

The petition is **GRANTED**.

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

Petitioner is advised that the Issue fee paid on July 3, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

The examiner of Technology Center AU 2819 will consider the request for continued examination under 37 CFR 1.114.


Karen Creasy
Petitions Examiner
Office of Petitions

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

JAN 25 2010

In re Application of :
Tatsuru SHIRAFUJI, et al. :
Application No. 10/536,774 : DECISION DISMISSING PETITION
Filed: May 26, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **MOR-4** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 19, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

In this case, the petition was not received in the Office of Petitions for consideration until the day of issuance January 19, 2010. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted.

Accordingly, the \$130 petition fee submitted is unnecessary and will be refunded in due course.

Petitioner is advised, that while petitions to withdraw from issue may be mailed to the Commissioner for Patents, as was done in this case, applicants were cautioned to hand carry or fax petitions to withdraw from issue directly to the Office of Petitions. See MPEP § 1308.

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

/Monica A. Graves/
Petitions Examiner, Office of Petitions

6



07 JUL 2006

Andrew Wilford
The Firm of Karl F. Ross
5676 Riverdale Avenue
P.O. Box 900
Bronx, NY 10471-0900

In re Application of	:	
GROKE, et al.	:	
Application No.: 10/536,777	:	
PCT No.: PCT/EP03/50712	:	DECISION ON PAPERS
Int. Filing Date: 13 October 2003	:	
Priority Date: 27 November 2002	:	UNDER 37 CFR 1.42
Attorney Docket No.: 23304	:	
For: AGENT HAVING A DESTRUCTIVE	:	
EFFECT ON MALIGNANT TUMORS	:	
AND PRODUCTION THEREOF	:	

This application is before the Office of PCT Legal Administration for issues arising under 35 U.S.C. 371. The combined declaration and power of attorney filed 03 May 2006 is being treated as a request for status under 37 CFR 1.42. No petition fee is due.

BACKGROUND

On 13 October 2003, applicant filed international application PCT/EP03/50712, which claimed priority to an earlier application filed 27 November 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 10 June 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 27 May 2005.

On 26 May 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); a First Preliminary amendment and an English translation of the international application.

On 09 December 2005, applicant was mailed a "Notification of Missing Requirements" (Form PCT/DO/EO/905) informing applicant that an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. Applicant was afforded two months to file the required response and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 03 May 2006, applicant filed the response including an executed combined declaration and power of attorney accompanied by a petition for a three-month extension of time

and payment of the appropriate petition fee. With the filing of the petition for a three-month extension of time and payment of the petition fee, the present response is considered timely filed.

DISCUSSION

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

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

The declaration submitted on 03 May 2006 was executed by Dr. Ilse Groke, Veronika Groke and Paul Groke heirs of the estate of deceased inventor, Karl Groke. However, the filed declaration does not satisfy the requirements under 37 CFR 1.497(b). Specifically, the oath or declaration must provide the citizenship, residence, and mailing address of both the deceased inventor and the signing heirs. The present declaration provides this information for Veronika Groke and Paul Groke. However, there is only one set of information for the signature block where Dr. Groke has executed the declaration. The information must be provided for both Dr. Ilse Groke and the deceased inventor Karl Groke. In addition, applicant is required to provide a statement that a legal representative has not been appointed nor is statutorily required to be appointed.

CONCLUSION

Applicant's petition under 37 CFR 1.42 is **DISMISSED, without prejudice**.

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file an oath or declaration in compliance with 37 CFR 1.497 (a)-(b). Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.42." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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



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



8

15 SEP 2006

Andrew Wilford
The Firm of Karl F. Ross
5676 Riverdale Avenue
P.O. Box 900
Bronx, NY 10471-0900

In re Application of	:	
GROKE, et al.	:	
Application No.: 10/536,777	:	
PCT No.: PCT/EP03/50712	:	DECISION ON PAPERS
Int. Filing Date: 13 October 2003	:	
Priority Date: 27 November 2002	:	UNDER 37 CFR 1.42
Attorney Docket No.: 23304	:	
For: AGENT HAVING A DESTRUCTIVE	:	
EFFECT ON MALIGNANT TUMORS	:	
AND PRODUCTION THEREOF	:	

This decision is in response to the applicant's "Renewed Petition Under 37 C.F.R. 1.42" filed 07 September 2006 in the United States Patent and Trademark Office (USPTO). No petition fee is due.

BACKGROUND

On 07 July 2006, applicant was mailed a decision dismissing applicant's request for status pursuant to 37 CFR 1.42. Applicant was afforded two months to file any request for reconsideration.

On 07 September 2006, applicant filed the response considered herein.

DISCUSSION

As detailed in the 07 July 2006 decision, 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."

Applicant's originally filed declaration was held to be non-compliant as it did provide the citizenship, residence, and mailing address of both the deceased inventor and all of the signing heirs. Applicant has presently provided newly executed declarations which provide all of the required information and therefore it is appropriate to grant applicant's renewed petition at this time.

CONCLUSION

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

This application has an international application filing date of 13 October 2003 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 DO/EO/US for processing in accordance with this decision.



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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

Mail Date: 04/20/2010

Applicant : Peer Kirsch : DECISION ON REQUEST FOR
Patent Number : 7638641 : RECALCULATION of PATENT
Issue Date : 12/29/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/536,803 : OF WYETH AND NOTICE OF INTENT TO
Filed : 05/27/2005 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **1191** 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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SEP 14 2009

OFFICE OF PETITIONS

**BUTZEL LONG
IP DOCKETING DEPT
350 SOUTH MAIN STREET
SUITE 300
ANN ARBOR MI 48104**

In re Application of :
HANSEN, Doris H. :
Application No. 10/536,815 :
Filed: August 11, 2005 :
Attorney Docket No. **133630-0001** :

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 28, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Beverly Bunting on behalf of all attorneys of record who are associated with customer No. 50659. All attorneys/agents associated with the Customer Number 50659 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Doris H. Hansen at the address indicated below. There is an outstanding Office action mailed March 20, 2009 that requires a reply from 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: **DORIS H. HANSEN
CASALE NASSIO SOPRA 15
1-10010 CHIAVERANO, ITALY
DENMARK**



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

Mark A. Litman
3209 West 78th Street
Edina MN 55435

COPY MAILED

JAN 04 2010

In re Application of	:	
Hansen	:	
Application No. 10/536,815	:	DECISION ON PETITION
Filed: August 11, 2005	:	PURSUANT TO
Attorney Docket No.: 133630-	:	37 C.F.R. § 1.137(A)
0001	:	
Title: POST-OPERATIVE VEST	:	

This is a decision on the petition filed on November 13, 2009, pursuant to 37 C.F.R. § 1.137(a), to revive the above-identified application.

This petition is **GRANTED**.

The concurrently submitted Power of Attorney and Change of Correspondence Address (originally presented on August 18, 2009) has been entered and made of record.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed March 20, 2009, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on June 21, 2009. A notice of abandonment was mailed on October 28, 2009.

RELEVANT PORTION OF THE C.F.R.

37 C.F.R. § 1.8(b) sets forth, *in toto*:

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a)

of this section, but not received in the 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.

ANALYSIS

A grantable petition pursuant to 37 C.F.R. § 1.137(a) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in 37 C.F.R. § 1.17(1);
- (3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable, and;
- (4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has alleged that a response was submitted via facsimile transmission on August 18, 2009, along with a two-month extension of time so as to make timely the submission. Petitioner has further included, *inter alia*, a copy of this response (an amendment and remarks), and it is noted that it contains a certificate of facsimile transmission, executed by Petitioner and dated August 18, 2009.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a response was timely submitted, pursuant to 37 C.F.R. § 1.8.

Both the two-month extension of time and the petition fee have been charged to Deposit Account number 50-1391.

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on November 13, 2009 (originally submitted on August 18, 2009) can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.¹ All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

¹ Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/14/09

TO SPE OF : ART UNIT 2886

SUBJECT : Request for Certificate of Correction for Appl. No.: 10536821 Patent No.: 7518733

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

**Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580**

~~You can fax the Director's SPE response to 571-270-9998~~

Lamonte Newsome

Certificates of Correction Branch

703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION



SPE

2886
Art Unit



**BASELL USA INC.
INTELLECTUAL PROPERTY
912 APPLETON ROAD
ELKTON MD 21921**

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APR 11 2007

OFFICE OF PETITIONS

In re Application of :
Luigi **RESCONI**, et al. :
Application No. 10/536,858 : **DECISION GRANTING PETITION**
Filed: May 27, 2005 : **UNDER 37 CFR 1.313(c)(2)**
Attorney Docket No. FE 6071 (US) :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 5, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

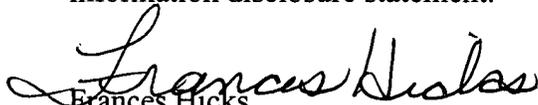
The petition is **GRANTED**.

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 March 9, 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 1713 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.


Frances Hicks
Petitions Examiner
Office of Petitions

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



SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

COPY MAILED

NOV 03 2006

OFFICE OF PETITIONS

In re Application of	:	
Hana Golding	:	
Application No. 10/536,860	:	DECISION ON PETITION
Filed: January 6, 2006	:	TO WITHDRAW
Attorney Docket No. 1094.068US1	:	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, 2006.

The request is **NOT APPROVED**.

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

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

It is also noted that the docket number on the Request for Withdrawal of Attorney dated August 11, 2006 is different from the Withdrawal request dated August 4, 2006.

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

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



April M. Wise
Petitions Examiner
Office of Petitions

cc: HAMRE, SCHURMANN, MUELLER
& LARSON P.C.
225 SOUTH SIXTH STREET
SUITE 2650
MINNEAPOLIS, MN 55402



SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

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NOV 03 2006

OFFICE OF PETITIONS

In re Application of	:	
Hana Golding	:	
Application No. 10/536,860	:	DECISION ON PETITION
Filed: January 6, 2006	:	TO WITHDRAW
Attorney Docket No. 1662.005US1	:	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 4, 2006.

The request is **NOT APPROVED**.

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

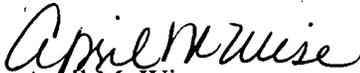
The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, “[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]” More specifically, 37 CFR 10.40 states, “[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is” for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, “assignee/client has request that the file be transferred to another attorney for future prosecution”, does not meet any the conditions set forth in 37 CFR 10.40. The assignee did not properly intervene i.e. there is no 3.73(b) in the file.

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

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

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

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


April M. Wise
Petitions Examiner
Office of Petitions

cc: EDWARDS ANGEL PLANNER AND DODGE
101 FEDERAL STREET
BOSTON, MA 02110



SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

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MAR 22 2007

OFFICE OF PETITIONS

In re Application of
Hana Golding
Application No. 10/536,860
Filed: January 6, 2006
Attorney Docket No. 1662.005US1

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 27, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Schwegman, Lundberg, Woessner & Kluth, and PA has been revoked by the applicant of the patent application on February 15, 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
April M. Wise
Petitions Examiner
Office of Petitions

cc: EDWARDS, ANGELL PALMER & DODGE
101 FEDERAL STREET
BOSTON, MA 02110



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

In re Application of :
MIZUNO, et al. :
Application No.: 10/536,867 :
PCT No.: PCT/JP03/15341 : DECISION ON PETITION
Int. Filing Date: 01 December 2003 : UNDER 37 CFR 1.47(a)
Priority Date: 29 November 2002 :
Atty. Docket No.: OMY-0045 :
For: PRESSURE CONTROLLING APPARATUS, :
TRANSPORTING VEHICLE AND A UNIT FOR :
CONTROLLING PRESSURE DIFFERENCE :

This decision is in response to applicant's petition under 37 CFR § 1.47 filed 23 July 2008 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 01 December 2003, applicant filed international application PCT/JP03/15341 which claimed priority to an earlier application filed 29 November 2002. A copy of the international application was communicated from the International Bureau (IB) to the United States on 17 June 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 May 2005.

On 27 May 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; a declaration signed by five of the six inventors and an assignment document for recording.

On 02 February 2006, applicant was mailed a "NOTICE OF ACCEPTANCE" (Form PCT/DO/EO/903) indicating a 35 U.S.C. 371 date of 27 May 2005.

On 23 July 2008, applicant filed the present petition under 37 CFR 1.47(a) to accept the filed declaration without the signature of inventor Tsuyoshi Abe.

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.

CONCLUSION

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

The application has an international filing date of 01 December 2003 under 35 U.S.C. 363, and a date of **27 May 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

This application is being returned to the DO/EO/US for processing in accordance with this decision.



Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
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19 SEP 2008

Mr. Tsuyoshi Abe
Freiru Ayase 3-401, 4-3-21 Kosuge
Katsushika-ku, Tokyo 124-0001
JAPAN

In re Application of
MIZUNO, et al.
Application No.: 10/536,867
PCT No.: PCT/JP03/15341
Int. Filing Date: 01 December 2003
Priority Date: 29 November 2002
Atty. Docket No.: OMY-0045
For: PRESSURE CONTROLLING APPARATUS,
TRANSPORTING VEHICLE AND A UNIT FOR
CONTROLLING PRESSURE DIFFERENCE

Dear Mr. Abe:

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
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Fax: (571) 273-0459

Mr. Brian K. Dutton
RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON DC 20036
United States of America



04 APR 2007

09629
MORGAN LEWIS & BOCKIUS LLP
1111 Pennsylvania Ave. NW
Washington, DC 20004

In re Application of :
BRIGGS *et al* :
U.S. Application No.: 10/536,875 :
PCT No.: PCT/US03/37905 :
Int. Filing Date: 28 November 2003 :
Priority Date: 27 November 2002 :
Attorney Docket No.: 038136-5001-US :
For: PLANT PRODUCTION OF :
IMMUNOGLOBULINS WITH REDUCED :
FUCOSYLATION :

DECISION

This is a decision on matters before the United States Designated/Elected Office (DO/EO/US).

BACKGROUND

On 16 November 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) to applicants indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee were required. Applicants were given two months to respond with extensions of time available under 37 CFR 1.136(a).

On 16 May 2006, applicants mailed a response which included an executed declaration, the surcharge fee and a four-month extension of time.

On 20 July 2006, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed indicating that the declaration did not comply with 37 CFR 1.497(a) and (b) because it was not properly executed. Applicants were given one month to respond, or any time remaining in the Form PCT/DO/EO/905 with extensions, whichever was longer.

On 21 August 2006, applicant submitted a response to the Form PCT/DO/EO/916 requesting clarification on the defective declaration. Applicants also included a copy of the declaration previously submitted.

On 26 October 2006, the DO/EO/US mailed a second Form PCT/DO/EO/916 advising applicants again that the declaration was not properly executed. Applicants were given one month to respond, or any time remaining in the Form PCT/DO/EO/905

10/536,875

with extensions, whichever was longer.

On 27 November 2006, applicants submitted a response which included a declaration executed by nine of the eleven named inventors and a petition under 37 CFR 1.47(a) for the two inventors whose signature were missing.

On 01 December 2006, applicants filed executed declarations for the two missing inventors.

On 11 January 2007, DO/EO/US mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) advising applicants that the 35 U.S.C. 371 requirements were satisfied on 01 December 2006.

DISCUSSION

The time period to respond to the Form PCT/DO/EO/905 mailed 16 November 2005 including all extensions of time expired 16 June 2006. The Form PCT/DO/EO/916 provides applicants an additional month to respond if the time period to reply to the Form PCT/DO/EO/905 had expired.

Here, a proper response to the Form PCT/DO/EO/916 mailed 20 July 2006 was to provide a declaration in compliance with 37 CFR 1.497(a) and (b) within one month. However, applicants failed to provide such a response.

Instead, applicants submitted a copy of the declaration previously submitted and a request for clarification of which declaration was not in compliance.

This was not a sufficient response.

CONCLUSION

The above-captioned application is hereby **ABANDONED** for failing to provide an appropriate reply to the Form PCT/DO/EO/905 mailed 16 November 2005.

The Form PCT/DO/EO/916 mailed on 26 October 2006 was sent in error and is hereby **VACATED**.

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 11 January 2007 is also **VACATED**.

The petition under 37 CFR 1.47(a) filed 27 November 2006 will not be discussed

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as the subject application was already abandoned.

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

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



James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302



24 JUL 2007

23628
WOLF GREENFIELD & SACKS, P.C.
600 Atlantic Avenue
Boston, MA 02210-2206

In re Application of
BRIGGS *et al*
U.S. Application No.: 10/536,875
PCT No.: PCT/US03/37905
Int. Filing Date: 28 November 2003
Priority Date: 27 November 2002
Attorney Docket No.: P0850.70005US01
For: PLANT PRODUCTION OF
IMMUNOGLOBULINS WITH
REDUCED FUCOSYLATION

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

Applicants' petition to revive under 37 CFR 1.137(b) filed on 05 July 2007 is hereby **GRANTED** as follows:

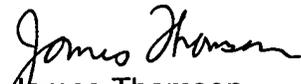
A declaration in compliance with 37 CFR 1.497(a) and (b) was previously submitted. The petition fee has been paid. Applicants make the required statement pursuant to 37 CFR 1.137(b)(3). A terminal disclaimer is not required.

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

The petition under 37 CFR 1.47(a) filed 27 November 2006 is **DISMISSED** as moot. Applicants submitted executed declarations for the two nonsigning inventors on 01 December 2006.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 28 November 2003 under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 01 December 2006.

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


James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302



UNITED STATES PATENT AND TRADEMARK OFFICE

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QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA, CA 94501

Mail Date: 06/11/2010

Applicant	: Thomas R. Young	: DECISION ON REQUEST FOR
Patent Number	: 7663021	: RECALCULATION OF PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/536,888	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **473** 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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United States Patent and Trademark Office
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BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

Mail Date: 04/21/2010

Applicant	: Christine Beswick	: DECISION ON REQUEST FOR
Patent Number	: 7612201	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/536,899	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/06/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **706** 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.



#7

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United States Patent and Trademark Office
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Oblon, Spiivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of	:
Yasuda, et al.	:
Application No.: 10/536,909	:
PCT No.: PCT/JP03/14440	:
Int. Filing Date: 13 November 2003	:
Priority Date: 28 November 2002	:
Attorney's Docket No.:273074US0PCT	:
For: PHOTOCURING RESIN COMPOSITION,	:
MEDICAL DEVICE USING SAME AND METHOD	:
MANUFACTURING SAME	:

DECISION ON

REQUEST UNDER

37 CFR 1.42

This is a decision on the papers filed 06 March 2006 which are being treated as a request under 37 CFR 1.42.

BACKGROUND

On 13 November 2003, applicants filed international application PCT/JP03/14440, which claimed priority of earlier Japanese applications, the earliest of which was filed 28 November 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 10 June 2004. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 28 May 2005.

On 27 May 2005, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, a translation of the international application and the requisite basic national fee as required by 35 U.S.C. 371(c)(1). These papers were assigned Application No. 10/536,909.

On 05 January 2006, 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. The notification set a two-month time period in which to respond.

On 27 May 2005, applicants filed the current response which included an executed declaration for inventors Yasuda and Besho, and Michiko Yokoyama, Naomi Shinoda and Risa Yokoyama as heirs and legal representative for inventor Yasuaki Yokoyama.

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 Michiko Yokoyama, Naomi Shinoda and Risa Yokoyama as heirs and legal representative, and the citizenship of the deceased inventor (Yasuaki Yokoyama). Further, the Application Data Sheet properly identifies the citizenship, residence and mailing address of the deceased inventor (Yasuaki Yokoyama). Accordingly, the declaration is acceptable under 37 CFR 1.497.

CONCLUSION

Applicants' request under 37 CFR 1.42 is GRANTED.

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



Debra Brittingham
PCT Special Programs Examiner
Office of PCT Legal Administration



Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

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23 NOV 2005

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#3

LERNER AND GREENBERG, PA
P O BOX 2480
HOLLYWOOD FL 33022-2480

In re Application of DEISS et al.
Application No.: 10/536,925
PCT No.: PCT/DE03/02644
Int. Filing: 06 August 2003
Priority Date: 27 September 2002
Attorney Docket No.: S4-02P15746
For: SUCTION DEVICE

:
:
DECISION ON
:
PETITION UNDER
:
37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 31 May 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 the petition was unintentional" meets the requirements of 37 CFR 1.137(b).

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.

The declaration submitted on 27 June 2005 did not contain page 1 and thus was not properly executed. The declaration appears to have been faxed and it is unclear whether the inventors were presented with a complete declaration. What is required is one declaration where all inventors have signed or separate complete declarations. Thus, the requirements of 37 CFR 1.497 (a) and (b) have not been met and the declaration is unacceptable as filed.

This application is being forwarded to the United States Designated/Elected Office for further processing including issuance of a Notification of Missing Requirements indicating that an oath or declaration, in compliance with 37 CFR 1.137(b), is required.


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

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

04 APR 2006



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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John S. Pratt
Kilpatrick Stockton, LLP
1100 Peachtree Street
Atlanta, GA 30309

In re Application of	:	
HORROBIN	:	
Application No.: 10/536,927	:	
PCT No.: PCT/GB03/05131	:	REQUEST FOR STATUS
Int. Filing Date: 26 November 2003	:	
Priority Date: 02 December 2002	:	UNDER 37 CFR 1.42
Attorney Docket No.: 56170/316314	:	
For: TREATMENT OF HUNTINGTON'S	:	
DISEASE WITH EPA	:	

This decision is in response to applicant's declaration filed 09 November 2005 in the United States Patent and Trademark Office (USPTO). The declaration is being treated as a submission of papers pursuant to 37 CFR 1.42. No fee is required.

BACKGROUND

On 26 November 2003, applicant filed international application PCT/GB03/05131 which claimed a priority date of 02 December 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 17 June 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 02 June 2005.

On 31 May 2005, applicant filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the requisite basic national fee; an unexecuted combined declaration and power of attorney and a First Preliminary Amendment.

On 20 October 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 inventor, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date. Applicant was afforded two months to file the required response and advised that extensions of time were available pursuant to 37 CFR 1.136(a).

On 09 November 2005, applicant filed the declaration discussed herein executed by Sherri Clarkson as the executor of the estate of deceased sole inventor David Frederick Horrobin.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

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

The filed declaration is executed by Sherri Clarkson as the executor of the estate of deceased sole inventor David Frederick Horrobin. However the declaration is not in compliance with 37 CFR 1.497 (a)-(b) in that the declaration sets forth the residence, citizenship and post office address for only one individual; presumably the executor, Ms. Clarkson. In order to comply with 37 CFR 1.497(b), this information must be provided for both the deceased inventor and his legal representative.

CONCLUSION

Applicant's petition under 37 CFR 1.42 is **DISMISSED, without prejudice.**

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file an oath or declaration in compliance with 37 CFR 1.497 (a)-(b). Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.42." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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



Derek A. Putonen
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Office of PCT Legal Administration
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13 NOV 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

49

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John S. Pratt
Kilpatrick Stockton, LLP
1100 Peachtree Street
Atlanta, GA 30309

In re Application of	:	
HORROBIN	:	
Application No.: 10/536,927	:	
PCT No.: PCT/GB03/05131	:	RENEWED REQUEST
Int. Filing Date: 26 November 2003	:	
Priority Date: 02 December 2002	:	FOR STATUS
Attorney Docket No.: 56170/316314	:	
For: TREATMENT OF HUNTINGTON'S	:	UNDER 37 CFR 1.42
DISEASE WITH EPA	:	

This decision is in response to applicant's renewed petition under 37 CFR 1.42 filed 01 November 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 04 April 2006, applicant was mailed a decision dismissing applicant's request for status under 37 CFR 1.42. Applicant was afforded two months to file any request for reconsideration and advised that this period could be extended pursuant to 37 CFR 1.136(a).

01 November 2006, applicant filed the present renewed petition accompanied by a petition for a five-month extension of time accompanied by payment of the appropriate extension of time fee. As such, applicant's renewed petition is timely filed.

DISCUSSION

As detailed in the petition mailed 04 April 2006, 37 CFR 1.42 When the Inventor is Dead, states, in part:

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

The declaration submitted on 09 November 2006 was executed by Sherri Clarkson as the executor of the estate of deceased sole inventor David Frederick Horrobin. However the declaration was not in compliance with 37 CFR 1.497 (a)-(b) in that the declaration set forth the

residence, citizenship and post office address for only one individual; presumably the executor, Ms. Clarkson. Applicant has presently filed an executed declaration signed by the legal representative which provides the above information for both the deceased inventor and his legal representative and details their respective roles in the application. Thus, it is appropriate to grant applicant's renewed petition at this time.

CONCLUSION

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

This application will be given an international application filing date of 26 November 2003 and a date of **01 November 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
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28 SEP 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

#3

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FASTH LAW OFFICES (ROLF FASTH)
26 PINECREST PLAZA, SUITE 2
SOUTHERN PINES NC 28387-4301

In re Application of	:	
MANNER, Juha-Pekka (deceased)	:	DECISION ON
Application No.: 10/536,949	:	
PCT No.: PCT/SE03/01856	:	PAPERS
Int. Filing Date: 28 November 2003	:	
Priority Date: 03 December 2002	:	UNDER 37 CFR 1.42
Attorney's Docket No.: 502.1153USN	:	
For: METHOD AND SYSTEM FOR FILE	:	
MANAGEMENT IN A MOBILE NETWORK	:	

This is a decision on applicants' submission filed in the United States Patent and Trademark Office (USPTO) on 31 May 2005, which was accompanied by a declaration of the inventor. The indication in this declaration that inventor Juha-Pekka MANNER is deceased has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 28 November 2003, applicants filed international application PCT/SE03/01856, which designated the United States and claimed a priority date of 03 December 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 17 June 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 03 June 2005.

On 31 May 2005, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee and a declaration of the inventor. The indication in this declaration that inventor Juha-Pekka MANNER is deceased has been treated as a request for status under 37 CFR 1.42.

DISCUSSION

The submission filed 31 May 2005 has been reviewed and has been found in compliance with 37 CFR 1.42. The declaration filed 31 May 2005 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

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

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



Daniel Stemmer

Legal Examiner

PCT Legal Affairs

Office of Patent Cooperation Treaty

Legal Administration

Telephone: (571) 272-3301

Facsimile: (571) 273-0459



UNITED STATES PATENT AND TRADEMARK OFFICE

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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant : David Andrew Faulkner : DECISION ON REQUEST FOR
Patent Number : 7609293 : RECALCULATION of PATENT
Issue Date : 10/27/2009 : TERM ADJUSTMENT IN VIEW
Appliction No : 10/536,952 : OF WYETH AND NOTICE OF INTENT TO
Filed : 05/31/2005 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **939** 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



19 DEC 2005

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

In re Application of:	:	
MULLER, Horst	:	DECISION ON PETITION FOR
U.S. Application No.: 10/536,964	:	REVIVAL OF ABANDONED
PCT No.: PCT/DE2003/003418	:	APPLICATION UNDER
International Filing Date: 13 October 2003	:	37 CFR 1.137(b)
Priority Date: 14 October 2002	:	
Attorney's Docket No.: 16011-005US1	:	
For: EMULSIFIER-FREE MICROGEL	:	

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

Applicant's statement that "the entire period of delay was unintentional" is construed as the statement required under 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 required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." Based on this interpretation, it is concluded that 37 CFR 1.137(b)(3) is satisfied. Applicant **must** contact this Office immediately if this is not a proper interpretation of applicant's statement.

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.

The 31 May 2005 submission included an executed declaration in compliance with 37 CFR 1.497 and an English translation of the international application. Deposit Account No. 06-1050 will be charged the small entity surcharge and the processing fee for filing the declaration and translation later than thirty months after the priority date.

The 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 31 May 2005.

Richard M. Ross
PCT Petitions Attorney
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
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Alexandria, VA 22313-1450
www.uspto.gov

DEC 19 2005

LEON R YANKWICH
YANKWICH & ASSOCIATES
201 BROADWAY
CAMBRIDGE MA 02139

In re Application of
Ugur Sahin et al
Serial No.: 10/537,002
Filed: May 20, 2005
Attorney Docket No.: GMD-102.1P

:
:
: PETITION TO MAKE SPECIAL
:
:

This is in response to the petition filed December 12, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, X. Therefor the petition is **GRANTED.**

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

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

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



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Commissioner for Patents
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Alexandria, VA 22313-1450
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/537,006	03/10/2006	Stuart A. Coles	RJENK41.004APC

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

DATE MAILED: August 3, 2007

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) filed on July 30, 2007, 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:

- 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).
- The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
- The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (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.

Any inquiries concerning this decision should be directed to the Pre-Grant Publication Division at (703) 605-4283.

Barbara J. Debnam
Pre-Grant Publication Division

25 JUL 2005

#3



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

Thomas A. Miller
Michael Best & Friedrich LLP
100 East Wisconsin Avenue
Milwaukee, WI 53202

In re Application of	:	DECISION ON
Fang et al	:	
Application No.: 10/537,011	:	
PCT No.: PCT/US2003/038168	:	
Int. Filing Date: 28 November 2003	:	
Priority Date: 27 November 2002	:	PETITION UNDER
Attorney's Docket No.: 013869-9004-US01	:	
For: AMORPHOUS SELENIUM DETECTOR FOR	:	
AND OTHER IMAGE-GUIDED RADIOTHERAPY	:	
SYSTEMS	::	37 CFR 1.10 (d)

This decision is in response to applicants' "CLARIFICATION OF THE DATE OF SUBMISSION OF THE NATIONAL STAGE ENTRY FOR PCT" filed on 11 July 2005, which is being treated as a petition under 37 CFR 1.10(d) requesting that the filing date of 28 May 2005 be changed to 27 May 2005 for the national stage submission for the above identified international application. No fee is required for this petition.

BACKGROUND

On 28 November 2003, the above international application was filed and claims an earliest priority date of 27 November 2002.

On 27 May 2005, petitioner purportedly filed a transmittal letter for entry into the national stage in the United States. However, the USPTO granted a filing date of 28 May 2005 as shown by the "date-in" on the "Express Mail" mailing label.

On 11 July 2005, petitioner filed a petition under 37 CFR 1.10(d) requesting that the application be granted the correct the filing date for the transmittal letter of May 27, 2005 under 37 CFR 1.10(d) for the receipt of the transmittal letter.

DISCUSSION

37 CFR 1.10(d) provides:

Where the "date in" on the Express Mail mailing label is believed to be in error, applicants may file a petition under 37 CFR 1.10(d) to have the correspondence accorded a filing date as of the date of the correspondence is shown to have been deposited with the USPS. The requirements under 37 CFR 1.10(d) are:

(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.

Petitioner has satisfied items (1)-(3) above.

The petition was filed promptly. 37 CFR 1.10(d)(1). In addition, a review of the application papers reveals that "Express Mail" Label No. EV635801958US was placed on the certification of mailing. CFR 1.10(d)(2).

Finally, the showing under 37 CFR 1.10(d)(3) is also satisfactory. Petitioner has provided evidence from the USPS, i.e., a copy of the USPS' Express Mail Information Database website "Track & Confirm" service indicates a date and time package of acceptance of USPS on May 27, 2005 at 6:48 pm in the Milwaukee for the "Express Mail" label No. EV635801958US, and in addition the USPTO returned stamped postcard also indicates a date of receipt of the transmittal letter of May 27, 2005.

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

CONCLUSION

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

The National Stage papers were received by the USPTO on 27 May 2005.

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


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



Lefevour Law Group, LLC
4365 Lawn Avenue
Suite 5
Western Springs, IL 60558

COPY MAILED

FEB 28 2008

In re Application of	:	OFFICE OF PETITIONS
Robert C. Brennan et al.	:	
Application No. 10/537,012	:	DECISION ON PETITION
Filed: May 31, 2005	:	TO WITHDRAW
Attorney Docket No. NOR-1334US	:	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 17, 2007.

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

A review of the file record indicates that the power of attorney to Lefevour Law Group, LLC has been revoked by the assignee of the patent application on January 3, 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 Terri Williams at 571-272-2991.

Terri Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Wood, Herron & Evans, LLP (Nordson)**
2700 Carew Tower
441 Vine Street
Cincinnati, OH 45202

28 OCT 2005

3



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Ajay Jagtiani
Jagtiani & Guttag
10363-A Democracy Lane
Fairfax, VA 22030

In re Application of	:	
VAN DEN HEUVEL, et al.	:	DECISION ON PETITION
Application No.: 10/537,027	:	
PCT No.: PCT/AU03/01475	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 07 November 2003	:	
Priority Date: 07 November 2002	:	
Atty. Docket No.: COCH-0148-US1	:	
For: CLINICAL ASSISTANT FOR COCHLEAR	:	
IMPLANT CARE	:	

The petition to revive under 37 CFR 1.137(b) filed 31 May 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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**JESSICA M. SINNOTT
EI DU PONT DE NEMOURS AND COMPANY
LEGAL – PATENTS
WILMINGTON DE 19898**

**COPY MAILED
NOV 18 2008**

In re Application of :
Stephan Claude De La Veaux et al :
Application No. 10/537,042 : **DECISION ON PETITION**
Filed: June 1, 2005 :
Attorney Docket No.CH2905USPCT :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 3, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed December 10, 2007, is accepted as having been unintentionally delayed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a 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 the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1797 for appropriate action by the Examiner in the normal course of business on the reply received September 3, 2008.



Karen Creasy
Petitions Examiner
Office of Petitions

cc:

**E.I. DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER,
BARLEY MILL PLAZA 26/1122-B
4417 LANCASTER PIKE
WILMINGTON DE 19805**



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Harness, Dickey & Pierce, P.L.C.
7700 Bonhomme, Suite 400
St. Louis, MO 63105

MAILED

MAR 30 2009

In re Application of	:	
Weiliang Lian et al.	:	OFFICE OF PETITIONS
Application No. 10/537,043	:	DECISION ON
Filed: January 17, 2006	:	PETITION TO WITHDRAW
Attorney Docket No. 6246-000004/US/NP	:	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 6, 2009.

The request is **APPROVED**.

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

The request was signed by Michael J. Thomas on behalf of all attorneys/agents associated with customer number 28997. All attorneys/agents associated with customer number 28997 have been withdrawn.

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

The correspondence address has been changed to that of the first signing inventor and is copied below.

Application No. 10/537,043

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



Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Weiliang Lian
ZTE Plaza
Keji Road South, Hi-Tech Industrial Park
Nanshan District
Shenzhen City, Guangdong Province 518057
P.R. China



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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/537,043	01/17/2006	Weiliang Lian	6246-000004/US/NP

CONFIRMATION NO. 1313

POWER OF ATTORNEY NOTICE

28997
HARNES, DICKEY, & PIERCE, P.L.C
7700 Bonhomme, Suite 400
ST. LOUIS, MO 63105



OC000000035240549

Date Mailed: 03/30/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/06/2009.

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

/kainabinet/

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



02 FEB 2006

Arthur R. Crawford
Nixon & Vanderhye, P.C.
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808

In re Application of	:	
GEACH	:	
U.S. Application No.: 10/537,047	:	DECISION ON PETITION
PCT No.: PCT/GB03/04735	:	
Int. Filing Date: 03 November 2003	:	UNDER 37 CFR 1.137(b)
Priority Date: 01 November 2002	:	
Attorney Docket No.: 613-96	:	
For: PREPARATION COMPRISING 1,3 AND/OR 1,6	:	
BETA GLUCANS FOR THE TREATMENT OF	:	
INFECTIONS AND INFLAMMATIONS IN	:	
ANIMALS	:	

The petition to revive under 37 CFR 1.137(b) filed 02 June 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "The delay in prosecuting this case (i.e. filing the declaration and paying the filing fee) was unintentional" is being interpreted to mean that the entire delay in providing payment of the full U.S. Basic National Fee from the due date for paying the fee until the filing of a grantable petition pursuant to this paragraph was unintentional. If this is an incorrect reading of applicant's statement applicant should contact the PCT Legal Office immediately. Applicant's statement and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided 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 applicant's petition and transmittal letter indicate the filing of a declaration in the present papers, however, no such declaration was included.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed oath or declaration of the inventor and payment of the \$65.00 surcharge for providing an executed oath or declaration later than thirty months from the earliest claimed priority date is required.



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

03 NOV 2005

#3



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Arthur R. Crawford
Nixon & Vanderhye, P.C.
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808

In re Application of	:	
GEACH, Mark	:	
Application No.: 10/537,048	:	DECISION ON PETITION
PCT No.: PCT/GB03/04714	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 03 November 2003	:	
Priority Date: 01 November 2002	:	
Attorney Docket No.: 613-95	:	
For: GEL FEED	:	

The petition to revive under 37 CFR 1.137(b) filed 02 June 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.

However, a review of the declaration filed on 02 June 2005 reveals that the declaration is defective. Specifically, the declaration is illegible due to the facsimile/copying process. Therefore, a newly executed declaration of the inventor is required.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration is required.

Anthony Smith

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



02 MAR 2006

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Arthur R. Crawford
Nixon & Vanderhye, P.C.
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808

In re Application of	:	
CALVANI, et al.	:	DECISION ON PETITION
Application No.: 10/537,057	:	
PCT No.: PCT/IT03/00566	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 23 September 2003	:	
Priority Date: 01 October 2002	:	
Atty. Docket No.: 2818-236	:	
For: USE OF PROPIONYL L-CARNITINE FOR THE	:	
PREPARATION OF A MEDICAMENT FOR THE	:	
TREATMENT OF GLAUCOMA	:	

The petition to revive under 37 CFR 1.137(b) filed 02 June 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the delay in prosecuting this case (i.e. filing the declaration and paying the filing fee) was unintentional" is being interpreted to mean that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." If this interpretation is incorrect, applicant must notify the Office immediately. Applicant's statement and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National Fee. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America. 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 23 September 2003 under 35 U.S.C. 363 and will be given a date of **02 June 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4). This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision.

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



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

Mail Date: 04/20/2010

Applicant : Alphons Antonius Bruekers : DECISION ON REQUEST FOR
Patent Number : 7577696 : RECALCULATION of PATENT
Issue Date : 08/18/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/537,066 : OF WYETH
Filed : 06/01/2005 :
:
:

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.



20 APR 2006

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FULBRIGHT & JAWORSKI, LLP
600 CONGRESS AVENUE
SUITE 2400
AUSTIN TX 78701

In re Application of	:	
COLLINS et al.	:	
Application No.: 10/537,069	:	DECISION ON
PCT No.: PCT/CA04/00620	:	
Int. Filing Date: 27 April 2004	:	PETITION UNDER
Priority Date: None	:	
Attorney Docket No.: GOUD:061US	:	37 CFR 1.137(a)
For: PRODUCTION OF ACTIVE NICKEL POWDER	:	
AND TRANSFORMATION THEREOF INTO NICKEL	:	
CARBONYL	:	

This decision is in response to applicants' petition under 37 CFR 1.137(b) filed 17 March 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 27 April 2004, applicant filed international application PCT/CA04/00620 which designated the U.S. and did not claim a priority date. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 03 November 2005. The thirty-month period for paying the basic national fee in the United States expires at midnight on 27 October 2006.

On 31 May 2005, applicants filed a transmittal letter for entry into the national stage in the United States, which was not accompanied by any fees or any authorization to pay fees.

On 17 March 2006, applicants filed the instant petition under 1.137(b) which was accompanied by, *inter alia*, the basic national fee, the search fee, and the examination fee.

DISCUSSION

As noted above, the thirty-month period for paying the basic national fee does not expire until midnight on 27 October 2006. Accordingly, the application has not gone abandoned and a petition to revive the application is unnecessary. The petition fee will be credited to Deposit Account 50-1212.

Because applicant did not file an express request to begin national examination procedures early, the application will be forwarded for storage and will not be taken up for processing until the expiration of thirty months from the international filing date. *See, e.g., 35 U.S.C. 371(f).*

CONCLUSION

The petition under 37 CFR 1.137(b) 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.



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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,079	06/01/2005	Brita Diego	FE 6106+6085 (US)	8247
34872	7590	12/15/2008	EXAMINER	
Basell USA Inc. Delaware Corporate Center II 2 Righter Parkway, Suite #300 Wilmington, DE 19803			MCDONOUGH, JAMES E	
			ART UNIT	PAPER NUMBER
			1793	
			MAIL DATE	DELIVERY MODE
			12/15/2008	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.



wk

Mailed: 12/15/08

In re application of

Diego Brita et al.

Serial No. 10/537,079

Filed: June 1, 2005

For: Magnesium Dichloride-Based Adducts And
Catalyst Components Obtained Therefrom

:
: DECISION ON
: PETITION
:
:

This is a decision on the PETITION UNDER 37 CFR 1.181 to the Group Director regarding the Suspension of Action and the Finality of the Office Action Issued January 22, 2008.

On July 24, 2008, the instant petition under 37 CFR 1.181 was filed.

DECISION

Rule 1.181, Section (f) states:

§ 1.181 Petition to the Commissioner.

(f) Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable

Accordingly, the instant petition is **DISMISSED.**

William Krynski, Quality Assurance Specialist
Technology Center 1700
Chemical and Materials Engineering

Jarrod N. Raphael
Basell USA Inc.
Delaware Corporate Center II
2 Righter Parkway, Suite #300
Wilmington DE 19803



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Davidson, Davidson & Kappel, LLC
485 7th Avenue
14th Floor
New York NY 10018

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MAY 12 2008
OFFICE OF PETITIONS

In re Application of :
Denis Reibel et al. :
Application No. 10/537,082 : ON PETITION
Filed: January 20, 2006 :
Attorney Docket No. 331.1095 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 28, 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). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed May 22, 2007, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on July 22, 2007. See MPEP 1215.04.

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 Appeal brief; (2) the petition fee of \$1,540; and (3) the required statement of unintentional delay have been received. Accordingly, the Appeal Brief 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 \$2,230 extension of time fee submitted with the petition on January 28, 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 Carl Friedman at (571) 272-6842.

The application file is being referred to Technology Center Art Unit 2831 for consideration of the Appeal Brief filed January 28, 2008.



for David Bucci
Petitions Examiner
Office of Petitions

3



UNITED STATES PATENT AND TRADEMARK OFFICE

30 NOV 2005

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DANIEL J SWIRSKY
55 REUVEN ST.
BEIT SHEMESH 99544
ISRAEL

In re Application of	:	
EDELIST, Guy	:	
Application No.: 10/537,090	:	DECISION
PCT No.: PCT/IL03/01014	:	
Int. Filing Date: 28 November 2003	:	ON PETITION UNDER
Priority Date: 29 November 2002	:	
Docket No.: 1447-US	:	37 CFR 1.137(b)
For: INFRA RED NETWORKING	:	
SYSTEM AND METHOD	:	

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 02 June 2005 is **GRANTED**.

Applicant indicates that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, as required by 37 CFR 1.137(b)(3). The appropriate 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.

Applicant supplied a declaration in compliance with 37 CFR 1.497(a)-(b) during the international phase. The surcharge for filing the oath or declaration later than 30 months from the priority date will be charged to deposit account no. 50-1380, as authorized.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of 02 June 2005.

Erin P. Thomson
Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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



24 OCT 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

#3

BARNES & THORNBURG
P.O. Box 2786
Chicago, Illinois 60690-2786

In re Application of:	:	
FOURET, Joachim	:	DECISION ON PETITION FOR
U.S. Application No.: 10/537,104	:	REVIVAL OF ABANDONED
PCT No.: PCT/GB02/05487	:	APPLICATION UNDER
International Filing Date: 05 December 2002	:	37 CFR 1.137(b)
Priority Date: 06 December 2001	:	
Attorney's Docket No.: 99604	:	
For: NARROWBAND DETECTOR	:	

The petition for revival under 37 CFR 1.137(b) filed 01 June 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in the filing of this application from its due date of June 6, 2004 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 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.

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



28 DEC 2005

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

BARNES & THORNBURG, LLP
P.O. Box 2786
Chicago, IL 60690-2786

In re Application of :
AHMADI, Masoud :
U.S. Application No.: 10/537,105 :
PCT No.: PCT/GB2003/000745 :
Int. Filing Date: 21 February 2003 :
Priority Date: 21 February 2002 :
Attorney Docket No.: 99605 :
For: ECHO DETECTOR HAVING :
CORRELATOR WITH :
PREPROCESSING :

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

Applicant's "Petition Pursuant to 37 C.F.R. §1.137(b)" filed with the national stage papers on 01 June 2005 is hereby **GRANTED** as follows:

The basic national fee and petition fee for a small entity have been paid. Applicant's statement in the petition has been interpreted as meeting the requirements of 37 CFR 1.137(b)(3). If this is an incorrect interpretation, applicant should notify the office. A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

An executed declaration in compliance with 37 CFR 1.497(a) and (b) 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 an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a \$130.00 surcharge fee pursuant to 37 CFR 1.492(h) are required.

James Thomson
James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

73



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TOWNSEND TOWNSEND & CREW, LLP
TWO EMBARCASERO CENTER, 8TH FLOOR
SAN FRANCISCO, CA 94111-3834

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MAR 14 2008

OFFICE OF PETITIONS

In re Application of	:	
KOLESNIKOV, et al.	:	
Application No. 10/537,115	:	DECISION ON PETITION
Filed: March 20, 2006	:	TO WITHDRAW
Attorney Docket No. 25922-760.831	:	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 28, 2007.

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

A review of the file record indicates that the power of attorney to **TOWNSEND TOWNSEND & CREW, LLP** has been revoked by the assignee of the patent application on February 19, 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 the undersigned at 571-272-7253.


 Monica A. Graves
 Petitions Examiner
 Office of Petitions

cc: **WILSON SONSINI GOODRICH & ROSATI**
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

11 APR 2006

#7



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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Russell W. Warnock
BSH Home Appliances Corporation
100 Bosch Blvd.
New Bern NC 28562

In re Application of	:	DECISION ON
BAUMGARTNER et al	:	
PCT No.: PCT/EP2003/013041	:	
Application No.: 10/537,131	:	
Int. Filing Date: 20 November 2003	:	PAPERS FILED
Priority Date: 02 December 2002	:	
Attorney's Docket No.: 2002P01288WOUS	:	
For: DOMESTIC APPLIANCE AND SWITCH FOR	:	
APPLICATION IN A DOMESTIC APPLIANCE	:	UNDER 37 CFR 1.42

This is a decision on the declaration filed 08 February 2005, which has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 02 June 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). However, applicants did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because an executed oath or declaration was not provided.

On 26 September 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 the date of this notice or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

In response to the Notification mailed on 26 September 2005, applicants filed a declaration on 08 February 2005 signed by Ingeborg Sturm as heir of the inventor, Wilhelm Sturm, now deceased.

DISCUSSION

The declaration is unacceptable at this time because it is not clear that Ingeborg Sturm is the sole heir for the deceased inventor, Wilhelm Sturm. (see MPEP § 409.01(a)).

That is, there may be other heirs who are required to also sign the declaration. The declaration must indicate that Ingeborg Sturm is the sole heir for the deceased inventor in order for the Office to accept the application under 37 CFR 1.42.

In this instance, it is unclear if the residence and citizenship in the declaration is of the deceased inventor or heir. Applicants should have to two separate sections one for deceased inventor and one for the sole heir in the declaration stating their citizenship, residence, and mailing address. See 37 C.F.R. §1.497(b)(2).

Moreover, a submission of a declaration executed by all of the heirs of the deceased inventor is construed as an indication that no legal representative of the deceased's estate has been appointed or is statutorily required to be appointed. If this interpretation is incorrect applicants are required to promptly notify the Office of such and submit a declaration properly executed by the legal representative(s) of the deceased inventor.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **not accepted**.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.42." Extensions of time are available under 37 CFR 1.136(a).

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



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



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ALEXANDRIA, VA 22313-1450
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06 DEC 2006

Russell W. Warnock
BSH Home Appliances Corporation
100 Bosch Blvd.
New Bern NC 28562

In re Application of	:	DECISION ON
BAUMGARTNER et al	:	
PCT No.: PCT/EP2003/013041	:	
Application No.: 10/537,131	:	
Int. Filing Date: 20 November 2003	:	PAPERS FILED
Priority Date: 02 December 2002	:	
Attorney's Docket No.: 2002P01288WOUS	:	
For: DOMESTIC APPLIANCE AND SWITCH FOR	:	
APPLICATION IN A DOMESTIC APPLIANCE	:	UNDER 37 CFR 1.42

This is a decision on the "RENEWED REQUEST UNDER 37 CFR 1.42" filed 26 September 2006, which has been treated as a renewed request for status under 37 CFR 1.42.

BACKGROUND

In a decision from this office dated 11 April 2006, the papers filed on 26 September 2006 were not accepted under 37 CFR 1.42. The reason was that it was not clear if Ingeborg Sturm was the sole heir of the deceased inventor, Wihelm Sturm.

On 26 September 2006, applicants submitted the renewed submission under 37 C.F.R. §1.42.

DISCUSSION

Applicants have provided a proper declaration, which sets forth that Ingeborg Sturm is in fact the sole heir of the deceased inventor Wihelm Sturm.

Accordingly, the requirements under 37 CFR 1.42 are satisfied and the declaration is acceptable at this time.

If she is executing the declaration as the sole heir of the deceased inventor then it is hereby construed as an indication that no legal representative of the deceased's estate has been appointed or is statutorily required to be appointed. If this interpretation is incorrect applicant is required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative(s) of the deceased inventor in response to this decision.

CONCLUSION

The renewed submission filed under 37 CFR 1.42 is **ACCEPTED**.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision. The 35 U.S.C. § 371(c)(1), (c)(2), and (c)(4) date of this application as **26 September 2006**.



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



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN, NC 28562

Mail Date: 04/20/2010

Applicant : Thomas Baumgartner : DECISION ON REQUEST FOR
Patent Number : 7651232 : RECALCULATION of PATENT
Issue Date : 01/26/2010 : TERM ADJUSTMENT IN VIEW
Application No : 10/537,131 : OF WYETH AND NOTICE OF INTENT TO
Filed : 09/26/2006 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **332** 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.



SONNENSCHN NATH & ROSENTHAL
P.O. BOX 061080
WACKER DRIVE STATION,
SEARS TOWER
CHICAGO IL 60606-1080

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JAN 05 2007

OFFICE OF PETITIONS

In re Application of :
Masahiro Tada et al :
Application No. 10/537,132 :
Filed: June 2, 2005 :
Attorney Docket No. 09792909-6280 :

ON PETITION

This is a decision on the petition, filed December 29, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 11, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

The examiner of Technology Center AU 2817 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Karen Creasy
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7/20/09

Paper No.: _____

TO SPE OF : ART UNIT 1647 Rao manjunath (spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/537/42 Patent No.: 7531508

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

**Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580**

H. P. Bell
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: _____

Rao manjunath
SPE 1647
Art Unit



08 DEC 2006

HODGSON RUSS LLP
ONE M & T PLAZA
SUITE 2000
BUFFALO, NY 14203-2391

In re Application of ROMERO et al	:	
U.S. Application No.: 10/537,148	:	
PCT Application No.: PCT/AU2003/001620	:	
Int. Filing Date: 05 December 2003	:	DECISION
Priority Date Claimed: 05 December 2002	:	
Attorney Docket No.: 11474.0NEW	:	
For: GLUE LINE USE OF BIFENTHRIN IN	:	
WOOD PRODUCTS	:	

This is in response to applicant's "Petition Under 37 C.F.R. §1.182" filed 05 December 2006.

BACKGROUND

On 05 December 2003, applicant filed international application PCT/AU2003/001620, which claimed priority of an earlier Australia application filed 05 December 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 17 June 2004. The thirty-month period for paying the basic national fee in the United States expired on 05 June 2005.

On 02 June 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 19 September 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 14 November 2005, applicant filed an executed declaration.

On 27 February 2006, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which indicated that the name of the first inventor does not match that shown in the published international application.

On 12 April 2006, applicant filed a response to the Notification of Defective Response.

On 08 November 2006, this Office mailed a communication which indicated that a petition under 37 CFR 1.182 is required to resolve the name discrepancy.

On 05 December 2006, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

A review of the application file reveals that the name of the first inventor is listed in the international application as "Javier Romero" while the name is listed in the declaration as "Francisco Javier Romero Amaya". Applicant has submitted a proper petition under 37 CFR 1.182 along with the requisite petition fee of \$400.00 as well as supporting affidavits.

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 05 December 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 02 June 2005.

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



Bryan Lin
PCT Legal Examiner
PCT Legal Office

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



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No.

Modiano & Associati
Via Meravigli 16
Milano 20123
ITALY

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OFFICE OF PETITIONS

In re Application of :
Biscarini et al. : DECISION ON PETITION
Application No. 10/537,158 :
Filed: May 31, 2005 :
Atty Docket No. 40379/DOB/LP :

This is in response to the PETITION TO THE DIRECTOR, TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION (MPEP 711.03(c)A) filed March 21, 2008. Receipt of the status inquiry filed October 15, 2008 is acknowledged.

The petition is **DISMISSED**.

Any request for reconsideration pursuant to § 1.181 must be filed within **TWO (2) MONTHS** of the date of this decision in order to be considered timely. See 37 CFR §1.181(f). Extensions of time under §1.136(a) are not permitted.

The above-identified application became abandoned for failure to file a response to the NOTICE TO FILE CORRECTED APPLICATION PAPERS mailed October 24, 2007. This Office communication set a two month period for reply. No extensions of time under § 1.136(a) were permitted. No response was received; the application became abandoned effective December 25, 2007. A courtesy Notice of Abandonment was mailed on October 15, 2008.

In response, applicants filed the instant petition. The agent of record states that the Office letter mailed October 24, 2007 was never received by the agent of record. In support thereof, applicant submits the declaration of Mrs. Myriam Canonne. Applicant argues that the Office letter was not received by the agent of record's firm, since otherwise it would not have been necessary for Mrs. Canonne to obtain an on-line copy of such

Notice. Further, applicant supplies a copy of the December 24, 2007 page of the calendered note book of Mrs. Canonne, where the time limits of specific patent application prosecution dockets are indicated for which the agent of record actions were due on December 24, 2007. In addition, applicant submits a copy of the December 24, 2007 page of the calendered note book of the head of the general office, Mrs. Sara Modiano. Finally, applicant submits a copy of the journalistic public information sheet (with translation) to show that in Italy, in general and in particular in the October-November 2007 time period, frequent disruption of mail delivery occurred so that it is reasonable to assume that also the Office letter mailed October 24, 2007 went astray in the mail.

A review of the application file reveals no irregularities in the mailing of the Office action mailed October 24, 2007. Thus, there is a strong presumption that the correspondence was properly mailed to the applicants at the correspondence address of record. In the absence of demonstrated irregularities in mailing of this Notice, petitioner must submit evidence to overcome this presumption. The following showing is required:

The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for

reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The practitioner has not submitted a sufficient showing. First, the agent of record supplies copies of calendered note book pages and a statement of the tasks performed by Mrs. Canonne with respect to the calendered note book entries. This statement does not make entirely clear that the system is reliable.

Second, the agent of record does not state as required 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. Practitioner's statement lacks such specificity. This is noteworthy as Mrs. Canonne notes that part of her task is to mark the time limit on the front page of the papers of the specific case. Moreover, practitioner has not explained why his statement should be accepted despite its inconsistency with the required showing for non-receipt.

Most importantly, practitioner has not supplied a copy of the master docket report required to make the showing. Specifically, practitioner has not submitted the master docket report showing where the non-received Office action would have been entered had it been received and docketed. Rather, practitioner submits the calendered note book pages. As stated above, the showing required requires that a copy of the master docket report showing all replies docketed for a date, in this instance, two months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action, unless no master docket exists. Absent sufficient explanation, submission of the master docket is required.

Moreover, 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. Again, the standard must be met that the docket record provided is where the Office action would have been entered had it been received.

Given the deficiencies in petitioner's showing, it is concluded that the required showing of non-receipt has not been met.

If applicants cannot provide persuasive evidence of non-receipt of the Office action, applicants may submit a petition to revive pursuant to § 1.137.

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

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

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions



Paper No.

Modiano & Associati
Via Meravigli 16
Milano 20123
ITALY

COPY MAILED

JAN 27 2009

OFFICE OF PETITIONS

In re Application of :
Biscarini et al. : DECISION ON PETITION
Application No. 10/537,158 :
Filed: May 31, 2005 :
Atty Docket No. 40379/DOB/LP :

This is in response to the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed December 18, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a response to the NOTICE TO FILE CORRECTED APPLICATION PAPERS mailed October 24, 2007. This Office communication set a two month period for reply. No extensions of time under § 1.136(a) were permitted. No response was received; the application became abandoned effective December 25, 2007. A courtesy Notice of Abandonment was mailed on January 25, 2008.

By decision mailed November 7, 2008, the initial petition to withdraw the holding of abandonment filed March 21, 2008 was dismissed. Applicant did not make an adequate showing, as alleged, of non-receipt of the Office communication.

Applicant has now filed a petition to revive based on unintentional delay. The required reply in the form of replacement sheets of drawings was previously filed on March 21, 2008. The petition includes the required statement of unintentional delay and payment of the petition fee. No terminal disclaimer is required.

The Office of Data Management has been advised of this decision. The application is, thereby, forwarded to the Office of Data Management for consideration of the response to the Notice to File Corrected Application Papers mailed October 24, 2007; replacement drawings submitted on March 21, 2008; and processing of this application into a patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

A handwritten signature in black ink, appearing to read "Nancy Johnson". The signature is fluid and cursive, with a large initial "N" and "J".

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

25 JUL 2006



UNITED STATES PATENT AND TRADEMARK OFFICE

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

23373
SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, N.W.
Suite 800
Washington, DC 20037

In re Application of :
HAQUE *et al* :
Application No.: 10/537,175 :
PCT No.: PCT/GB03/04596 :
Int. Filing Date: 24 October 2003 :
Priority Date: 02 December 2002 :
Attorney Docket No.: Q88275 :
For: GAMES CONSOLE ADAPTOR UNIT :

**DECISION ON
PETITION
UNDER 37 CFR 1.47(b)**

This is a decision on the papers filed 03 April 2006 and 15 June 2006.

BACKGROUND

On 02 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 03 April 2006, applicants filed the subject petition which was accompanied by, *inter alia*, a petition under 37 CFR 1.47; a declaration of David Cushing; a declaration signed by three of the four joint inventors; a three-month extension and fee; the surcharge fee; and authorization to charge any required additional fee to Deposit Account No. 19-4880.

On 15 June 2006, applicants filed a supplemental response which included a declaration signed by the nonsigning inventor.

DISCUSSION

Applicants originally claimed on 03 April 2006 that co-inventor, Gerard Keating, could not be located after a diligent effort and filed a petition under 37 CFR 1.47(a) as a response to the Form PCT/DO/EO/905. The petition fee has been charged to Deposit Account No. 19-4880 as authorized.

10/537,175

On 15 June 2006, petitioners submitted a declaration signed by the nonsigning inventor. No further action on the petition under 37 CFR 1.47(a) is required.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** as **MOOT**.

The declaration provided complies with 37 CFR 1.497(a) and (b).

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 24 October 2003, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 15 June 2006.

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

10 MAR 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

BRUZGA & ASSOCIATES
11 BROADWAY, SUITE 715
NEW YORK NY 10004

In re Application of
PIPERIDIS
Application No.: 10/537,183
PCT No.: PCT/GR04/00048
Int. Filing Date: 05 October 2004
Priority Date: 20 October 2003
Attorney Docket No.: 2626
For: FLUORESCENT LAMP REFLECTORS

DECISION ON
REQUEST FOR REFUND

This is a decision on applicant's letter to "REQUEST FOR REFUND" filed in the United States Patent and Trademark Office on 15 February 2006.

On 02 June 2005, applicant filed a transmittal letter to enter national stage along with the basic national fee, search and examination fees. The transmittal letter (PTO Form 1390) indicated a "small entity status" on page 2. Applicant was charged the full fees, rather than the small entity fees. On 15 February 2006, applicant filed a request for refund of fees paid on 02 June 2005.

A review of the finance records reveals that applicant paid the basic national fee in the amount of \$300, search fee of \$400 and examination fee of \$200. No credit for a refund of the basic national fees upon receipt of the small entity statement appears in the finance records.

A review of the transmittal letter indicates that small entity status was requested on 02 June 2005. Therefore, the fees that are entitled to refund based on small entity status are those fees, which were paid on or after that date.

Since applicant indicated small entity status on the Form 1390 filed on 02 June 2005, applicant is deemed to meet the requirements of 37 CFR 1.27, a refund of \$450.00 the basic national fee pursuant to 37 CFR 1.27 and 37 CFR 1.26 is in order and will be credited to applicant's deposit account.

For the reasons above, applicants' request for refund filed 15 February 2006 is **GRANTED**. The amount of \$450 will be credited to applicant's deposit account No. 50-1241.


Cynthia M. Kratz
Attorney Advisor
Office of Patent Cooperation Treaty
Legal Administration Office
Telephone: (571) 571-3286



**BRUZGA & ASSOCIATES
11 BROADWAY, SUITE 715
NEW YORK NY 10004**

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JUL 17 2009

OFFICE OF PETITIONS

In re Application of :
Piperidis, Stavros :
Application No. 10/537,183 :
Filed: June 2, 2005 :
Attorney Docket No. 2626 :

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 26, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 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 November 16, 2006. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on February 17, 2007. A Notice of Abandonment was mailed June 4, 2007.

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

- (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 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.

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.²

¹ In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

² See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks item(s) (3). In the declarations filed on March 26, 2009 and April 24, 2009, it states, "Without a UL Listing, Applicant believed that the potential market in the U.S.A. for the subject reflector would be severely restricted for any company." That statement is followed by, "Accordingly, Applicant did not respond to the Office Action in the subject application dated November 6, 2006, informing the undersigned patent attorney (who was prosecuting the application) on February 12, 2007 of the 'non-acceptance by the UL Laboratory of the U.S.A of the way the reflector is supports on the fluorescent lamp'," and, "Similarly, Applicant did not respond to the Notice of Abandonment date June 4, 2007." Petitioner follows up by stating that the applicant did not intend to abandon the instant application, which appears to be contradictory to the preceding statements. A delay resulting from a *deliberately chosen course of action* on the part of the applicant is not an "unintentional" delay within the meaning of 37 CFR 1.137(b).

Where the applicant deliberately permits an application to become abandoned (e.g., due to a conclusion that the claims are unpatentable, that a rejection in an Office action cannot be overcome, or that the invention lacks sufficient commercial value to justify continued prosecution), the abandonment of such application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). See *In re Application of G*, 11 USPQ2d 1378, 1380 (Comm'r Pat. 1989). An intentional course of action is not rendered unintentional when, upon reconsideration, the applicant changes his or her mind as to the course of action that should have been taken. See *In re Maldague*, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988).

A delay resulting from a deliberately chosen course of action on the part of the applicant does not become an "unintentional" delay within the meaning of 37 CFR 1.137(b) because:

- (A) the applicant does not consider the claims to be patentable over the references relied upon in an outstanding Office action;
- (B) the applicant does not consider the allowed or patentable claims to be of sufficient breadth or scope to justify the financial expense of obtaining a patent;
- (C) the applicant does not consider any patent to be of sufficient value to justify the financial expense of obtaining the patent;
- (D) the applicant does not consider any patent to be of sufficient value to maintain an interest in obtaining the patent; or
- (E) the applicant remains interested in eventually obtaining a patent, but simply seeks to defer patent fees and patent prosecution expenses.

Likewise, a change in circumstances that occurred subsequent to the abandonment of an application does not render "unintentional" the delay resulting from a previous deliberate decision to permit an application to be abandoned. These matters simply confuse the question of whether there was a deliberate decision not to continue the prosecution of an application with why there was a deliberate decision not to continue the prosecution of an application.

The "unavoidable" delay and "unintentional" delay standards are not alternatives: an "unavoidable" delay is the epitome of an "unintentional" delay. A petition under 37 CFR 1.137 cannot be granted unless it meets the minimal "unintentional" delay threshold. Thus, an intentional delay precludes revival under either 37 CFR 1.137(a) (on the basis of "unavoidable" delay) or 37 CFR 1.137(b) (on the basis of "unintentional" delay). See *In re Maldague*, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988). The record indicates that petitioner, by deliberate

intent, allowed this application to become abandoned, and that course of action precludes revival under 37 CFR 1.137.

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 Window located at:

 U.S. Patent and Trademark Office
 Customer Service Window 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) 272-3206.


Liana Walsh
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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**BRUZGA & ASSOCIATES
11 BROADWAY, SUITE 715
NEW YORK NY 10004**

MAILED

MAY 13 2010

OFFICE OF PETITIONS

In re Application of :
Piperidis, Stavros :
Application No. 10/537,183 : **DECISION ON PETITION**
Filed: June 2, 2005 :
Attorney Docket No. 2626 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 17, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition now satisfies the requirements of 37 CFR 1.137(b).

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

This application is being referred to Technology Center AU 2875 for appropriate action by the Examiner in the normal course of business on the reply received

Liana Walsh
Petitions Examiner
Office of Petitions



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MORRISON & FOERSTER, LLP
755 PAGE MILL ROAD
PALO ALTO, CA 94304-1018

MAILED

NOV 13 2009

OFFICE OF PETITIONS

In re Application of :
Martin W. Beale :
Application No. 10/537,195 :
Filed: June 2, 2005 :
Attorney Docket No. 562492004400 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 31, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on September 21, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: FITCH, EVEN, TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406



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.
10/537,213	06/02/2005	Guy Patrick Hindle	GB920020006US1	4682

50170 7590 01/29/2010
IBM CORP. (WIP)
c/o WALDER INTELLECTUAL PROPERTY LAW, P.C.
17330 PRESTON ROAD
SUITE 100B
DALLAS, TX 75252

EXAMINER

AL HASHEMI, SANA A

ART UNIT	PAPER NUMBER
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2156

MAIL DATE	DELIVERY MODE
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01/29/2010

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.



Stephen R. Tkacs
Walder Intellectual Property Law, P.C.
17330 Preston Road
Suite 100B
Dallas, TX 75252

MAILED

JAN 29 2010

Technology Center 2100

In re Application of:)
HINDLE et al.)
Application No. 10/537,213)
Attorney Docket No. GB92002006US1)
Filed: June 2, 2005)
For: SYNCHRONIZING DATA IN A)
DISTRIBUTED DATA PROCESSING)
SYSTEM)
)

**DECISION ON PETITION TO
WITHDRAW FINALITY OF
OFFICE ACTION UNDER 37 CFR
§ 1.181 AND WITHDRAW
RESTRICTION REQUIREMENT
UNDER 37 CFR §1.144**

This is a decision on the petition filed August 14, 2009 under 37 C.F.R. §1.181 and 37 C.F.R. §1.144 to withdraw finality of Office Action and to withdraw an outstanding restriction requirement.

The petition is **GRANTED**.

RELEVANT PROSECUTION HISTORY

- 20 November 2008 A non-final Office action was mailed rejecting claims 1-5 and 23.
- 20 February 2009 An amendment was filed canceling claim 23 and adding new claims 24-31. Claims 1-5 and 24-31 were pending.
- 15 May 2009 A Final Office action was mailed including (1) maintain rejections of claims 1-5 and (2) withdrawal of claims 24-31 from consideration as non-elected due to the claims 24-31 being directed to an invention that is independent or distinct from the invention originally claimed.
- 11 August 2009 A response after Final was filed.
- 14 August 2009 The instant petition was filed seeking (1) to withdraw the improper restriction requirement; and (2) to withdraw the Final Office Action mailed May 15, 2009.

REGULATIONS AND PRACTICE

37 C.F.R. § 1.143 states:

If the applicant disagrees with the requirement for restriction, he may request reconsideration and withdrawal or modification of the requirement, giving the reasons therefor. (See § 1.111). In requesting reconsideration the applicant must indicate a provisional election of one invention for prosecution, which invention shall be the one elected in the event the requirement becomes final. The requirement for restriction will be reconsidered on such a request. If the requirement is repeated and made final, the examiner will at the same time act on the claims to the invention elected.

37 C.F.R. § 1.144 states:

After a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Commissioner to review the requirement ... A petition will not be considered if reconsideration of the requirement was not requested (see § 1.181).

37 C.F.R. § 1.145 states:

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

37 C.F.R. § 1.181(c) states:

When a petition is taken from an action or requirement of an examiner in the ex- parte prosecution of an application, or in the ex parte or inter partes prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Commissioner to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

MPEP § 806.05(d) states in part:

Two or more claimed subcombinations, disclosed as usable together in a single combination, and which can be shown to be separately usable, **are usually restrictable when the subcombinations do not overlap in scope and are not obvious variants.** To support a restriction requirement where applicant separately claims plural

subcombinations usable together in a single combination and claims a combination that requires the particulars of at least one of said subcombinations, both two-way distinctness and reasons for insisting on restriction are necessary... [Emphasis added.]

MPEP § 821.01 states:

Where the initial requirement is traversed, it should be reconsidered. If, upon reconsideration, the examiner is still of the opinion that restriction is proper, it should be repeated and made final in the next Office action. (See MPEP § 803.01.) In doing so, the examiner should reply to the reasons or arguments advanced by applicant in the traverse.

DECISION

37 C.F.R. § 1.181(c) requires that an action by an examiner, to be properly petitionable, must be followed by a request for reconsideration, and a repeated action by the examiner. 37 C.F.R. § 1.144 states that the applicant may petition the Commissioner after a final requirement for the restriction has been made.

In the above-identified application, applicant filed a request for reconsideration prior to the petition of 14 August 2009 in accordance with 37 C.F.R. § 1.143. Although the restriction was never made final in accordance with MPEP § 821.01, the initial restriction requirement was maintained in two telephone communications on 21 July 2009 and 04 August 2009. To expedite prosecution of this application, the telephone communications of 21 July 2009 and 04 August 2009 (not of record) are being treated as a Final restriction requirement.

The issue presented in the petition is whether the restriction based on original presentation under 37 C.F.R. § 1.145 is proper under the current regulations and practice.

A review of the restriction based on original presentation mailed 15 May 2009, it revolves that the examiner held the invention of newly added claims 24-31 and the invention of claims 1-5 as being disclosed as usable together but they do not have to be together and she provided no further explanations, reasons and/or examples to support her conclusion. MPEP § 806 does not have such a language as referred by the examiner. Thus, the examiner's statement has been interpreted as subcombinations usable together in a single combination.

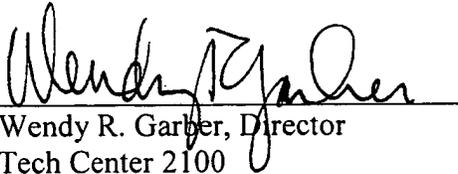
As stated in MPEP § 806.05(d), two or more claimed subcombinations, disclosed as usable together in a single combination, and which can be shown to be separately usable, **are usually restrictable when the subcombinations do not overlap in scope and are not obvious variants**. A review of the new added claims 24-31 and the pending claims 1-5 indicates that these two set of claims are substantially overlap in scope and are obvious variants. Therefore, the restriction based on original presentation is **improper**.

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

The restriction requirement is hereby **WITHDRAWN**. Further, since the restriction based on original presentation is improper, the Final Office Action mailed 15 May 2009 is herewith **WITHDRAWN** and **VACATED**.

The application is being forwarded to the examiner for consideration on the merits of claims 24-31.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (571) 272-3613.



Wendy R. Garber, Director
Tech Center 2100
Computer Architecture and Software

18 APR 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

GIFFORD, KRASS, GROH, SPRINKLE & CITKOWSKI, P.C
PO BOX 7021
TROY MI 48007-7021

In re Application of :
SYRON :
Application No.: 10/537,219 : DECISION ON
PCT No.: PCT/US03/07270 :
Int. Filing Date: 18 February 2003 : PETITION UNDER
Priority Date: 15 February 2002 :
Attorney Docket No.: VTI-10352/16 : 37 CFR 1.137(b)
For: METHOD AND ARTICLE FOR MASKING :
PORTIONS OF A VEHICLE BY ADHERENT :
APPLIQUES :

This decision is in response to applicants' submission filed 03 June 2005.

BACKGROUND

On 18 February 2003, applicants filed international application PCT/US03/07270 which designated the U.S. and claimed a priority date of 15 February 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 28 August 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 16 August 2004 (15 August 2004 being a Sunday).

On 03 June 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, an assertion of small entity status, and a petition under 37 CFR 1.137(b) to revive the application.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:

- (1) The required reply;
- (2) The petition fee;
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee on 03 June 2005.

As to item (2), applicant submitted the petition fee on 03 June 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 including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date.



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 770
Church Street Station
New York NY 10008-0770

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NOV 18 2009

OFFICE OF PETITIONS

In re Patent No. 7,509,739 :
Issue Date: March 31, 2009 :
Application No. 10/537,232 : **DECISION ON PETITION**
Filed: May 31, 2005 :
Attorney Docket No. 05677/0202806-US0 :

This is a decision on the petition, filed, April 15, 2009, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the assignee's residence on the front page of the above-identified patent by way of a certificate of correction.

The request is **GRANTED**.

Petitioner states that the correct assignee's residence is "Anjo-Shi, Aichi (JP)" and that the incorrect assignee's residence 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's residence on the front page of the Letters Patent.

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

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

¹ See 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 "Anjo-Shi, Aichi (JP)" is the assignee's residence 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 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.



Chris Bottorff
Petitions Examiner
Office of Petitions

Docket No.: 05677/0202806-USO
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Letters Patent of:
Tomiharu Okita et al.

Patent No.: 7,509,739

Issued: March 31, 2009

For: METHOD OF MANUFACTURING FULL
FACE VEHICLE WHEEL

**PETITION UNDER 37 CFR 1.183 AND 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

Dear Madam:

The above-identified patent contains an error that arose from an incomplete or erroneous assignee residence furnished in item 3 of PTOL-85B. Failure to include the correct assignee residence on the PTOL-85B was inadvertent. The error is of a clerical or typographical nature, the correction of which does not constitute new matter or require reexamination.

In the Assignee:

Please replace the Assignee Residence as follows:

(B)Residence: Anjo-Shi, Aichi, Japan

Patentee respectfully requests that the Commissioner waive the requirements of 37 CFR 3.81 to permit the correct name of the assignee to be provided after issuance of the patent.

Adjustment date: 11/18/2009 CKHL0K
04/15/2009 INTFSW 00006610 040100 10537232
01 FC:1464 130.00 CR

11/18/2009 CKHL0K 00000017 040100 7509739

01 FC:1800 130.00 DA
02 FC:1811 100.00 DA

4229988.1 0202806-USO

Enclosed is:

- (1) Evidence that the assignment was recorded before issuance of the patent;
- (2) Processing fee set forth in 37 CFR 1.17(i);
- (3) Fee set forth in 37 CFR 1.20(a); and
- (4) Form PTO/SB/44.

Please charge our Deposit Account in the amount of \$230.00 for the filing of this Petition and Request. The Commissioner is authorized to charge any deficiency of up to \$300.00 or credit any excess in this fee to Deposit Account No. 04-0100.

Applicant respectfully requests that the petition be granted and that a Certificate of Correction be issued.

The Commissioner is authorized to charge any deficiency of up to \$300.00 or credit any excess in this fee due with this submission to Deposit Account No. 04-0100.

Dated: April 15, 2009

Respectfully submitted,

By /Flynn Barrison 53,970/
Colin Wright
Registration No.: 62,900
DARBY & DARBY P.C.
P.O. Box 770
Church Street Station
New York, New York 10008-0770
(212) 527-7700
(212) 527-7701 (Fax)
Attorneys/Agents For Applicant



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Assignments on the Web > Patent Query

Patent Assignment Abstract of Title

NOTE: Results display only for issued patents and published applications. For pending or abandoned applications please consult USPTO staff.

Total Assignments: 1**Patent #:** 7509739**Issue Dt:** 03/31/2009**Application #:** 10537232**Filing Dt:** 05/31/2005**Publication #:** 20060248722**Pub Dt:** 11/09/2006**Inventors:** Tomiharu Okita, Ryuji Kimoto, Katsumi Uchiyama, Yoshiki Inagaki**Title:** METHOD OF MANUFACTURING FULL FACE VEHICLE WHEEL**Assignment: 1****Reel/Frame:** 018085/0501**Recorded:** 05/31/2005**Pages:** 4**Conveyance:** ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).**Assignors:** OKITA, TOMIHARU**Exec Dt:** 05/17/2005KIMOTO, RYUJI**Exec Dt:** 05/17/2005UCHIYAMA, KATSUMI**Exec Dt:** 05/17/2005INAGAKI, YOSHIKI**Exec Dt:** 05/17/2005**Assignee:** CENTRAL MOTOR WHEEL CO., LTD.

1-7, MARUTA, OZAKI-CHO

ANJO-SHI, AICHI 446-0004, JAPAN

Correspondent: PETER C. SCHECHTER

DARBY & DARBY P.C.

P.O. BOX 5257

NEW YORK, NY 10150-5257

Search Results as of: 04/09/2009 03:00 PM

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350.

Web interface last modified: October 18, 2008 v.2.0.2

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**UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION**Page 1 of 1

PATENT NO. : 7,509,739
APPLICATION NO. : 10/537,232
ISSUE DATE : March 31, 2009
INVENTOR(S) : Tomiharu Okita 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 Cover:

Please replace the Assignee residence with "Anjo-Shi, Aichi (JP)".

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Colin Wright
DARBY & DARBY P.C.
P.O. Box 770
Church Street Station
New York, New York 10008-0770

1



#4

03 FEB 2006

John P. Musone
Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

In re Application of	:	
JANSSEN, et al.	:	
Application No.: 10/537,237	:	DECISION ON PETITION
PCT No.: PCT/DE03/03959	:	
Int. Filing Date: 02 December 2003	:	UNDER 37 CFR 1.181
Priority Date: 05 December 2002	:	
Attorney Docket No.: 2002P19841WOUS	:	
For: TURBINE SHAFT AND PRODUCTION OF A	:	
TURBINE SHAFT	:	

This decision is in response to applicant's "Request to Withdraw Notification of Abandonment" filed 27 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 December 2003, applicant filed international application PCT/DE03/03959, which claimed priority of an earlier application filed 05 December 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 17 June 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, 05 June 2005.

On 31 May 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); an English language translation of the international application; an executed declaration of the inventors; a preliminary amendment and an assignment document for recording.

On 04 November 2005, applicant was mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) informing applicant that payment of full U.S. Basic National Fee had not been received prior to the expiration of thirty months from the priority date and that above-identified application was abandoned as to the United States.

On 27 January 2006, applicant filed the present petition under 37 CFR 1.181 requesting

withdrawal of the abandonment.

DISCUSSION

A review of the USPTO fee records for deposit account number 19-2179 finds that there were sufficient funds in the account to charge the full U.S. Basic National Fee.

Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States were satisfied on 31 May 2005.

CONCLUSION

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

The Notification of Abandonment mailed 04 November 2005 is hereby **VACATED**.

This application will be given an international application filing date of 02 December 2003 and a date of **31 May 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the DO/EO/US for processing in accordance with this decision.



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



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OFFICE OF PETITIONS

GOUDREAU GAGE DUBUC
2000 MCGILL COLLEGE
SUITE 2200
MONTREAL QC H3A 3H3 CA CANADA

In re Application of
Daniel Bleau
Application No. 10/537,253
Filed: June 1, 2005
Attorney Docket No. 712/15107.2

:
:
:
:
:
:

ON PETITION

This is a decision in response to the petition, filed June 4, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

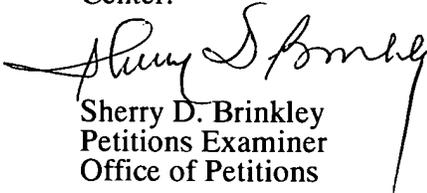
The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed September 19, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on December 20, 2008. A Notice of Abandonment was mailed on April 27, 2009. On June 4, 2009, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of \$810; and (3) an adequate statement of unintentional delay¹.

The application is being referred to Technology Center AU 3772 for appropriate action by the Examiner in the normal course of business on the amendment received June 4, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions

¹ 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.



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GOUDREAU GAGE DUBUC
2000 MCGILL COLLEGE
SUITE 2200
MONTREAL, QC H3A 3H3
CANADA

Mail Date: 05/17/2010

Applicant : Daniel Bleau : DECISION ON REQUEST FOR
Patent Number : 7625349 : RECALCULATION of PATENT
Issue Date : 12/01/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/537,253 : OF WYETH AND NOTICE OF INTENT TO
Filed : 06/01/2005 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **1142** 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

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

In re Application of	:	
Antonio CAMARGO, et al	:	
Application No. 10/537,264	:	DECISION ON PETITION
Filed: February 28, 2008	:	TO WITHDRAW
Attorney Docket No. 1890-0103PUS1	:	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 19, 2010.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because no correspondence address for future communications from the Office has been provided.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: MARK J. NUEL
12770 HIGH BLUFF DRIVE,
SUITE 260
SAN DIEGO CA 92130



23 NOV 2005

Robert E. Cannuscio
Drinker, Biddle & Reath, LLP
One Logan Square
18th and Cherry Streets
Philadelphia, PA 19103-6996

In re Application of	:	
Pitt et al.	:	
Application No.: 10/537,276	:	DECISION
PCT No.: PCT/GB02/02730	:	
Int. Filing Date: 14 June 2002	:	ON
Priority Date: 12 February 2002	:	
Attorney Docket No.: 8830-338 US1 (209954)	:	PETITION
For: Method And Apparatus For Displaying	:	
Advertisements On A Vehicle	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 27 May 2005.

BACKGROUND

This international application was filed on 14 June 2002, claimed an earlier priority date of 12 February 2002, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 21 August 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 12 August 2004. This international application became abandoned with respect to the national stage in the United States under 35 U.S.C. 371 for failure to timely pay the basic national fee.

DISCUSSION

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

Regarding requirement (1), the required reply in the form of the \$150.00 small entity basic national fee has been paid.

Regarding requirement (2), the \$750.00 small entity petition fee accompanied the petition.

Regarding requirement (3), the petition itself does not include a statement of unintentional delay, but it is accompanied by a "Statement From Assignee In Support Of Petition For Revival Of Application" which is accompanied by an assignment document executed in favor of Agripa Limited by the inventors nominated in the international application. The "Statement..." has been signed by John Dunlop Pitt in the capacity of "CEO Agripa Limited." The "Statement..." indicates that "the entire delay in filing a national application related to the above international

application from the date the national application was required to be filed until the date of filing of grantable petition under 37 CFR 1.137(b) was unintentional," but the assignment in favor of Agripa was not executed until 26 May 2005, over nine months after the date the application became abandoned. Since assignee Agripa had no interest in the application between the date of abandonment (midnight on 12 August 2004) and the date the assignment was executed (26 May 2005), assignee does not have standing to state that the "entire delay" was unintentional. As such, assignee's statement relating to unintentional delay is not sufficient to satisfy the requirements of 37 CFR 1.137(b).

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

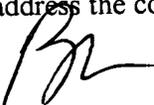
The declaration of the inventors is defective because the name of one of the inventors ("O'Neil") differs from the similar name ("O'Neill") of an inventor nominated by the published international application, and counsel has not adequately explained this discrepancy. Therefore, it is not clear if the declaration nominates the same inventive entity as does the published international application. Counsel is required to explain this discrepancy (e.g., whether it arose from a mere typographic error).

DECISION

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

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." Extensions of time may be obtained under 37 CFR 1.136(a).

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


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

17 MAR 2006

United States Patent and Trademark Office

#7



Commissioner for Patents
United States Patent and Trademark Office
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Robert E. Cannuscio
Drinker, Biddle & Reath, LLP
One Logan Square
18th and Cherry Streets
Philadelphia, PA 19103-6996

In re Application of	:	
Pitt et al.	:	
Application No.: 10/537,276	:	DECISION
PCT No.: PCT/GB02/02730	:	
Int. Filing Date: 14 June 2002	:	ON
Priority Date: 12 February 2002	:	
Attorney Docket No.: 8830-338 US1 (209954)	:	PETITION
For: Method And Apparatus For Displaying	:	
Advertisements On A Vehicle	:	

This is in response to the renewed petition under 37 CFR 1.137(b) filed on 09 January 2005.

DISCUSSION

In a decision mailed on 23 November 2005, the petition under 37 CFR 1.137(b) filed on 27 May 2005 was dismissed without prejudice because

Regarding requirement (3), the petition itself does not include a statement of unintentional delay, but it is accompanied by a "Statement From Assignee In Support Of Petition For Revival Of Application" which is accompanied by an assignment document executed in favor of Agripa Limited by the inventors nominated in the international application. The "Statement..." has been signed by John Dunlop Pitt in the capacity of "CEO Agripa Limited." The "Statement..." indicates that "the entire delay in filing a national application related to the above international application from the date the national application was required to be filed until the date of filing of grantable petition under 37 CFR 1.137(b) was unintentional," but the assignment in favor of Agripa was not executed until 26 May 2005, over nine months after the date the application became abandoned. Since assignee Agripa had no interest in the application between the date of abandonment (midnight on 12 August 2004) and the date the assignment was executed (26 May 2005), assignee does not have standing to state that the "entire delay" was unintentional. As such, assignee's statement relating to unintentional delay is not sufficient to satisfy the requirements of 37 CFR 1.137(b).

The instant renewed petition is accompanied by a "Statement From Applicant's Attorney..." which states in part that

Based on the facts related to the filing of this application and the information that has been provided to me by representatives of the Applicants and the Assignee, the entire delay in filing a national application related to the above international

application from the date the national application was required to be filed until the date of filing of grantable petition under 37 CFR 1.137(b) was unintentional.

This is being construed as a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

The decision mailed on 23 November 2005 also stated that

The declaration of the inventors is defective because the name of one of the inventors ("O'Neil") differs from the similar name ("O'Neill") of an inventor nominated by the published international application, and counsel has not adequately explained this discrepancy. Therefore, it is not clear if the declaration nominates the same inventive entity as does the published international application. Counsel is required to explain this discrepancy (e.g., whether it arose from a mere typographic error).

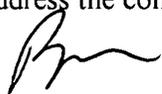
Since applicants have not resolved this issue, it would not be appropriate to accept the declaration of record at this time. In the event that the discrepancy arose from a mere typographic error, applicants are required to provide a statement to that effect. In the event that the discrepancy did NOT arise from a mere typographic error, either a new oath or declaration in compliance with 37 CFR 1.497(a) and (b) or else a petition under 37 CFR 1.182 is required.

DECISION

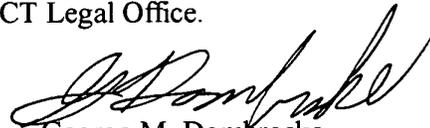
The petition under 37 CFR 1.137(b) is **GRANTED**.

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

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



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

07 JUN 2006

United States Patent and Trademark Office



#9

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United States Patent and Trademark Office
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Robert E. Cannuscio
Drinker, Biddle & Reath, LLP
One Logan Square
18th and Cherry Streets
Philadelphia, PA 19103-6996

In re Application of	:	
Pitt et al.	:	
Application No.: 10/537,276	:	
PCT No.: PCT/GB02/02730	:	
Int. Filing Date: 14 June 2002	:	DECISION
Priority Date: 12 February 2002	:	
Attorney Docket No.: 8830-338 US1 (209954)	:	
For: Method And Apparatus For Displaying	:	
Advertisements On A Vehicle	:	

This is in response to the "Response To Decision On Petition" filed on 10 April 2006.

DISCUSSION

In a decision mailed on 17 March 2006, the renewed petition under 37 CFR 1.137(b) filed on 09 January 2006 was granted, but the declaration of the inventors was not accepted because

The decision mailed on 23 November 2005 also stated that

The declaration of the inventors is defective because the name of one of the inventors ("O'Neil") differs from the similar name ("O'Neill") of an inventor nominated by the published international application, and counsel has not adequately explained this discrepancy. Therefore, it is not clear if the declaration nominates the same inventive entity as does the published international application. Counsel is required to explain this discrepancy (e.g., whether it arose from a mere typographic error).

Since applicants have not resolved this issue, it would not be appropriate to accept the declaration of record at this time. In the event that the discrepancy arose from a mere typographic error, applicants are required to provide a statement to that effect. In the event that the discrepancy did NOT arise from a mere typographic error, either a new oath or declaration in compliance with 37 CFR 1.497(a) and (b) or else a petition under 37 CFR 1.182 is required.

The instant "Response..." states in part that

the Declaration included a typographic error... Specifically, the inventor's name was misspelled as "O'Neil." The correct spelling of the inventor's name is "O'Neill." The spelling was correct on the published international application as well as the Assignment. The typographic error was inadvertently introduced into the Declaration by the undersigned, and it was overlooked by the inventor when the Declaration was executed.

The details of how the typographic error arose are further clarified by the "Statement In Support Of Declaration" signed by Robert E. Cannuscio. Based on the totality of the evidence now of record, it would be appropriate to conclude that the discrepancy between the spelling of the inventor's name on the published international application and on the executed declaration constitutes a mere typographic error. Accordingly, the declaration is being accepted for purposes of compliance with 37 CFR 1.497(a) and (b).

DECISION

The declaration is **ACCEPTED** as noted above.

The \$65.00 surcharge under 37 CFR 1.492(h) is being charged to counsel's Deposit Account No. 50-0573, as authorized by the 27 May 2005 Transmittal Letter.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **27 May 2005**.



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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Marina Larson & Associates, LLC
P.O. Box 4928
Dillon CO 80435

COPY MAILED

DEC 05 2007

OFFICE OF PETITIONS

Applicant: Sanders et al.
Appl. No.: 10/537,280
International Filing Date: November 28, 2003
Title: Binding Partners for the Thyrotropin Recepto and Uses Thereof
Attorney Docket No.: URQU.P-016
Pub. No.: US 2006/0241289 A1
Pub. Date: October 26, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on December 26, 2006, for the above-identified application

The request is granted-in-part.

Applicant requests that the application be republished because the patent application publication contains material errors, wherein the preliminary amendment to the specification was not included in the publication, as the Office did not follow its procedures and require a substitute specification and because an unrelated Figure 5 was included with the publication.

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 republication of the application with respect to the drawings is **GRANTED**. The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

The error noted by requestor with respect to the preliminary amendment is not an Office error. Applicant’s assertion that the Office did not follow the procedure as set forth in the MPEP by

¹Changes 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).

requiring a substitute specification since the amendment filed with the application was not in a format usable for publication is not persuasive. A preliminary amendment filed upon the entry of the national stage of an international application under 35 U.S.C. 371 is not part of the original disclosure (because the filing date of the national stage application is the international filing date and not the national stage entry date) so the patent application publication need not include such an amendment.

The patent application publication does not include a mistake regarding the failure to include the preliminary amendment to the specification in the publication by the Office because patent application publications are not required to include preliminary amendments, according to 37 CFR 1.215(a),² which says the following, in part:

(a) ... The patent application publication will be based upon the specification and drawings deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application. **The patent application publication may also be based upon amendments to the specification (other than the abstract or the claims) that are reflected in a substitute specification under Sec. 1.125(b), amendments to the abstract under Sec. 1.121(b), amendments to the claims that are reflected in a complete claim listing under Sec. 1.121(c), and amendments to the drawings under Sec. 1.121(d), provided that such substitute specification or amendment is submitted in sufficient time to be entered into the Office file wrapper of the application before technical preparations for publication of the application have begun. (emphasis added)**

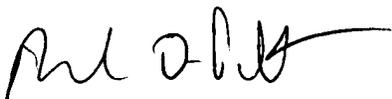
§ 1.215(c) says the following:

(c) At applicant's option, the patent application publication will be based upon the copy of the application (specification, drawings, and oath or declaration) as amended, provided that applicant supplies such a copy in compliance with the Office electronic filing system requirements within one month of the mailing date of the first Office communication that includes a confirmation number for the application, or fourteen months of the earliest filing date for which a benefit is sought under title 35, United States Code, whichever is later.

While the patent application publication may now include a preliminary amendment, the Office is not required to use the preliminary amendment. The Office changed the procedures for publication of patent applications so as to publish applications as amended, when possible. Until 2004, patent application publications were published as originally filed. See Patent Application Publications May Now Include Amendments, 1281 Off. Gaz. Pat. Office Notices 53 (April 13, 2004) and MPEP 1121. Applicant did not file a substitute specification, which incorporated the preliminary amendment. See Pre-Grant Publication Helpful Hint: File Continuation or Divisional Application with a New Specification and Copy of Oath or Declaration from Prior Application, 1251 Off. Gaz. Pat. Office Notices 54 (Oct. 9, 2001). The Office correctly published the application in accordance with 37 CFR 1.215(a).

²Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan; Final Rule, 69 FR 56482 (Sept. 21, 2004).

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

A handwritten signature in black ink, appearing to read "Mark Polutta", with a long horizontal flourish extending to the right.

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
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,286	06/01/2005	Masashi Gotoh	273043US3PCT	1853
22850	7590	12/15/2009	EXAMINER	
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314			HARRISON, MONICA D	
			ART UNIT	PAPER NUMBER
			2893	
			NOTIFICATION DATE	DELIVERY MODE
			12/15/2009	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



Gregory J. Maier
OBLON, SPIVAK, McCLELLAND, MAIER & NEUSTADT, L.L.P.
1940 Duke Street
Alexandria, VA 22314

In re Application of:
MASASHI GOTOH, ET AL.
Serial No.: 10/537,286
Filed: June 1, 2005
Attorney Docket No.: 273043US-6 PCT

DECISION ON PETITION
TO CONSIDER IDS

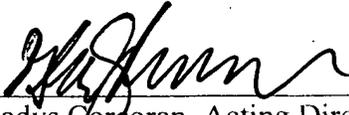
This is a decision on the petition, filed October 5, 2009, requesting that the IDS filed on October 9, 2008 be acknowledged and that the Form PTO-1449 with that IDS be returned acknowledging consideration of the references cited in that IDS.

The petition is **dismissed**.

In the Office action of November 5, 2008, the Examiner included a signed copy (initialed on October 29, 2008) of the PTO-1449 associated with the IDS filed on October 9, 2008. Thus, the references on the IDS have already been considered by the Examiner and this petition is moot and hereby dismissed.

A copy of the signed IDS is attached hereto for Applicant's record.

Inquiries regarding this decision should be directed to Davienne Monbleau, Supervisory Patent Examiner of Art Unit 2893, at (571) 272-1945.



Gladys Corcoran, Acting Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

Form PTO 1449 (Modified)		U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE		ATTY DOCKET NO. 273043US6PCT		SERIAL NO. 10/537,286	
LIST OF REFERENCES CITED BY APPLICANT				APPLICANT Masashi GOTOH, et al.			
				FILING DATE June 1, 2005		GROUP 2813	
U.S. PATENT DOCUMENTS							
EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPROPRIATE	
	AA						
	AB						
	AC						
	AD						
	AE						
	AF						
	AG						
	AH						
	AI						
	AJ						
	AK						
	AL						
	AM						
	AN						
FOREIGN PATENT DOCUMENTS							
	DOCUMENT NUMBER	DATE	COUNTRY	TRANSLATION			
				YES	NO		
/MDH./	AO 2001-284801	10-12-2001	Japan (with English Abstract and computer generated English translation)	x			
↓	AP 8-195560	07-30-1996	Japan (with English Abstract and computer generated English translation)	x			
↓	AQ 2001-326459	11-22-2001	Japan (with English Abstract and computer generated English translation)	x			
↓	AR 8-125334	05-17-1996	Japan (with English Abstract and computer generated English translation)	x			
↓	AS 5-299816	11-12-1993	Japan (with English Abstract and computer generated English translation)	x			
↓	AT 2000-13028	01-14-2000	Japan (with English Abstract and computer generated English translation)	x			
	AU						
	AV						
OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, etc.)							
	AW						
	AX						
	AY						
	AZ						<input type="checkbox"/> Additional References sheet(s) attached
Examiner /Monica D. Harrison/				Date Considered 10/29/2008			
*Examiner: Initial if reference is considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.							

ALL REFERENCES CONSIDERED EXCEPT WHERE LINED THROUGH. /MDH./



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

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OCT 07 2009

OFFICE OF PETITIONS

In re Application of :
Samuel Ozil :
Application No. 10/537,294 :
Filed: June 2, 2005 :
Attorney Docket No. 0581-1012 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 12, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a proper and timely manner to the Notification of Non-Compliant Appeal Brief (Notice) mailed March 6, 2009, which set a period for reply of one (1) month or thirty (30) days, whichever is longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 7, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amended Appeal Brief and required fee of \$540.00 (previously paid on February 9, 2009); (2) the petition fee of \$1,620.00; and (3) a proper statement of unintentional delay.

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

The file is now being forwarded to Technology Center 3749 for processing of the amended Appeal Brief filed with the instant petition.

Joan Olszewski
Petitions Examiner
Office of Petitions



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

BROWN, Derek et al.

Application No. 10/537,309

Filed: December 16, 2005

Attorney Docket No. **CELL-0297**

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 &
BERGHOFF LLP
300 SOUTH WACKTER DRIVE
CHICAGO, IL 60606**



17 OCT 2005
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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 Connecticut Avenue, NW
Suite 700
Washington, DC 20036

In re Application of:	:	
KAWAKAMI, Shojiro, et al.	:	DECISION ON PETITION FOR
U.S. Application No.: 10/537,314	:	REVIVAL OF ABANDONED
PCT No.: PCT/JP03/08888	:	APPLICATION UNDER
Int'l Filing Date: 14 July 2003	:	37 CFR 1.137(b)
Priority Date: 13 July 2002	:	
Attorney's Docket No.: 052487	:	
For: POLARIZATION ANALYZER	:	

The petition for revival under 37 CFR 1.137(b) filed 02 June 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay from the deadline for entry into the U.S. national stage to the date of the present petition was unintentional" satisfies the requirements of 37 CFR 1.137(b)(3).

Applicants have submitted the basic national fee petition 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 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.

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



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TODD S. PARKHURST
HUGHES SOCOL PIERS RESNICK & DYM LTD.
THREE FIRST NATIONAL PLAZA
70 WEST MADISON- SUITE 4000
CHICAGO, IL 60602

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AUG 13 2008

In re Application of	:	
HARLAND, Charles	:	
Application No. 10/537,316	:	DECISION ON PETITION
Filed: June 2, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 20077.200233(c9671.003)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 15, 2007 and re-submitted March 31, 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 Notification of Missing Requirements Under 35 USC 371 In The United States Designated/Elected Office (DO/EO/US), mailed October 3, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 4, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the declaration and surcharge fee of \$65; (2) the petition fee of \$750; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Patent Application Processing for further processing.

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

Brian W. Brown
Petitions Examiner
Office of Petitions



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

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JUN 10 2010

In re Application of
Shay Zafrir
Application No. 10/537,317
Filed: October 21, 2005
Attorney Docket No. Q88277

OFFICE OF PETITIONS

DECISION ON PETITION
TO WITHDRAW FROM
RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b) or 10.40 filed January 29, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because practitioner/practitioners associated with Customer Number 23373 requesting the withdrawal has not certified that they have (1) given reasonable notice to the client, prior to the expiration of the reply period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or duly authorized representative of the client papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond. The failure to do so may subject the practitioner to discipline¹. See *USPTO Form No. PTO/SB/83*.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Ms. Moshe Hadar
Mr. Shay Zafrir
Efficient Finance Ltd.
703 Market Street, Suite 1202
San Francisco, CA 94103

¹ Practitioner should note that false certification may violate a practitioners' duty under 37 CFR 10.23(b)(4) and (b)(5).

22 DEC 2005



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Honigman Miller Schwartz and Cohn LLP
32270 Telegraph Road, Suite 225
Bingham Farms, Michigan 48025-2457

In re Application of :
ASBURY et al. :
Application No.: 10/537,332 :
PCT No.: PCT/US03/38042 :
Int. Filing: 02 December 2003 :
Priority Date: 02 December 2002 :
Attorney Docket No.: 209546-98124 :
For: LAMINATED HEADLINER ASSEMBLY :
AND METHOD FOR FORMING A :
LIGHTWEIGHT LAMINATED :
HEADLINER :

DECISION ON PETITION
UNDER 37 CFR 1.47(a)

This decision is in response to applicants' "Petition By Joint Inventor Filing on Behalf of Other Joint Inventor Who Refuses to Join in Application of Cannot Be Reached under 37 CFR 1.47(a)" filed 02 June 2005 to accept the application without the signature of joint inventor, Janusz Gorowicz. The \$200 petition fee has been submitted.

BACKGROUND

On 02 December 2003, applicants filed international application PCT/US03/38042, which claimed a priority date 02 December 2002. Pursuant to 37 CFR 1.495, the period for paying the basic national fee in the United States expired 30 months from the priority date, 02 June 2005.

On 02 June 2005, applicants filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; an executed declaration, and the present petition under 37 CFR 1.47(a).

DISCUSSION

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

A review of the present petition and the accompanying papers reveal that applicants have satisfied item (2), in that, the applicants have shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Janusz Gorowicz. The steps taken by Julie Barber are sufficient to show that the missing inventor, Janusz Gorowicz, could not be found or reached after diligent effort.

CONCLUSION

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

The application has an international filing date of 02 December 2003 under 35 U.S.C. 363, and will be given a date of 02 June 2005 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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



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



22 DEC 2003

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Janusz Gorowicz
11177 Home Shore Drive
Pinckney, Michigan 48169

In re Application of
ASBURY et al.
Application No.: 10/537,332
PCT No.: PCT/US03/38042
Int. Filing: 02 December 2003
Priority Date: 02 December 2002
Attorney Docket No.: 209546-98124
For: LAMINATED HEADLINER ASSEMBLY AND METHOD FOR FORMING A
LIGHTWEIGHT LAMINATED HEADLINER

Dear Janusz Gorowicz:

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

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

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

Counsel of Record:
Honigman Miller Schwartz and Cohn LLP
32270 Telegraph Road, Suite 225
Bingham Farms, Michigan 48025-2457



LAU & ASSOCIATES, LLC
MICHAEL N. LAU
2121 EISENHOWER AVENUE
SUITE 503A
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of
Christopher John Holloway, et al.
Application No. 10/537,340
Filed: December 16, 2005
Attorney Docket No. Cardssafe1

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

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

The request is **APPROVED**.

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

The request was signed by Michael N. Lau 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.

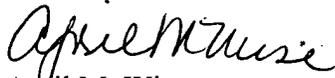
The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71.

In view of the present decision, Glenna Hendricks and Michael Lau of Lau & Associates have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable

power of attorney under 37 C.F.R. § 1.32(b). All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed July 27, 2007 that requires a reply from the applicant.

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



April M. Wise
Petitions Examiner
Office of Petitions

cc: CHRISTOPHER JOHN HOLLOWAY
WESTDOWN, PORTSMOUTH ROAD
HINDHEAD, SURREY GU26 6BQM
GREAT BRITAIN

cc: GLENNA HENDRICKS
PO BOX 2509
FAIRFAX, VA 22031-2509



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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/537,340	12/16/2005	Christopher John Holloway	Cardssafel

CONFIRMATION NO. 3463

POWER OF ATTORNEY NOTICE



46064
LAU & ASSOCIATES, LLC
MICHAEL N. LAU
2121 EISENHOWER AVENUE
SUITE 503A
ALEXANDRIA, VA 22314

Date Mailed: 11/05/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/28/2007.

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

/amwise/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199



Hensley, Kim & Holzer, LLC
1660 Lincoln St., Suite 3000
Denver CO 80264

MAILED

APR 12 2010

In re Application of :
Domen :
Application No. 10/537,374 :
Filed: June 3, 2005 :
Attorney Docket No. 800-004-USP 2148US :
TET 1 :

**OFFICE OF PETITIONS
ON PETITION**

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 8, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned August 28, 2009 for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 27, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed December 7, 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 required fee, and the submission required by 37 CFR 1.114; (2) the required petition fee; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3744 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.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions



27 SEP 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

In re Application of	:	
DOUGLAS	:	
Application No.: 10/537,379	:	DECISION
PCT No.: PCT/US2003/037888	:	
Int. Filing Date: 24 November 2003	:	
Priority Date: 04 December 2002	:	
Attorney's Docket No.: 25922-706.201	:	
For: PREPARATION OF METALLOTEXAPHYRINS	:	

This is a decision on applicants' petition under 37 CFR 1.182 filed in the United States Patent and Trademark Office (USPTO) on 08 August 2006. The petition fee of \$400.00 has been charged to counsel's Deposit Account No. 23-2415. The petition is **GRANTED** as discussed below.

On 03 June 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. The transmittal letter requested that the application papers be processed as the national stage application of international application PCT/US2003/03788.

On 08 August 2006, applicants filed the instant petition under 37 CFR 1.182.

A review of the application file including counsel's statements in the instant submission, as well as a review of the international publication of PCT/US2003/03788, reveals that the indication of international application PCT/US2003/03788 was incorrect, and that the present application should in fact be the national stage application of international application PCT/US2003/03788.

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

Smith, Duane

To: Newsome, Lamonte

Subject: RE: 10537381

DATE : 6/10/09

TO SPE OF : ART UNIT 1797

SUBJECT : Request for Certificate of Correction for Appl. No.: 10537381 Patent No.: 7510586 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:

Filing date is Nov 14, 2005 per the
2-22-06 Notice of DO/EQ Acceptance letter

SUPERVISORY PATENT EXAMINER

DUANE SMITH

SPE

1797
Art Unit



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : 06/16/09

Patent No. : 7510586 B2
Patent Issued : 03/31/09
Docket No. : **025819-9042-00**

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.

Change to title page, Item (86), filing date of 11-14-05 is correct per the Notice of Do/Eo acceptance mailed 2-22-06. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1.322 or 1.323."**

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

A handwritten signature in cursive script that reads "Lamonte M. Newsome".

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 756-1574 or (703) 305-8309

**MICHAEL, BEST & FRIEDRICH LLP
100 EAST WISCONSIN AVENUE
SUITE 3300
MILWAUKEE WI 53202**

LMN



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Alexandria, VA 22313-1450
www.uspto.gov

February 18, 2009

Steven J. Schwarz
Venable LLP
P. O. Box 34385
Washington, DC 20043-9998

Patent No.: 7,477,019 B2
Application No.: 10/537,392
Inventor(s): Stephen Bardell et al.
Issued: January 13, 2009
Title: ELECTRON BEAM TUBES

Re: Request for Certificate of Correction

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

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

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

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

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

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

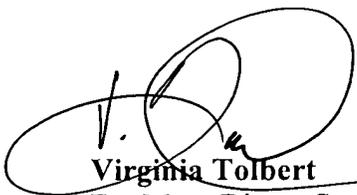
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

By fax: (571) 273-0025
 ATTN: Office of Petitions

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



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

vt



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

HOWREY LLP
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE SUITE 200
FALLS CHURCH, VA 22042

Mail Date: 04/21/2010

Applicant	: Shirley Xiaoli Guo	: DECISION ON REQUEST FOR
Patent Number	: 7569747	: RECALCULATION OF PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/537,393	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **461** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



22 JUN 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

#7

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BANIAK PINE & GANNON
150 North Wacker Drive, Suite 1200
Chicago, IL 60606

In re Application of :
GERSCH *et al* :
U.S. Application No.: 10/537,415 :
PCT No.: PCT/EP03/11032 :
Int. Filing Date: 06 October 2003 :
Priority Date: 02 December 2002 :
Attorney Docket No.: 2726/5 :
For: **ROUNDED-PARTICLE PLASTIC** :
POWDER IN PARTICULAR . . . :

DECISION

This decision is in response to the request for refund filed with the response containing the English translation of the original application as filed on 17 February 2006.

Applicant's request has been **GRANTED** as follows:

A review of the application as amended shows that the total number of claims in the application is 26. Thus, the additional claim fee is \$300.00 (6 x \$50.00). In addition, the Basic fee is \$300, the Examination fee is \$200.00, and the Search fee is \$400.00.

On 08 June 2006, the DO/EO/US credited applicant's credit card with the difference from the \$3,460.00 submitted with the national stage papers on 02 June 2005.

A processing fee of \$130.00 for late filing of an English translation pursuant to 37 CFR 1.492(f) has been charged to Deposit Account No. 50-0930 as authorized.

This application is being forwarded to the national stage division for further processing.

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

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

COPY MAILED

JUL 01 2008

In re Application of :
Hieda, et al. :
Application No. 10/537,416 : **DECISION ON PETITION**
Filed: June 2, 2005 :
Attorney Docket No. 273258US2PCT :

This is a decision on the petition, filed January 24, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before November 29, 2007, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed August 29, 2007. A Notice of Abandonment was issued on January 8, 2008.

Petitioners assert that the Notice dated August 29, 2007 was not received.

Applicants' representative is a participant in the Office's E-Notification program, wherein applicant's representative receives a once daily e-mail notification of all applications in which outgoing Office correspondence has been issued. A review of the record indicates that e-mail notification of the Notice of Allowance and Fee(s) Due and the Notice of Allowability was not sent.

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

This application is being referred to the Technology Center AU 2817 technical support staff for **re-mailing** the Notice of Allowability and the Notice of Allowance and Fee(s) Due of August 29, 2007. The period for paying the issue and publication fees will be reset to expire three (3) months from the date the Notices are re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

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


Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

07 JUN 2006

AS



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P.O. Box 1450
ALEXANDRIA, VA 22313-1450
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Russell W. Warmock
BSH Home Appliances Corporation
100 Bosch Blvd.
New Bern NC 28562

In re Application of	:	DECISION ON
Baumgartner et al	:	
PCT No.: PCT/EP2003/012712	:	
Application No.: 10/537,421	:	
Int. Filing Date: 13 November 2003	:	PAPERS FILED
Priority Date: 02 December 2002	:	
Attorney's Docket No.: 2002P01289WOUS	:	
For: DISHWASING MACHINE	:	UNDER 37 CFR 1.42
COMPOSITIONS CONTAINING THE SAME	:	

This is a decision on the declaration filed 08 February 2006, which has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 02 June 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). However, applicants did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because an executed oath or declaration was not provided.

On 26 September 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 the date of this notice or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

In response to the Notification mailed on 26 September 2005, applicants filed a declaration on 08 February 2006 signed by Ingeborg STURM as heir of the inventor, Wilhelm STURM, now deceased.

DISCUSSION

The declaration is unacceptable at this time because it is not clear that Ingeborg STURM is the sole heir for the deceased inventor, Wilhelm Sturm. (see MPEP § 409.01(a)).

That is, there may be other heirs who are required to also sign the declaration. The declaration must indicate that he is the sole heir for the deceased inventor in order for the Office to accept the application under 37 CFR 1.42.

In this instance, it is unclear if the residence and citizenship in the declaration is of the deceased inventor or heir. Applicants should have two separate sections one for deceased inventor and one for the sole heir in the declaration stating their citizenship, residence, and mailing address. See 37 C.F.R. §1.497(b)(2).

Moreover, a submission of a declaration executed by all of the heirs of the deceased inventor is construed as an indication that no legal representative of the deceased's estate has been appointed or is statutorily required to be appointed. If this interpretation is incorrect applicants are required to promptly notify the Office of such and submit a declaration properly executed by the legal representative(s) of the deceased inventor.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **not accepted**.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.42." Extensions of time are available under 37 CFR 1.136(a).

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



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



UNITED STATES PATENT and TRADEMARK OFFICE

1 0 JAN 2008

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Russell W. Warmock
BSH Home Appliances Corporation
100 Bosch Blvd.
New Bern NC 28562

In re Application of : DECISION ON
Baumgartner et al :
PCT No.: PCT/EP2003/012712 :
Application No.: 10/537,421 :
Int. Filing Date: 13 November 2003 : PAPERS FILED
Priority Date: 02 December 2002 :
Attorney's Docket No.: 2002P01289WOUS :
For: DISHWASING MACHINE : UNDER 37 CFR 1.42
COMPOSITIONS CONTAINING THE SAME :

This is a decision on the declaration filed 08 February 2006, which has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 02 June 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). However, applicants did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because an executed oath or declaration was not provided.

On 26 September 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 the date of this notice or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

In response to the Notification mailed on 26 September 2005, applicants filed a declaration on 08 February 2006 signed by Ingeborg STURM as heir of the inventor, Wilhelm STURM, now deceased.

DISCUSSION

The declaration is unacceptable at this time because it is not clear that Ingeborg STURM is the sole heir for the deceased inventor, Wilhelm Sturm. (see MPEP § 409.01(a)).

CONCLUSION

The renewed submission filed under 37 CFR 1.42 is **ACCEPTED**.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision. The 35 U.S.C. § 371(c)(1), (c)(2), and (c)(4) date of this application as **14 December 2007**.



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



BARNES & THORNBURG
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

COPY MAILED

DEC 30 2005

OFFICE OF PETITIONS

In re Application of	:	
SEDAT SELVI	:	
Application No. 10/537,426	:	DECISION ON PETITION
Filed: June 2, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 38566-77784	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR §1.102(d), filed November 10, 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 Liana Chase at 571-272-3206.

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 3727 for action on the merits commensurate with this decision.



Amelia Au
Petitions Examiner
Office of Petitions



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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

Smart & Biggar
438 University Avenue
Box 111, Suite 1500
Toronto, ON M5G 2K8
CANADA

Mail Date: 04/29/2010

Applicant	: Tim Neil	: DECISION ON REQUEST FOR
Patent Number	: 7668937	: RECALCULATION OF PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/537,430	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/02/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **968** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



10 AUG 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

3

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ALEXANDRIA, VA 22313-1450
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ARENT FOX PLLC
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

In re Application of	:	
ONGINI, Ennio et al.	:	
U.S. Application No.: 10/537,439	:	
PCT No.: PCT/EP03/50932	:	DECISION
Int. Filing Date: 03 December 2003	:	
Priority Date: 17 December 2002	:	
Attorney Docket No.: 026220-00065	:	
For: DRUGS FOR CHRONIC PAIN	:	

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

BACKGROUND

On 03 December 2003, applicant filed international application PCT/EP03/50932, claiming a priority date of 17 December 2002. The international application was transmitted to the Office by the International Bureau on 03 January 2003. Accordingly, the thirty-month period for paying the basic national fee in the United States expires at midnight on 17 June 2005.

On 16 June 2005, applicants filed two transmittal letters for entry into the national phase in the United States, accompanied by declarations, checks and preliminary amendments.

DISCUSSION

Applicants submitted two sets of papers to enter the national stage for international application number PCT/EP03/50932. The end result for an international application designating the United States of America is a single U.S. national stage application. Therefore, the submission of two sets of national stage papers to enter the United States was improper.

The papers from both of the filings have been consolidated into a single national stage application for PCT/EP03/50932, under the serial number 10/537,439. The additional fees for the second national filing will be refunded to deposit account no. 01-2300, as authorized.

CONCLUSION

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,

Application No. 10/537,439

-2-

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 United States Designated/Elected Office (DO/EO/US) for further national stage processing. Applicant should use application number 10/537,439 in all future communications with the Patent and Trademark Office regarding the U.S. National stage of international application PCT/EP03/50932.

Erin P. Thomson

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19 JUN 2006

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#6

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

In re Application of:	:	
SAKAI, et al.	:	DECISION ON PETITION TO
U.S. Application No.: 10/537,484	:	CHANGE INVENTOR'S NAME
PCT No.: PCT/JP03/11848	:	(37 CFR 1.182)
International Filing Date: 17 September 2003	:	
Priority Date: 03 December 2002	:	
Attorney Docket No.: 273185US0PCT	:	
For: RUTHENIUM COMPOUND AND	:	
PROCESS FOR PRODUCING	:	
METALLIC RUTHENIUM FILM	:	

This decision is issued in response to the "Petition Under 37 CFR 1.182 To Correct Name Of Inventor" filed by applicants on 13 February 2006. Applicants have submitted the required \$400 petition fee.

BACKGROUND

On 17 September 2003, applicants filed international application PCT/JP03/11848. The application claimed a priority date of 03 December 2002 and designated the United States. On 17 June 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., 03 June 2005. The published international application identified the second applicant/inventor as Sachiko OKADA.

On 03 June 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 translation of the international application into English, and an executed declaration. However, the name of the second inventor on the declaration (Sachiko HASIMOTO) did not correspond to the name of the second inventor on the international application (Sachiko OKADA).

On 21 December 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that the oath filed 03 June 2005 was defective based on the discrepancy in the second inventor's name. The Notification required submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date.

On 13 February 2006, applicants filed the petition considered herein, seeking to change the name of record for the second inventor from Sachiko OKADA to Sachiko HASIMOTO.

DISCUSSION

Applicants' 13 February 2006 submission included payment of the required petition fee and a "Declaration Of Sachiko HASIMOTO" that confirms that the second inventor's name was changed as a result of her marriage. These materials satisfy the requirements for a grantable petition under 37 CFR 1.182 to change this inventor's name.

CONCLUSION

Applicants' petition under 37 CFR 1.182 to change the name of record for inventor Sachiko OKADA to Sachiko HASIMOTO is **GRANTED**.

Based on the above, the declaration filed 03 June 2005 is now acceptable in compliance with 37 CFR 1.497.

Because the declaration was filed prior to the expiration of thirty months from the priority date, no surcharge is required.

This application is being referred to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 03 June 2005.



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28 FEB 2006



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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, LLP
901 New York Ave., N.W.
Washington, D.C. 20001-4413

In re Application of:	:	
VOGT, Michael	:	DECISION ON REQUEST UNDER
U.S. Application No.: 10/537,494	:	37 CFR 1.497(d)
PCT No.: PCT/CH2003/000807	:	
International Filing Date: 08 December 2003	:	
Priority Date: 06 December 2002	:	
Attorney's Docket No.: 09894.0007-00	:	
For: WORLD TIMEPIECE	:	

This decision is issued in response to applicant's 21 December 2005 submission, which included a request under 37 CFR 1.497(d) to correct the inventorship in the present application. Applicant has submitted \$65 for the required processing fee; however, the applicable processing fee is \$130 (there is no small entity discount for this fee). Accordingly, Deposit Account No. 06-0916 will be charged the remainder of the required processing fee.

BACKGROUND

On 08 December 2003, applicant filed international application PCT/CH2003/000807 that claimed a priority date of 06 December 2002 and designated the United States. On 24 June 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., 06 June 2005. The published international application identified a corporate applicant for all states other than the U.S., and a single applicant/inventor for the U.S., Michael VOGT.

On 03 June 2005, applicant filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee, an English translation of the international application, and a declaration executed by three persons: the inventor of record, Michael VOGT, and two additional inventors, Thomas PRESCHER and Renato SCARINZI.

On 24 October 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 acceptable under 37 CFR 1.497 was required. The Notification stated that the previously filed declaration was defective based on the inclusion of the two new inventors.

On 21 December 2005, applicants filed the response to the Notification Of Missing Requirements considered herein. The response included a revised declaration (again executed by Michael VOGT, Thomas PRESCHER and Renato SCARINZI), a request to correct the inventorship of record to include Thomas PRESCHER and Renato SCARINZI, and supporting materials.

DISCUSSION

Where, as here, the filed declaration names additional inventors who were not identified on the international application, 37 CFR 1.497(d) requires applicant to submit: (1) a statement from each person being added as an inventor that any error in inventorship in the international application occurred without deceptive intent; (2) the processing fee; and (3) if an assignment has been executed by any of the original named inventors, the written consent of the consignee (in the form required by 37 CFR 3.73(b)).

Applicant here has submitted the required statements by the added inventors, Thomas PRESCHER and Renato SCARINZI. Item (1) is therefore satisfied.

The 21 December 2005 submission include a \$65 payment towards the required \$130 processing fee; Deposit Account No. 06-0916 will be charged the additional \$65 required to complete the required \$130 processing fee (as noted above, there is no small entity discount for this fee). Item (2) is therefore satisfied.

Regarding item three, applicant has submitted a "Submission Under 37 CFR 3.73(B)" executed on behalf of assignee POWERMIKE.COM. The "Submission Under 37 CFR 3.73(B)" states that a copy of the Assignment is enclosed therewith; however, the application file does not contain a copy of the purportedly enclosed Assignment (nor does the "Submission Under 37 CFR 3.73(B)" identify the recorded Assignment by reel and frame number, as required by 3.73(b)(1)(ii) if a copy of the Assignment is not provided). Moreover, the "Submission Under 37 CFR 3.73(B)" does not include a statement that the assignee consents to the requested change of inventorship. Before item (3) can be considered satisfied, applicant must provide the written consent of the assignee to the change of inventorship. Any such consent of the assignee must be accompanied by a proper statement under 37 CFR 3.73(b), that is, a properly executed statement that is either accompanied by a copy of the Assignment or specifically identifies the recorded Assignment by reel and frame number.

Based on the above, the present record does not satisfy all the requirements for correction of the inventorship under 37 CFR 1.497(d).

CONCLUSION

Applicant's request to correct inventorship under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

Michael VOGT remains the sole inventor of record herein. Accordingly, the declaration filed 03 June 2005, and the revised declaration filed with the present materials, both of which

identify Michael VOGT, Thomas PRESCHER and Renato SCARINZI as inventors, are defective for failure to properly identify the inventors of record herein.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Request Under 37 CFR 1.497(d)" and must include the materials required to satisfy item (3) of a grantable request, as discussed above (i.e., the consent of the assignee in the form required by 37 CFR 3.73(b)).

Failure to file a proper response will result in abandonment of the application. Extensions of time are available under 37 CFR 1.136(a)

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



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21 AUG 2006

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901 New York Ave., N.W.
Washington, D.C. 20001-4413

In re Application of:	:	
VOGT, Michael, et al.	:	DECISION ON RENEWED
U.S. Application No.: 10/537,494	:	REQUEST UNDER
PCT No.: PCT/CH2003/000807	:	37 CFR 1.497(d)
International Filing Date: 08 December 2003	:	
Priority Date: 06 December 2002	:	
Attorney's Docket No.: 09894.0007-00	:	
For: WORLD TIMEPIECE	:	

In a decision mailed by this Office on 28 February 2006, 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.

On 20 April 2006, 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 3/37(b). 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 Thomas PRESCHER and Renato SCARINZI. Daniel WAPPLING as additional inventors of record. Based on this correction, the declaration filed 03 June 2005 is now acceptable under 37 CFR 1.497.

This application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 03 June 2005.

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24 OCT 2005

#4

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BATTELLE MEMORIAL INSTITUTE
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In re Application of	:	
MARKWORTH (Deceased)	:	DECISION ON
Application No.: 10/537,503	:	
PCT No.: PCT/US02/39037	:	REQUEST
Int. Filing Date: 05 December 2003	:	
Priority Date: 05 December 2002	:	UNDER 37 CFR 1.42
Attorney Docket no.: 13920US	:	
For: METHODS OF REMOVING SULFUR	:	
FROM A FUEL CELL	:	

This is a decision on applicant's submission under 37 CFR 1.42 filed in the United States Patent and Trademark Office (USPTO) on 03 June 2005.

BACKGROUND

On 03 June 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. Applicants also submitted a declaration signed by inventors James H. Saunders, Bradley C. Glenn and Barry Hindin and identifying Caroline M. Markworth as the legal representative of deceased inventor, Alan J. Markworth.

DISCUSSION

Applicant has provided a declaration executed by the inventors and by Caroline M. Markworth, which identifies her as the legal representative of deceased inventor Alan J. Markworth. The declaration identifies the joint inventors and provides the legal representative's citizenship, residency and mailing address, states the citizenship, residency and mailing address for both the deceased inventor and the 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 **03 June 2005**.



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31 OCT 2006

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In re Application of :
HAYAMA, et al. :
U.S. Application No.: 10/537,527 : DECISION ON PETITION
PCT No.: PCT/JP03/08618 :
Int. Filing Date: 07 July 2003 : UNDER 37 CFR 1.10(e)
Priority Date: 04 December 2002 :
Attorney Docket No.: 4777-65 :
For: NON-CONTACT POWER-SOURCE-LESS :
IC CARD SYSTEM :

This is a decision on applicant's "Petition to Withdraw Holding of Abandonment" filed 18 August 2006 in the United States Patent and Trademark Office (USPTO). The petition is being treated as a petition under 37 CFR 1.10(e). No petition fee is required.

BACKGROUND

On 07 July 2003, applicant filed international application PCT/JP03/08618 which claimed priority to an earlier application filed 04 December 2002. A copy of the International Application was forwarded to the United States Patent and Trademark Office (USPTO) from the International Bureau (IB) on 17 June 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 04 June 2005.

On 03 June 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 and an English translation of the international application.

On 19 September 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 13 July 2006, applicant was mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) indicating that the present application was abandoned as to the United States for failure to respond to the Form PCT/DO/EO/905 mailed 19 September 2005.

On 18 August 2006, applicant filed the present petition arguing that a timely response had been filed by Express Mail on 13 October 2005.

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.

Applicant has satisfied all four items above.

Regarding item 1, applicant filed the petition promptly after receiving the Form PCT/DO/EO/909.

As to item 2, the Express Mail number of EV507599865US was listed on the transmittal letter for the subject filing.

Regarding items 3 and 4, applicant has included copies of the subject filing, as well as, a copy of the Express Mail mailing label and the track and confirm report from the USPS website showing acceptance by the USPS and ultimate delivery and acceptance by the

USPTO. In addition, applicant has certified that these copies are true copies of the originally mailed correspondence and USPS paperwork.

As such, it is proper to grant applicant's petition at this time.

Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

CONCLUSION

Applicant's petition under 37 CFR 1.10 (e) is **GRANTED**.

The NOTIFICATION OF ABANDONMENT mailed 13 July 2006 is hereby **VACATED**.

The application has an international filing date of 07 July 2003 under 35 U.S.C. 363 and will be given a date of **13 October 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision; namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) indicating the 371 date listed above.



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10/31/2006 SHASHEIR 00000003 501145 10537527
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01 FC:161/ 130.00 DA
02 FC:8021 46.00 DA



26 JUN 2006

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ALISO VIEJO, CA 92656

In re Application of SAITO et al	:	
U.S. Application No.: 10/537,528	:	
PCT Application No.: PCT/JP03/10278	:	
Int. Filing Date: 13 August 2003	:	COMMUNICATION
Priority Date Claimed: 11 December 2002	:	
Attorney Docket No.: NAKAI-005US	:	
For: CEMENT KILN CHLORINE/SULFUR	:	
BYPASS SYSTEM	:	

This is in response to applicant's "Reply to Notice of Defective Response" filed 27 March 2006.

BACKGROUND

On 13 August 2003, applicant filed international application PCT/JP03/10278, which claimed priority of an earlier Japan application filed 11 December 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 24 June 2004. The thirty-month period for paying the basic national fee in the United States expired on 13 June 2005 (11 June 2005 was a Saturday).

On 13 June 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 30 November 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 December 2005, applicant filed an executed declaration.

On 15 March 2006, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which identified a discrepancy with respect to the first inventor's name.

On 27 March 2006, applicant filed the present response, including a corrected declaration.

DISCUSSION

A comparison of the declarations filed 27 December 2005 and 27 March 2006 reveals that the 27 December 2005 declaration has been amended but not re-executed. The wording of an oath or declaration cannot be amended, altered or changed in any manner after it has been signed. MPEP 602.01. The incorrect naming of an inventor cannot be corrected by the submission of an application data sheet and thus a newly executed declaration is required.

CONCLUSION

Because the 27 March 2006 response appears to be a bona fide attempt to reply to the Notification of Defective Response, applicant is given a time limit of ONE (1) MONTH from the mail date of this communication in which to file a proper declaration. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are NOT AVAILABLE under 37 CFR 1.136(a).

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



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25 JUL 2006

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In re Application of SAITO et al	:	
U.S. Application No.: 10/537,528	:	
PCT Application No.: PCT/JP03/10278	:	
Int. Filing Date: 13 August 2003	:	COMMUNICATION
Priority Date Claimed: 11 December 2002	:	
Attorney Docket No.: NAKAI-005US	:	
For: CEMENT KILN CHLORINE/SULFUR	:	
BYPASS SYSTEM	:	

This is in response to applicant's "Reply to Office Communication" filed 24 July 2006.

BACKGROUND

On 13 August 2003, applicant filed international application PCT/JP03/10278, which claimed priority of an earlier Japan application filed 11 December 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 24 June 2004. The thirty-month period for paying the basic national fee in the United States expired on 13 June 2005 (11 June 2005 was a Saturday).

On 13 June 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 30 November 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 December 2005, applicant filed an executed declaration.

On 15 March 2006, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which identified a discrepancy with respect to the first inventor's name.

On 27 March 2006, applicant filed a corrected declaration.

On 26 June 2006, this Office mailed a communication which stated that the 27 March 2006 declaration was improper.

On 24 July 2006, applicant filed the present response including an executed declaration.

DISCUSSION

The declaration filed 24 July 2006 is improper. Specifically, the declaration fails to list all of the inventors as required by 37 CFR 1.497(a)(3). See also MPEP 201.03 (stating, "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.") Furthermore, applicant is advised that a proper declaration has not been submitted for any of the inventors. The declaration filed 27 December 2005 is improper because it does not accurately identify the inventive entity, and the declaration filed 27 March 2006 is unacceptable for the reasons set forth in the communication mailed 26 June 2006. Accordingly, a proper declaration newly executed by all of the inventors must be submitted.

CONCLUSION

Because the 24 July 2006 response appears to be a bona fide attempt to reply to the communication mailed 26 June 2006, applicant is given a time limit of ONE (1) MONTH from the mail date of this communication in which to file a proper declaration. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are NOT AVAILABLE under 37 CFR 1.136(a).

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



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20 SEP 2006

#13

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In re Application of SAITO et al	:	
U.S. Application No.: 10/537,528	:	
PCT Application No.: PCT/JP03/10278	:	
Int. Filing Date: 13 August 2003	:	COMMUNICATION
Priority Date Claimed: 11 December 2002	:	
Attorney Docket No.: NAKAI-005US	:	
For: CEMENT KILN CHLORINE/SULFUR	:	
BYPASS SYSTEM	:	

This is in response to applicant's "Reply to Office Communication of June 26, 2006" filed 22 August 2006.

BACKGROUND

On 13 August 2003, applicant filed international application PCT/JP03/10278, which claimed priority of an earlier Japan application filed 11 December 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 24 June 2004. The thirty-month period for paying the basic national fee in the United States expired on 13 June 2005 (11 June 2005 was a Saturday).

On 13 June 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 30 November 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 December 2005, applicant filed an executed declaration.

On 15 March 2006, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which identified a discrepancy with respect to the first inventor's name.

On 27 March 2006, applicant filed a corrected declaration.

On 26 June 2006, this Office mailed a communication which stated that the 27 March 2006 declaration was improper.

On 24 July 2006, applicant filed an executed declaration.

On 25 July 2006, this Office mailed a communication which stated that the 24 July 2006 declaration was improper.

On 22 August 2006, applicant filed the present response, including an executed declaration.

DISCUSSION

The declaration filed 22 August 2006 is in compliance with 37 CFR 1.497.

CONCLUSION

The application has an International Filing Date under 35 U.S.C. 363 of 13 August 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 22 August 2006.

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



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COPY MAILED

AUG 07 2007

In re Application of :
Tahan, A Christian :
Application No. 10/537,532 :
Filed: June 3, 2005 :
Attorney Docket No. GQUANTA-101 :

OFFICE OF PETITIONS
ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 2, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within **TWO (2) MONTHS** from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 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 final Office action mailed September 8, 2006. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on December 9, 2006. A Notice of Abandonment was mailed June 7, 2007.

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

- (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 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.

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.²

¹ In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

² See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks item(s) (1). The Amendment submitted to the Examiner on April 2, 2007, failed to place the above-identified application in prima facie condition for allowance. A proper reply to a final rejection under 37 CFR 1.113 may be: (1) an amendment, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee); or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. Petitioner must submit one of the above documents in order to revive the above-identified application.

The Advisory Action issued by the Examiner is enclosed.

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 Window located at:

 U.S. Patent and Trademark Office
 Customer Service Window 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) 272-3206.


Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Advisory Action



UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT K. TENDLER
65 ATLANTIC AVENUE
BOSTON, MA 02110

COPY MAILED

MAY 14 2008

In re Application of : **OFFICE OF PETITIONS**
Tahan, A Christian :
Application No. 10/537,532 : **DECISION ON PETITION**
Filed: June 3, 2005 :
Attorney Docket No. GQUANTA-101 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 20, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

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

This matter is being referred to Technology Center 3663 for further examination on the merits.


Liana Walsh
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Robert K Tendler
65 Atlantic Avenue
Boston MA 02110

MAILED

JUN 07 2010

In re Application of
Tahan
Application No. 10/537,532
Filed: June 3, 2005
Attorney Docket No. Gquanta-101

OFFICE OF PETITIONS

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 5, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a reply to a non-final Office action mailed July 28, 2008. The Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on October 29, 2008. A Notice of Abandonment was mailed on April 2, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment (2) the petition fee of \$810.00, and (3) a statement of unintentional delay.

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

This application is being referred to Technology Center AU 3663 for appropriate action by the Examiner in the normal course of business on the reply received

Charlema Grant
Petitions Attorney
Office of Petitions



23 MAY 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MORRISON & FOERSTER LLP
425 Market Street
San Francisco, CA 94105-2482

In re Application of :
MCADAMS, Eric, Thomas :
Application No.: 10/537,535 :
PCT No.: PCT/IB03/06339 :
Int. Filing Date: 05 December 2003 :
Priority Date: 05 December 2002 :
Attorney's Docket No.: 960002 :
For: WOUND MAPPING SYSTEM :

DECISION

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

BACKGROUND

On 05 December 2003, applicants filed international application PCT/IB03/06339 claiming priority to a British patent application filed 05 December 2002.

On 03 June 2005, applicants filed papers to enter the national stage of PCT/IB03/06339 using docket number 960002. However, applicant did not submit any fees or provide authorization to charge the basic national fee on the transmittal letter accompanying these documents. This application was given U.S. application number 10/537,534.

On 06 June 2005, counsel filed a duplicate national stage application for PCT/IB03/06339 using attorney docket number 960000000002. The transmittal letter included authorization to charge the basic national fee to Deposit Account No. 03-1952. This application was given U.S. application number 10/537,793.

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/IB03/06339. 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/IB03/06339.

Applicants are advised that U.S. application No. 10/537,793 is no longer a valid U.S. National stage application. Applicants must use only U.S. application No. **10/537,535** for all correspondence to the national stage application of PCT/IB03/06339. The attorney docket number is 960002.

The appropriate fees for entering the national stage have been charged to Deposit Account No. 03-1952 as authorized.

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



BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314

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AUG 08 2006

OFFICE OF PETITIONS

Applicant: Thiers et al.
Appl. No.: 10/537,539
International Filing Date: December 18, 2003
Title: FLOOR PANEL, ITS LAYING AND MANUFACTURING METHODS
Attorney Docket No.: THIE3020/JEK
Pub. No.: US 2006/0032168 A1
Pub. Date: February 16, 2006

This is a decision on the paper requesting a corrected publication under 37 CFR 1.221(b) received on May 3, 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 on the front page of the publication as the second inventor's name "Lode Hubert Lieven De Boe" is misspelled as "Lode Hubert Lieven Moorsledge."

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 May 3, 2006, was not timely filed under 37 CFR 1.221(b).

The error noted by requestor wherein the inventor's name "Lode Hubert Lieven De Boe" is misspelled as "Lode Hubert Lieven Moorsledge" is an Office error but the mistake is not a material error under 37 CFR 1.221(b). The mistake is a typographical, which does not affect the understanding of the application. The mistake does not affect the public's ability to appreciate

¹Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, *Off. Gaz. Pat. Office Notices* 63, 75 (Oct. 10, 2000) (final rule).

the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The applicant is advised that a “request for republication of an application previously published” may be filed under 37 CFR 1.221 (a). Such a request for republication “must include a copy of the application compliance with the Office’s electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i).” If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PG PUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

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



Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy



UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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NOV 27 2007

OFFICE OF PETITIONS

In re Application of :
Sifen Luo :
Application No. 10/537,574 : **ON PETITION**
Filed: June 6, 2005 :
Attorney Docket No. US02 0509 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 6, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed June 7, 2007, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on September 8, 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 the issue fee; (2) the petition fee of \$1,540; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

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

The application file is being referred to the Office of Patent Publication.


David Bucchi
Petitions Examiner
Office of Petitions



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

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MAY 27 2008

In re Application of 10/537,601 :
Application No. 10/537,601 : Decision on Petition
Filing Date: June 3, 2005 :
Attorney Docket No. US02 0485 US :

This is a decision on the petition under 37 CFR 1.137(b), filed January 16, 2008, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowability mailed August 23, 2007, which set a period for reply of three (3) months. The above-identified application became abandoned on November 24, 2007. A Notice of Abandonment issued mailed on December 25, 2007.

The instant petition requests revival of the application.

The petition fee of \$1,540 has been charged to petitioner's deposit account. Petitioner has submitted a reply to the Notice of Allowability in the form of corrected drawings. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

The Office of Data Management 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



Barbara A. Shimei
Director, Patent & Licensing
Bayer HealthCare, LLC – Pharmaceuticals
555 White Plains Road, Third Floor
Tarrytown, NY 10591

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OFFICE OF PETITIONS

In re Application of :
Stefan Golz et al. :
Application No. 10/537,614 : **ON PETITION**
Filed: February 6, 2006 :
Attorney Docket No. Le A 36 493 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 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 final Office action mailed, October 3, 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 4, 2008. A Notice of Abandonment was mailed on June 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 Notice of Appeal and fee of \$510 (2) the petition fee of \$1540; and (3) a proper statement of unintentional delay. Accordingly, the Notice of Appeal has been accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

This application is being referred to Technology Center AU 1633 for processing of the Notice of Appeal and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.



Carl Friedman
Petitions Examiner
Office of Petitions

cc: Gabriel J. McCool
Edwards Angell Palmer & Dodge, LLP
P.O. Box 55874
Boston, MA 02205



08 AUG 2007

GUY McCLUNG
#114
5315-B F.M.1960 ROAD WEST
HOUSTON, TX 77069-4410

In re Application of KRIJNEN et al	:	
U.S. Application No.: 10/537,638	:	
PCT Application No.: PCT/GB2004/003431	:	DECISION
Int. Filing Date: 09 August 2004	:	
Priority Date Claimed: 13 December 2003	:	
Attorney Docket No.: DQ 015 PCT/US	:	
For: APPARATUS AND METHOD FOR	:	
FACILITATING HANDLING PIPE	:	

This is in response to applicant's "Letter" filed 20 March 2007, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 09 August 2004, applicant filed international application PCT/GB2004/003431, which claimed priority of an earlier United States application filed 13 December 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 30 June 2005. the thirty-month period for paying the basic national fee in the United States expired on 12 June 2006.

On 06 June 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 09 February 2006, 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 March 2006, applicant purportedly filed an executed declaration via facsimile.

On 20 March 2007, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

A review of the application file reveals that the declaration purportedly filed on 09 March 2006 is not present.

37 CFR 1.8(b) states:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

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

With regard to item (2) above, a copy of the previously transmitted declaration has been provided.

With regard to item (3) above, a statement which attests on a personal knowledge basis that the declaration was transmitted by facsimile on 09 March 2006 has not been provided.

CONCLUSION

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

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

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

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

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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



24 OCT 2007

GUY McCLUNG
#114
5315-B F.M.1960 ROAD WEST
HOUSTON, TX 77069-4410

In re Application of KRIJNEN et al	:	
U.S. Application No.: 10/537,638	:	
PCT Application No.: PCT/GB2004/003431	:	DECISION
Int. Filing Date: 09 August 2004	:	
Priority Date Claimed: 13 December 2003	:	
Attorney Docket No.: DQ 015 PCT/US	:	
For: APPARATUS AND METHOD FOR	:	
FACILITATING HANDLING PIPE	:	

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

BACKGROUND

On 09 August 2004, applicant filed international application PCT/GB2004/003431, which claimed priority of an earlier United States application filed 13 December 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 30 June 2005. the thirty-month period for paying the basic national fee in the United States expired on 12 June 2006.

On 06 June 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 09 February 2006, 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 March 2006, applicant purportedly filed an executed declaration via facsimile.

On 20 March 2007, applicant filed a petition under 37 CFR 1.181.

On 08 August 2007, this Office mailed a decision dismissing the 20 March 2007 petition.

On 20 August 2007, applicant filed the present renewed petition under 37 CFR 1.181.

DISCUSSION

A review of the application file reveals that the declaration purportedly filed on 09 March 2006 is not present.

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.

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

With regard to item (3) above, a statement which attests on a personal knowledge basis that the declaration was transmitted by facsimile on 09 March 2006 has been provided.

CONCLUSION

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

The application is being forwarded to the DO/EO/US for preparation and mailing of a Notification of Defective Response (Form PCT/DO/EO/916), which should indicate that the declaration is improper.¹


Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303

Facsimile: 571-273-0459

¹ The declaration consists of a single page 1 and two of page 2. It is not acceptable to combine pages from different documents into a single declaration. Applicant is required to submit either: (1) a single complete declaration which is presented to and executed by all of the inventors or (2) multiple complete declarations, wherein each inventor executes at least one of the multiple complete declarations.



29 NOV 2006

HAMRE, SCHUMANN, MUELLER &
LARSON, P.C.
P.O. BOX 2902
MINNEAPOLIS, MN 55402-0902

In re Application of	:	
NAKAMURA, Kazuhiro et al.	:	
Application No. 10/537,640	:	DECISION
PCT No.: PCT/JP03/15599	:	
Int. Filing Date: 05 December 2003	:	ON PETITION UNDER
Priority Date: 06 December 2002	:	
Attorney Docket No.: 13425.0070USWO	:	37 CFR 1.8
For: COVER BODY MOUNTING	:	
STRUCTURE OF RESIN CONTAINER	:	

This is a decision on applicant's "Petition For Withdrawal of Holding of Abandonment," filed on 08 September 2006.

BACKGROUND

On 05 December 2003, applicants filed international application no. PCT/JP03/15599, claiming a priority date of 06 December 2002. A copy of the international application was transmitted to the Office by the International Bureau on 24 June 2006. The deadline for payment of the basic national fee in the United States was 06 June 2005.

On 06 June 2005, applicants submitted a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee.

On 06 October 2005, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that oath or declaration and the surcharge for late filing of the oath or declaration were required.

On 09 August 2006, the Office mailed a Notification of Abandonment (Form PCT/DO/EO/909), indicating that the application went abandoned for failure to timely reply to the Notification of Missing Requirements.

On 08 September 2006, applicants filed the instant petition indicating that applicants had timely responded to the Notification of Missing Requirements via facsimile on 02 December 2005, enclosing a copy of the 02 December 2005 response.

DISCUSSION

Applicants claim to have responded to the Notification of Missing Requirements on 02 December 2005, but the facsimile transmission is not present in the file. However, 37 CFR 1.8(b) states, in part:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of correspondence, or after the application is held to be abandoned, or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Items (1), (2) and (3) have been satisfied. Applicant filed the petition promptly after the mailing of the Notification of Abandonment. Applicant supplied a copy of the declaration and the cover letter with the certificate of facsimile transmission. Applicant has provided a statement regarding the transmission of the declaration based on personal knowledge, supported by the transmission receipt from the Office and the firm's facsimile confirmation.

The declaration has a receipt date of 08 September 2006 and is considered timely as of 02 December 2005.

CONCLUSION

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

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

This application is being forwarded to the National Stage Processing Branch of the Division of PCT Operations for further processing consistent with this decision. The application has a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 08 September 2006.



Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : April 2, 2008

Patent No. : 7,220,658
Inventor(s) : Benjamin A. Haskell et al.
Issued : May 22, 2007
Title : GROWTH OF REDUCED DISLOCATION DENSITY NON-POLAR GALLIUM NITRIDE BY
HYDRIDE VAPOR PHASE EPITAXY
Docket No. : G&C 3079.93-US-WO

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

- A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
- B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
- C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.

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

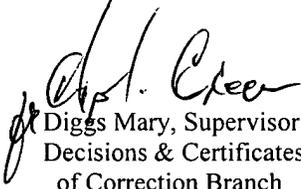
By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

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

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.


Diggs Mary, Supervisor
Decisions & Certificates
of Correction Branch

(703) 308-9390 or (703) 308-9380 ext. 123

Gates & Cooper, LLP
George H. Hates
6701 Center Drive West,
Ste 1050
Los Angeles, CA 90045A

CBN/arg



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

GATES & COOPER LLP
HOWARD HUGHES CENTER
6701 CENTER DRIVE WEST, SUITE 1050
LOS ANGELES CA 90045

COPY MAILED

DEC 05 2008

OFFICE OF PETITIONS

In re Patent No. 7,220,658 :
Issue Date: May 22, 2007 :
Application No. 10/537,644 :
Filed: June 6, 2005 :
Attorney Docket No. 30794.93USWO :

ON PETITION

This is a decision on the petition filed April 23, 2008, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to 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
Petitions Examiner
Office of Petitions

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



02 OCT 2006

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

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA PA 19103

In re Application of	:	
BLACHER, Guillaume	:	
Application No.: 10/537,650	:	DECISION ON
PCT No.: PCT/IB03/05680	:	
Int. Filing Date: 05 December 2003	:	PETITION UNDER
Priority Date: 06 December 2002	:	
Attorney Docket No.: SDS-0119	:	37 CFR 1.47(b)
For: FINANCIAL PRODUCT PRICING SYSTEM	:	

This is a decision on applicant's "Petition In Support of Filing On Behalf of Non-Signing Inventors (37 CFR §1.47(b))," filed in the United States Patent and Trademark Office (USPTO) on 18 April 2006.

BACKGROUND

On 05 December 2003, applicant filed international application PCT/IB03/05680, claiming a priority date of 06 December 2002. A copy of the international application was transmitted to the Office on 24 June 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 06 June 2005.

On 06 June 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.

On 19 September 2005, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an English translation, an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late submission of the search fee, examination fee or oath or declaration were required.

On 18 April 2006, applicant submitted a petition under 37 CFR 1.47(b) accompanied by the fee for a five month extension of time.

DISCUSSION

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

Items (1), (3), (4) and (6) have been met. (1) The balance of the \$200 petition fee will be charged to the deposit account no. 23-3050, as authorized. (3) Applicant states the last known mailing address of Guillaume Blacher as 28 Gaskarth Road; Londres SW12 9NL; United Kingdom. (4) The declaration complies with 37 CFR 1.47(b). (6) Applicant has demonstrated that irreparable harm will result if the application is not permitted to proceed.

Item (2) has not been satisfied. Applicant claims that Mr. Blacher has refused to execute the declaration, but have not provided proof that Mr. Blacher was presented with a complete copy of the application papers and has refused to sign. While the letter from Valerie A. Chicchi indicates that it included a copy of the application with the declaration, the petition is not accompanied by a firsthand statement of the facts indicating that this was the letter mailed with the enclosures. Additionally, if the 22 November 2005 email is acknowledging receipt of the October papers, it would be helpful to note it in a statement of facts. If the 22 November 2005 email is not acknowledging receipt then other documentary evidence of receipt should be provided, such as tracking information for the package.

Item (5) has not been met. Applicant has not provided sufficient evidence of proprietary interest in the application. Applicant has provided an employment agreement, but has not provided a statement of facts by a person having firsthand knowledge that the invention was made during the employment and within the scope of the employment agreement. MPEP409.03(f).

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

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

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



Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3455
Facsimile: 571-273-0459

10/04/2006 SBASHEIR 00000005 233050 10537650
Sale Ref: 00000005 DA#: 233050 10537650
01 FC:1463 70.00 DA 130.00 OP

Adjustment date: 10/04/2006 SBASHEIR
04/24/2006 LLANDGRA 00000030 10537650
04 FC:1464 -130.00 OP

22 JUN 2007



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United States Patent and Trademark Office
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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA PA 19103

In re Application of	:	
BLACHER, Guillaume	:	
Application No.: 10/537,650	:	DECISION ON
PCT No.: PCT/IB03/05680	:	
Int. Filing Date: 05 December 2003	:	PETITION UNDER
Priority Date: 06 December 2002	:	
Attorney Docket No.: SDS-0119	:	37 CFR 1.47(b)
For: FINANCIAL PRODUCT PRICING	:	
SYSTEM	:	

This is a decision on applicant's "Renewed Petition In Support of Filing On Behalf of Non-Signing Inventors (37 CFR §1.47(b))," filed in the United States Patent and Trademark Office (USPTO) on 04 December 2006.

BACKGROUND

On 02 October 2006, the Office mailed Decision On Petition Under 37 CFR 1.47(b), dismissing applicants' petition without prejudice.

On 04 December 2006, applicants filed this renewed petition. 02 December 2006 was a Saturday.

DISCUSSION

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

Items (1), (3), (4) and (6) have been met. (1) The balance of the \$200 petition fee will be charged to the deposit account no. 23-3050, as authorized. (3) Applicant states the last known mailing address of Guillaume Blacher as 28 Gaskarth Road; Londres SW12 9NL; United Kingdom. (4) The declaration complies with 37 CFR 1.47(b). (6) Applicant has demonstrated that irreparable harm will result if the application is not permitted to proceed.

Item (2) has been satisfied. Valerie A. Chicchi indicates that she sealed the envelope sent to the inventor and that it included a copy of the application with the declaration. Further, applicants have supplied a copy of the UPS tracking information for the package indicating that it was signed for by "Blachet," not "Blacher". Notwithstanding the discrepancy in the spelling of the inventor's name, this is

sufficient evidence of presentation of a complete copy of the application papers to the non-signing inventor.

Item (5) has not been met. Applicant has not provided sufficient evidence of proprietary interest in the application. Previously, applicant provided an employment agreement signed by Guillaume Blacher as the basis of Reech Capital PLC's proprietary interest in this application, but did not a statement of facts by a person having firsthand knowledge that the invention was made during the employment and within the scope of the employment agreement. MPEP409.03(f). Applicant has still not done so. The declaration of Howard Wallis does not demonstrate firsthand knowledge that Mr. Blacher invented the invention described in the above captioned application during his employment and within the scope of his employment.

Further, applicant has now provided a "Deed of Warranty and Indemnity" purported to show that Mr. Blacher acknowledged Reech Capital PLC's ownership of this application. First, this document details a process. It is not an assignment. It is contemplating future action and lists "completion" as a defined term. The agreement indicates that it is still conditional.

Second, this document does not list this application nor does it list this application's priority application. It lists "ADeP" in "Schedule 6 - Part 3." The declaration of Howard Wallis indicates that he was informed that this application was referred to within Reech as "ADeP". Mr. Wallis' declaration does not demonstrate firsthand knowledge.

Third, the international application was not filed until seven months after this agreement was written.

Fourth, the agreement only purports to sell the intellectual property rights owned by a "Group Member," which is defined as "a company which is a member of the Group." The international application lists Reech Capital PLC as the applicant for all states other than the United States, but lists Mr. Blacher as applicant for the United States. The Office is only concerned with the intellectual property rights for the United States. Mr. Blacher signed this document listing "AdeP ... applied for," on behalf of Reech. It does not indicate that Reech owned the intellectual property rights for the United States for this application. Additionally, this deed was executed in the United Kingdom, under United Kingdom law. The legal meaning and value of the document and other matters that establish the ownership of this application should be set out in a legal memorandum as discussed in MPEP 409.03(f).

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

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

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

Application No. 10/537,650

-3-

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

A handwritten signature in black ink that reads "Erin P. Thomson". The signature is written in a cursive, flowing style.

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3455
Facsimile: 571-273-0459

23 NOV 2007



UNITED STATES PATENT AND TRADEMARK OFFICE

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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA PA 19103

In re Application of	:	
BLACHER, Guillaume	:	
Application No.: 10/537,650	:	DECISION ON
PCT No.: PCT/IB03/05680	:	
Int. Filing Date: 05 December 2003	:	PETITION UNDER
Priority Date: 06 December 2002	:	
Attorney Docket No.: SDS-0119	:	37 CFR 1.47(b)
For: FINANCIAL PRODUCT PRICING	:	
SYSTEM	:	

This is a decision on applicant's "Renewed Petition In Support of Filing On Behalf of Non-Signing Inventors (37 CFR §1.47(b))," filed in the United States Patent and Trademark Office (USPTO) on 22 August 2007.

BACKGROUND

On 22 June 2007, the Office mailed Decision On Petition Under 37 CFR 1.47(b), dismissing applicants' petition without prejudice.

On 22 August 2007, applicants filed this renewed petition.

DISCUSSION

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

Items (1), (2), (3), (4) and (6) have been met. Applicant states the last known mailing address of Guillaume Blacher as 28 Gaskarth Road; Londres SW12 9NL; United Kingdom.

Item (5) has now been met. Applicant has provided a declaration from someone with firsthand knowledge that this application was made within the scope of Mr. Blacher's employment, while employed by Reech Capital.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.47(b) 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 Patent Application Processing to continue national stage processing of the application, including accordation of a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of **18 April 2006**.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

23 NOV 2007



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

Guillaume Blacher
28 Gaskarth Road
Londres SW12 9NL
United Kingdom

In re Application of
BLACHER, Guillaume
Application No.: 10/537,650
PCT No.: PCT/IB03/05680
Int. Filing Date: 05 December 2003
Priority Date: 06 December 2002
Attorney Docket No.: SDS-0119
For: FINANCIAL PRODUCT PRICING SYSTEM

Dear Mr. Blacher

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 118. Should a patent be granted, you will be designated as an inventor.

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

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA PA 19103



Haynes and Boone, LLP
901 Main Street
Suite 3100
Dallas, TX 75202-3789

COPY MAILED

AUG 20 2007

In re Application of :
Frank De Lucia et al. :
Application No. 10/537,653 :
Filed: November 8, 2005 :
Attorney Docket No. 25791.157.03 :

OFFICE OF PETITIONS
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 24, 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.

Also customer number 27683 cannot be used to withdraw the attorneys of record. Customer number 62519 must be used to withdraw the attorneys of record.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **King & Spalding, L.L.P.**
Todd Mattingly
1100 Louisiana Street, Suite 4000
Houston, TX 77002



JACOBSON HOLMAN PLLC
400 Seventh Street, N.W.
Washington, D.C. 20004-2201

14 SEP 2006

In re Application of :
DIVIES *et al* :
U.S. Application No.: 10/537,665 :
PCT No.: PCT/FR03/50155 :
Int. Filing Date: 05 December 2003 :
Priority Date: 06 December 2002 :
Attorney Docket No.: P70644US0 :
For: METHOD FOR CONTROLLING :
RETENTION OF AN ORGANIC :
COMPOUND OR OF A PLURALITY . . . :

**DECISION ON
PAPERS FILED
UNDER 37 CFR 1.42**

This is a decision on the declaration filed on 31 May 2006 which has been treated as a petition under 37 CFR 1.42. No fee is required.

BACKGROUND

On 31 March 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath/declaration in compliance with 37 CFR 1.497(a) and (b) must be provided. Applicants were given two months to respond.

On 31 May 2006, applicants submitted a declaration signed by four of the five named inventors and the executor (legal representative) of the deceased inventor.

DISCUSSION

Applicants filed a declaration signed by four of the five named inventors and the executor of a deceased inventor. 37 CFR 1.42 *When the Inventor is Dead*, states, in part:

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

The citizenship, residence and address of all inventors are listed on the declaration pursuant to 37 CFR 1.497(a)(3) and 37 CFR 1.63(c)(1). Moreover, the citizenship, residence and address of the executor (legal representative) of the deceased inventor are recorded on the declaration pursuant to 37 CFR 1.497(b)(2).

CONCLUSION

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

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 05 December 2003, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 31 May 2006.

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



James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302



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P.O. Box 1450
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Orum & Roth LLC
53 W Jackson Boulevard
Chicago IL 60604-3606

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OCT 10 2006

OFFICE OF PETITIONS

In re Application of
BAUDER
Application No. 10/537,683
Filed: April 07, 2006
Attorney Docket No. 14183

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:
:
:
:
:
:

**DECISION ON PETITION
TO WITHDRAW
FROM RECORD**

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed July 16, 2006.

The request is **APPROVED**.

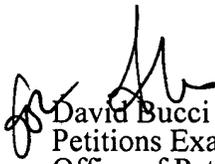
A review of the file record indicates that Catherine L. Gemrich: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Catherine L. Gemrich has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

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

There is no outstanding Office action that requires a reply from the applicant.

The correspondence address remains unchanged.

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


David Bucci
Petitions Examiner
Office of Petitions



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

COPY MAILED

AUG 26 2009

OFFICE OF PETITIONS

In re Application of :
Sendelbach et al. :
Application No. 10/537,709 : LETTER REGARDING
Filed: February 6, 2006 : PATENT TERM ADJUSTMENT
Attorney Docket No. 076326-0305 :

This is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT" filed March 23, 2009. Pursuant to applicants' duty of good faith and candor to the Office, applicants request that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the patent term adjustment is GRANTED.

The Office has updated the PALM and PAIR screens to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is one hundred twenty-four (124) days. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

On December 31, 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 is 155 days. On March 23, 2009, applicant submitted the instant comment. Applicants state that the USPTO calculation of the patent term adjustment disagrees with the applicants' calculation of the same. Applicants do not state a basis for the request for review of the patent term adjustment.

The record reveals that applicants should have been assessed a delay under 37 CFR 1.704(b)¹ for filing a reply in the form of a Declaration and Power of Attorney on February 6, 2006, in excess of the three month period from the October 6, 2005, mailing date of the Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US). Thus, applicants failed to engage in reasonable efforts to conclude processing or examination of this application. Accordingly, the period of adjustment set forth in § 1.703 should have been reduced under 37 CFR 1.704(b) by 31 days, the number of days in the period beginning on the day after the date that is three months after the date of mailing of the Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US), January 6, 2006, and ending on the date the Declaration and Power of Attorney was filed, February 6, 2006. A period of reduction of 31 days will be entered.

In view thereof, the determination of the patent term adjustment at the time of the mailing of the notice of allowance is 124 days (187 days of Office delay - 63 days of applicant delay).

As this letter was submitted as an advisement to the Office of an error in the calculation of the Patent Term Adjustment, the Office will not assess the \$200.00 application fee under 37 1.18(e). The Office thanks applicants for applicants' good

¹ 37 CFR 1.704(b) states:

With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

faith and candor in bringing this to the attention of the Office.

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).

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

Telephone inquiries specific to this decision should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of updated PALM screen

PALM INTRANET

PTA Calculations for Application: 10/537709

Application Filing Date:	02/06/2006	PTO Delay (PTO):	187
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	32
Post-Issue Petitions:	0	Total PTA (days):	124
PTO Delay Adjustment:	-31		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
69	08/25/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		31	
62	12/31/2008	MAIL NOTICE OF ALLOWANCE			
61	12/23/2008	ISSUE REVISION COMPLETED			
60	12/23/2008	DOCUMENT VERIFICATION			
59	12/23/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
58	12/22/2008	NOTICE OF ALLOWABILITY			
57	12/16/2008	DATE FORWARDED TO EXAMINER			
56	12/09/2008	RESPONSE AFTER NON-FINAL ACTION			
55	11/04/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
54	10/28/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
53	09/09/2008	MAIL NON-FINAL REJECTION			
52	09/08/2008	NON-FINAL REJECTION			
51	08/21/2008	DATE FORWARDED TO EXAMINER			
50	08/11/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
49	08/21/2008	DATE FORWARDED TO EXAMINER			
48	08/11/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		32	39
47	08/21/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
46	08/11/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
45	08/11/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
44	07/29/2008	MAIL ADVISORY ACTION (PTOL - 303)			
		EXAMINER INTERVIEW SUMMARY RECORD			

43	07/22/2008	(PTOL - 413)			
42	07/23/2008	ADVISORY ACTION (PTOL-303)			
41	07/18/2008	DATE FORWARDED TO EXAMINER			
40	07/10/2008	AMENDMENT AFTER FINAL REJECTION			
39	04/10/2008	MAIL FINAL REJECTION (PTOL - 326)			
38	04/07/2008	FINAL REJECTION			
37	01/07/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
36	01/07/2008	REFERENCE CAPTURE ON IDS			
35	01/07/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
34	02/14/2008	DATE FORWARDED TO EXAMINER			
33	01/10/2008	RESPONSE AFTER NON-FINAL ACTION			
32	01/07/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	10/17/2007	WITHDRAW FLAGGED FOR 5/25			
30	10/16/2007	FLAGGED FOR 5/25			
29	10/10/2007	MAIL NON-FINAL REJECTION	187		-1
28	10/04/2007	NON-FINAL REJECTION			
27	02/16/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
22	04/11/2007	CASE DOCKETED TO EXAMINER IN GAU			
21	02/16/2007	REFERENCE CAPTURE ON IDS			
20.7	02/16/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	02/16/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	12/01/2006	CASE DOCKETED TO EXAMINER IN GAU			
18	05/18/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	02/06/2006	REFERENCE CAPTURE ON IDS			
13	05/18/2006	CASE DOCKETED TO EXAMINER IN GAU			
12	04/02/2006	CLEARED BY OIPE CSR			
11	04/02/2006	CLEARED BY OIPE CSR			
10	04/02/2006	CLEARED BY OIPE CSR			
9	04/02/2006	CLEARED BY OIPE CSR			
8	02/06/2006	371 COMPLETION DATE			
7	03/27/2006	APPLICATION DISPATCHED FROM OIPE			
6	03/27/2006	NOTICE OF DO/EO ACCEPTANCE MAILED			

5	02/06/2006	ADDITIONAL APPLICATION FILING FEES			
4	02/06/2006	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

Search Another: Application#

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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

Mail Date: 04/21/2010

Applicant : Hans-Peter Sendelbach : DECISION ON REQUEST FOR
Patent Number : 7594677 : RECALCULATION of PATENT
Issue Date : 09/29/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/537,709 : OF WYETH AND NOTICE OF INTENT TO
Filed : 02/06/2006 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **260** 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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LADAS & PARRY LLP
26 WEST 61ST STREET
NEW YORK NY 10023

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DEC 16 2008

In re Application of :
Xu et al. :
Application No. 10/537,711 : DECISION ON PETITION
Filed: 11/28/2005 :
Attorney Docket No. U 015799-6 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 22, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed November 16, 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 December 17, 2007. A Notice of Abandonment was mailed on August 11, 2008.

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

This matter is being forwarded to Technology Center AU 1624.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



13 JUN 2006

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WINSTON & STRAWN LLP
1700 K STREET, N.W.
WASHINGTON DC 20006

In re Application of SØGAARD-ANDERSEN
Application No.: 10/537,713
PCT No.: PCT/IB03/02889
Int. Filing: 21 July 2003
Priority Date: 25 July 2002
Attorney Docket No.: 81421-4045
For: IMPLANT

:
:
DECISION ON
:
PETITION TO REVIVE
:
:
UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 03 June 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing this application from the 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 \$150 has been provided. The required petition fee of \$750 was 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. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 03 June 2005.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 14, 2009

TO SPE OF : ART UNIT 3738

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/537713 Patent No.: 7413569

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Magdalene Talley

Certificates of Correction Branch
571-272-0423 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes **do not** apply.

Denied

State the reasons for denial below.

Comments: APPROVED

/Suzette Gherbi/



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JAMES D. LILES, REG. NO. 28,320
PORTER, WRIGHT, MORRIS & ARTHUR LLP
250 EAST FIFTH STREET, SUITE 2200
CINCINNATI, OH 45202

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SEP 19 2008

In re Application of
Roger A. Adelman
Application No. 10/537,726
Filed: June 6, 2005
Attorney Docket No. 1377-001

:
:
:
:
:
:

ON PETITION

This is a decision in response to the petition, filed June 6, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

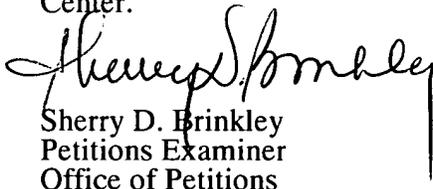
The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed March 8, 2007. A Notice of Abandonment was mailed on October 1, 2007. On June 6, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of \$770; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2612 for appropriate action by the Examiner in the normal course of business on the reply received June 6, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions



20 DEC 2005

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

In re Application of MORALES-BALADO et al	:	
U.S. Application No.: 10/537,738	:	
PCT Application No.: PCT/MX02/00105	:	DECISION
Int. Filing Date: 08 November 2002	:	
Priority Date Claimed: (none)	:	
Attorney Docket No.: MORALES1	:	
For: PREPARATION OF IMPACT-RESISTANT	:	
THERMOPLASTIC MATERIALS. . .	:	

This is in response to applicant's "Petition to Revive Under 37 CFR 1.137(b)" filed 08 June 2005.

BACKGROUND

On 08 November 2002, applicant filed international application PCT/MX02/00105. A copy of the international application was communicated to the USPTO from the International Bureau on 21 May 2004. The thirty-month period for paying the basic national fee in the United States expired on 08 May 2005.

International application PCT/MX02/00105 became abandoned as to the United States for failure to timely pay the basic national fee.

On 08 June 2005, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

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

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

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

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

CONCLUSION

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

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed.



Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

Telephone: 571-272-3303

Facsimile: 571-273-0459

28 SEP 2006

#9



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

In re Application of	:	DECISION ON
SHUSTER et al	:	
PCT No.: PCT/US03/038685	:	
Application No: 10/537,741	:	
Int. Filing Date: 04 December 2003	:	PETITION UNDER
Priority Date: 04 December 2002	:	
Attorney's Docket No.: 14848-010US1	:	
For: Methods and Materials for Modulating TRPM2	:	37 CFR 1.47(a)

This is in response to the "PETITION UNDER 37 CFR 1.47(a)" filed on 24 April 2006. The petition fee of \$200.00 has been paid in full because \$70.00 has been charged to petitioner's Deposit Account No. 06-1050, which is the amount petitioner was deficient.

BACKGROUND

On 04 December 2003, petitioner filed international application PCT/US03/038685, which claimed priority to an earlier application filed 04 December 2002.

On 03 June 2005, petitioner filed in the United States Patent & Trademark Office a transmittal letter for entry into the national stage in the U.S. under 35 U.S.C. 371, which was accompanied by, inter alia, the U.S. basic national fee. No executed declaration or oath accompanied the above papers.

On 24 October 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 the date of mailing or 32 months from the priority date for the application, whichever is later in order to avoid abandonment of the national stage application.

On 24 April 2006, petitioner filed, *inter alia*, the present petition in support of filing an executed Declaration without the signatures of Ulf N.G. Arvidsson.

DISCUSSION

PETITION UNDER 37 CFR 1.47(a):

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

Furthermore, section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.) **Proof of Unavailability or Refusal**, the relevant sections states, in part:

INVENTOR CANNOT BE REACHED:

Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under **37 CFR 1.47**, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.

The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under **37 CFR 1.47**.

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

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

Petitioner has satisfied requirements (1), (2), (3) and (4) under 37 CFR 1.47(a).

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

Regarding requirement (2) the statements of Angela Parsons are sufficient to show diligent effort to locate non-signing inventor Ulf Arvidsson because an internet search was conducted but was unsuccessful in terms of discovering any new relevant address information about the non-signing inventor.

Accordingly, the actions enumerated by submitted statements are sufficient to establish that the non-signing inventor could not be found or reached after diligent effort.

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

Gardstigen 4
Lidingo, Sweden

Regarding requirement 4, petitioner has provided an executed declaration signed by Smauel J. Shuster, Laura S. Stone, Hong-Yan Zhang, and Lucy Vulchanova on their behalf and on the behalf of the nonsigning joint inventor Ulf N.G. Arvidsson.

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

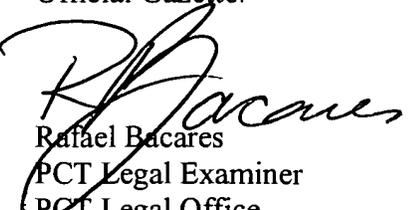
CONCLUSION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The application will be given a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of 24 April 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.


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

28 SEP 2006



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Ulf N.G. Arvidsson
Gardstigen 4
Lidingo, Sweden

In re Application of
SHUSTER et al
PCT No.: PCT/US03/038685
Application No: 10/537,741
Int. Filing Date: 04 December 2003
Priority Date: 04 December 2002
Attorney's Docket No.: 14848-010US1
For: Methods and Materials for Modulating TRPM2

Dear Mr. Arvidsson:

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

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

A handwritten signature in black ink, appearing to read "R. Bacares".

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

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



JOSEPH J. LAKS
THOMSON LICENSING LLC
2 INDEPENDENCE WAY, PATENT OPERATIONS
PO BOX 5312
PRINCETON, NJ 08543

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OFFICE OF PETITIONS

In re Application of
Terry Wayne Lockridge et al
Application No. 10/537,749
Filed: June 6, 2005
Attorney Docket No. PU020489

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ON PETITION

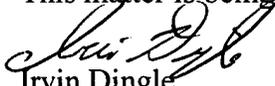
This is a decision on the petition under 37 CFR 1.137(b), filed November 10, 2008, to revive the above-identified application.

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 14, 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 15, 2008.

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

This matter is being referred to Technology Center AU 2423 for further processing.


Irvin Dingle
Petitions Examiner
Office of Petitions



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JOSEPH J. LAKS
THOMSON LICENSING LLC
PATENT OPERATIONS
P.O. BOX 5312
PRINCETON, NJ 08543-5312

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OFFICE OF PETITIONS

In re Application of :
John Watler Englert :
Application No. 10/537,751 : **ON PETITION**
Filed: June 6, 2005 :
Attorney Docket No. PU020491 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 6, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 15, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Three-month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is May 16, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of \$790 and the submission required by 37 CFR 1.114; (2) the petition fee of \$1500; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2622 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.


Irvin Dingle
Petition Examiner
Office of Petitions



01 NOV 2005

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Rike Maria Wedding
3652 Edinburgh Street
Vancouver, British Columbia
V5K 1B7 Canada

In re Application of:	:	
WEDDING, Rike	:	DECISION ON PETITION FOR
U.S. Application No.: 10/537,774	:	REVIVAL OF ABANDONED
PCT No.: PCT/CA2003/001461	:	APPLICATION UNDER
International Filing Date: 25 September 2003	:	37 CFR 1.137(b)
Priority Date: 29 October 2002	:	
Attorney's Docket No.: None	:	
For: A FASTER, PRACTICAL KEYBOARD	:	

The petition for revival under 37 CFR 1.137(b) filed 06 June 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statements, including the express 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" satisfy 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 petition was accompanied by an executed declaration in compliance with 37 CFR 1.497.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 06 June 2005.

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



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

In re Application of:	:	
Nakahara, Norihiko et al	:	
Serial No. 10/537,775	:	
Filed: Jun. 6, 2005	:	DECISION ON PETITION
Docket: 07409.0041-00000	:	UNDER 37 CFR § 1.181
Title:	:	
HOLLOW GOLF CLUB HEAD	:	

This is a decision on the petition to withdraw the holding of abandonment filed on Mar. 11, 2008. The petition is being considered as a petition pursuant to 37 CFR 1.181(a). No fee is required. The petitioner requests a withdrawal of the holding of abandonment.

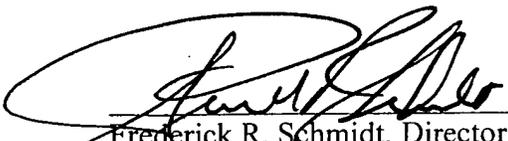
The petition is **GRANTED**.

The present application was held abandoned for failure to timely respond to the Non-Final Rejection mailed on Aug. 13, 2007 which set forth a three-month period for reply. Notice of abandonment was mailed on Feb. 5, 2008.

Petitioner asserts that a timely response to the Non-Final Rejection was received on Feb. 13, 2008. The petitioner has supplied a copy of the amendment as well as a copy of an acknowledgement post-card receipt indicating a receipt date of Feb. 13, 2008. There was a petition of three-month extension of time fee paid according to USPTO Palm system. Furthermore, there was a copy of the response scanned in the IFW file dated Feb. 13, 2008.

As the petitioner has provided convincing evidence that a timely reply to the Non-Final Office action was received on Feb. 13, 2008, there is no abandonment in fact. Any inconvenience or delay caused to applicant is regretted.

In view of the above, the Notice of Abandonment mailed Feb. 25, 2008 is in error and is hereby vacated. The holding of abandonment is withdrawn. This application is being forwarded to the examiner in Art Unit 3711 for appropriate action.



Frederick R. Schmidt, Director
Technology Center 3700



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

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MAY 23 2008

In re Application of :
Hirotaka Yasuda, et al. :
Application No. 10/537,791 : DECISION ON PETITION
Filed: June 6, 2005 :
Attorney Docket No.: F-8557 :

This is a decision on the petition, filed January 25, 2008, under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

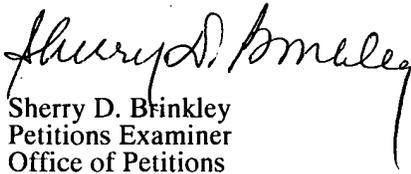
This application was held abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed July 20, 2007. A Notice of Abandonment was mailed January 22, 2008. In response, on January 25, 2008, the present petition was filed.

Petitioner asserts that an election of the invention to be examined was filed in a response received August 16, 2007. To support this assertion, petitioner has submitted a copy of the "Auto-Reply Facsimile Transmission" which acknowledges receipt of the response by the U.S. Patent and Trademark Office (USPTO) on August 16, 2007. A copy of the previously submitted reply accompanies the petition. A review of the application file confirms receipt of the response filed August 16, 2007, as it is present among the papers contained in the application. Accordingly, this application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to Technology Center AU 3611 for appropriate action in the normal course of business on the reply received August 16, 2007.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions



PHILIPS ELECTRONICS NORTH AMERICA
CORPORATION
INTELLECTUAL PROPERTY & STANDARDS
370 W. TRIMBLE ROAD MS 91/MG
SAN JOSE, CA 95131

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MAR 17 2008

OFFICE OF PETITIONS

In re Application of :
Martin S. Wilcox :
Application No. 10/537,856 :
Filed: June 7, 2005 :
Attorney Docket No. GB02 0217 US :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 24, 2007, to revive the above-identified application.

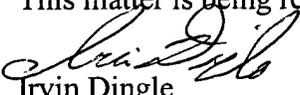
The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 13, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 14, 2007.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

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


Irvin Dingle
Petitions Examiner
Office of Petitions

cc: James Dobrow
US Philips Corporation
P.O. Box 3001
Briarcliff Manor, NY 10510-8001



PHILIPS INTELLECTUAL PROPERTY & STANDARDS
PO BOX 3001
BRIARCLIFF MANOR, NY 10510-8001

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OFFICE OF PETITIONS

In re Application of :
Martin S. Wilcox :
Application No. 10/537,856 : **ON PETITION**
Filed: June 7, 2005 :
Attorney Docket No. GB02 0217 US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 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 April 4, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is July 5, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of \$810 and the submission required by 37 CFR 1.114; (2) the petition fee of \$1620; and (3) a proper statement of unintentional delay.

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 \$130 extension of time submitted with the petition on October 9, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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 the undersigned at (571) 272-3210.

This application is being referred to Technology Center AU 3661 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.



Irvin Dingle
Petition Examiner
Office of Petitions

cc: Dicran Halajian
Thorne & Halajian LLP
111 West Main Street
Bay Shore, NY 11706



**EMPK & SHILOH, LLP
116 JOHN ST.
SUITE 1201
NEW YORK, NY 10038**

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In re Application of :
Assaf SHAPPIR, et al :
Application No. 10/537,857 :
Filed: June 7, 2005 :
Attorney Docket No. ELGP-6715-US :

JAN 17 2008

OFFICE OF PETITIONS
DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 29, 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 Andrew L. Tiajolloff on behalf of all attorneys/agents of record.

All attorneys/agents of record have been withdrawn.

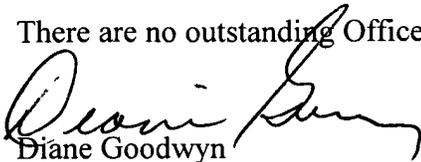
Applicant is reminded that there is no attorney of record at this time.

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 signing inventor at the 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.

There are no outstanding Office actions pending at the present time.



Diane Goodwyn
Petitions Examiner
Office of Petitions

cc:

ASSAF SHAPPIR
HAKASHET ST. 6/34,
KIRYAT ONO, 55401, ISRAEL



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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/537,857	06/07/2005	Assaf Shappir	ELGP-6715-US

CONFIRMATION NO. 7211

POWER OF ATTORNEY NOTICE



43214
EMPK & SHILOH, LLP
116 John St.
Suite 1201
New York, NY 10038

Date Mailed: 01/14/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/29/2007.

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

/dcgoodwyn/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199



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OCT 10 2008

OFFICE OF PETITIONS

In re Application of :
Fertner et al. :
Application No. 10/537,882 : **ON PETITION**
Filed: June 7, 2005 :
Attorney Docket No. AT 020073 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 16, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center 3700 for further processing.


Liana Walsh
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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AUG 01 2008

OFFICE OF PETITIONS

In re Application of :
Benoit Agnus, et. al. :
Application No. 10/537,885 : **ON PETITION**
Filed: June 7, 2005 :
Attorney Docket No. FR 020137 :

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

The application became abandoned for failure to respond to the non-final Office action mailed November 15, 2006.

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.

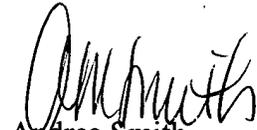
Additionally, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

As authorized, the petition fee of \$1,500 has been charged to petitioner's deposit account.

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 \$1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2618 for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.



Andrea Smith
Petitions Examiner
Office of Petitions



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NXP INTELLECTUAL PROPERTY & LICENSING
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE CA 95131

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MAY 11 2010

OFFICE OF PETITIONS

In re Application of :
Agnus et al. :
Application No. 10/537,885 :
Filed: 06/07/2005 :
Attorney Docket No. FR02 0137 US :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 27, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper response to the nonfinal Office action mailed February 11, 2009, which set a three-month shortened statutory period to reply. The above-identified application became abandoned on May 12, 2009. A Notice of Abandonment was mailed on October 9, 2009.

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

This application is being referred to Technology Center AU 2618 for appropriate action.

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

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



15 AUG 2006

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK NY 10150-5257

In re Application of CLARK et al.	:	DECISION ON
Application No.: 10/537,933	:	
PCT No.: PCT/GB03/05345	:	REQUEST FOR
Int. Filing Date: 08 December 2003	:	
Priority Date: 09 December 2002	:	CORRECTED
Attorney Docket No.: 04607/0203002-USO	:	
For: DATA COMMUNICATION SYSTEM AND METHOD	:	FILING RECEIPT
	:	

This is a decision on applicant's "Request for Corrected Official Filing Receipt" filed in the United States Patent and Trademark Office (USPTO) on 14 August 2006. The request is **GRANTED** for the following reasons.

On 08 December 2003, applicant filed international application No. PCT/GB03/05345, which claimed a priority date of 09 December 2002 and which designated the United States.

On 07 June 2005, within the thirty month period, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee.

On 30 November 2005, a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration executed by the inventors and the \$130 surcharge for filing the oath or declaration after the thirty month period was required.

On 28 June 2006, applicants filed an executed declaration along with a request for the five month extension of time and the surcharge completing the filing requirements for international application entering National Stage in the U.S. under 35 U.S.C. 371. Applicant's request for a five month extension of time is granted.

On 03 August 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903) which incorrectly indicated a date under 35 U.S.C. 371 of 29 June 2006. The USPTO mailed an official filing receipt which indicated a "filing date" of 29 June 2006.

On 14 August 2006, applicants filed a request to correct the filing receipt including a marked-up copy of the official filing receipt indicating a correction of the filing date.

DISCUSSION

On 14 August 2006, applicant filed the request to correct the filing receipt including a copy of the official filing receipt indicating the correction of the filing date from "06/29/2006" to "06/28/2006".

Applicant requests that the declaration be accorded a filing date of 28 June 2006. A review of the Express Mail label #EV835932145US, which accompanied the petition, reveals that it was addressed to the "Mail Stop Missing Parts, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450". The entry in the "Date In" box on the Express Mail Customer Copy indicates "6/28/06". A review of the Customer Copy of Express Mail label #EV835932145US indicates that it was date stamped by USPS "JUN 28 2006" and thus, was accepted on 28 June 2006.

This is sufficient evidence to establish with reasonable certainty that the declaration was deposited with the United States Postal Service as an "Express Mail" Mailing on 28 June 2006. Specifically, the Express Mail label #EV835932145US is the same number that appears on the Transmittal Letter. 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 declaration was deposited on 28 June 2006.

The date in the filing date portion on the filing receipt of a national stage application is the date upon which applicants complete the requirements under 35 U.S.C. 371(c). (See A. FILING DATE AS APPLICANT'S DATE OF INVENTION, MPEP §1895.01, page 1800-153).

A review of the application file indicates that the executed declaration and surcharge for filing the declaration after the thirty month period were filed on 28 June 2006 completing the requirements under 35 U.S.C. 371(c). The United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903) which indicated an incorrect date under 35 U.S.C. 371 of 29 June 2006, which is hereby VACATED.

CONCLUSION

Applicants' request for the issuance of a corrected filing receipt indicating a "Filing or 371(c) Date" of 28 June 2006, filed on 14 August 2006, is GRANTED.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for the preparation and mailing of a new Notification of Acceptance and corrected Filing Receipt in accordance with this decision.



Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

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



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HUSCH BLACKWELL SANDERS LLP
190 Carondelet Plaza
Suite 600
ST. LOUIS, MO 63105

Mail Date: 04/20/2010

Applicant	: Kyung Lak Choi	: DECISION ON REQUEST FOR
Patent Number	: 7571155	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/537,935	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **66** 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

MAILED
JUL 21 2010
OFFICE OF PETITIONS

In re Patent No. 7,673,521 : DECISION ON REQUEST
PULICKEL AJAYAN et al. : FOR
Issue Date: March 9, 2010 : RECONSIDERATION OF
Application No. 10/537,944 : PATENT TERM ADJUSTMENT
Filed: August 7, 2006 : and
Atty Docket No. 047182-0141 : NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on March 25, 2010,¹ which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred fifty-four (854) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by eight hundred fifty-four (854) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred fifty-four (854) days**.

¹ A supplement to the petition under 37 CFR 1.705(d) was filed on April 5, 2010. Both the original petition and the supplement filed on April 5, 2010 were filed within two months of the date the patent issued, and will therefore be treated together as a timely-filed petition.

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



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction.

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,673,521 B2

DATED : March 9, 2010

DRAFT

INVENTOR(S) : PULICKEL AJAYAN 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 494 days.

Delete the phrase "by 494 days" and insert – by 854 days--



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1109 MCKAY DRIVE
SAN JOSE, CA 95131

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OCT 01 2007

**OFFICE OF PETITIONS
ON PETITION**

In re Application of :
Joseph M. Amato :
Application No. 10/537,952 :
Filed: June 8, 2005 :
Attorney Docket No. US02 0574 US :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed November 1, 2006 which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 2, 2006.

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

This matter is being referred to Technology Center AU 2829 for further processing.


Irvin Dingle
Petitions Examiner
Office of Petitions



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OFFICE OF PETITIONS

In re Application of :
Manin et al. : DECISION ON PETITION
Application No. 10/537,957 :
Filed: January 27, 2006 :
Attorney Docket No. 21.1053 :

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR §1.181" filed March 17, 2008.

The above-identified application became abandoned for failure to file a response to the non-final Office action mailed July 23, 2007. The Office action set a three month shortened statutory period for reply, with extensions of time under the provisions of 37 CFR 1.136(a) obtainable. No reply considered received and no extension of time considered obtained, the above-identified application became abandoned effective October 24, 2007. A courtesy Notice of Abandonment was mailed on March 7, 2008.

In response, the instant petition was timely filed. Petitioner maintains that the Amendment in reply to the Office letter mailed July 23, 2007 along with a Request for Continued Examination were filed with the USPTO electronically on December 18, 2007. In support thereof, petitioner submitted copies of the documents and of the Acknowledgement Receipt.

Petitioner's evidence has been considered and found persuasive. Petitioner has submitted persuasive evidence in the form of an acknowledgement receipt, acknowledging receipt in the Office on December 18, 2007 of an amendment, a request for continued examination and an extension of time. Accordingly, it is concluded that a proper response, an amendment, made timely by a

two-month extension of time, was electronically filed on December 18, 2007.

The extension of time for response required to make the response timely, as well as the fee for the RCE, was previously made of record in the application with a date of receipt of December 18, 2007.

Accordingly, the Notice of Abandonment mailed March 7, 2008 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 3672 has been advised of this decision. The application 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 amendment (and request for continued examination) resubmitted on petition filed March 17, 2008.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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

SCHLUMBERGER OILFIELD SERVICES
200 GILLINGHAM LANE
MD 200-9
SUGAR LAND, TX 77478

COPY MAILED
APR 27 2009
OFFICE OF PETITIONS

In re Application of :
Yves MANIN, et al :
Application No. 10/537,957 : **DECISION ON PETITION**
Filed: January 27, 2006 :
Docket No. 21.1053 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 23, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 27, 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 November 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 \$1620; and (3) and the required statement of unintentional delay.

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

This application is being referred to Technology Center AU 3672 for appropriate action by the Examiner in the normal course of business on the reply received March 23, 2009.


Thurman Page
Petitions Examiner
Office of Petitions



**SCHLUMBERGER OILFIELD SERVICES
200 GILLINGHAM LANE
MD 200-9
SUGAR LAND TX 77478**

MAILED

AUG 17 2009

OFFICE OF PETITIONS

In re Application of :
Yves Manin, et al. :
Application No. 10/537,957 : **DECISION GRANTING PETITION**
Filed: January 27, 2006 : **UNDER 37 CFR 1.313(c)(2)**
Attorney Docket No. 21.1053 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 14, 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 July 24, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

This application is being referred to Technology Center AU 3672 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.


Terri Williams
Petitions Examiner
Office of Petitions

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

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: YOSHIHIRO OHMIYA
C/O KANSAI CENTER OF NATIONAL
INSTITUTE OF ADVANCED INDUSTRIAL SCIENCE
AND TECHNOLOGY,
8-31, MIDORIGAOKA 1-CHOME,
OSAKA 563-8577
JAPAN

cc: NATIONAL INSTITUTE OF ADVANCED
INDUSTRIAL SCIENCE AND TECHNOLOGY,
C/O WARREN M. CHEEK
WENDEROTH, LIND & PONACK, L.L.P.,
2033 K STREET, NW, SUITE 800
WASHINGTON, DC 20006-1021

Attachment: Statement under 37 CFR 3.73(b) - PTO/SB/96

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.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Entitled:

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. the assignee of the entire right, title, and interest; or
2. an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is _____%)

in the patent application/patent identified above by virtue of either:

- A. An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

- B. A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.
2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.
3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

- Additional documents in the chain of title are listed on a supplemental sheet.

As required by 37 CFR 3.73(b)(1)(i), 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 37 CFR 3.11.

[NOTE: A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____	_____
Signature	Date
_____	_____
Printed or Typed Name	Telephone Number

Title	

This collection of information is required by 37 CFR 3.73(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 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: 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.

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 disclosure of these records is required by the Freedom of Information Act.
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 inspection 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.



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

RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE, PA 19482

Mail Date: 04/21/2010

Applicant : Naomi Goto : DECISION ON REQUEST FOR
Patent Number : 7574873 : RECALCULATION of PATENT
Issue Date : 08/18/2009 : TERM ADJUSTMENT IN VIEW
Applicion No : 10/537,982 : OF WYETH AND NOTICE OF INTENT TO
Filed : 11/08/2005 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **953** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : October 03, 2007

TO SPE OF : ART UNIT 2856

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/537,984 Patent No.: 7249511 B2

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code COCX.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

**Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580**

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 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: _____

HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Hezron Williams
SPE

2856
Art Unit



13 SEP 2006

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

In re Application of	:	
SANTAMARIA	:	
Application No.: 10/537,989	:	DECISION ON PETITION
PCT No.: PCT/EP2003/013951	:	
Int. Filing Date: 09 December 2003	:	UNDER
Priority Date: 09 December 2002	:	
Attorney Docket No.: 613-97	:	37 CFR 1.497(d)
For: ANHYDROUS CRYSTALLINE FORM	:	
OF VALACYCLOVIR HYDROCHLORIDE	:	

This decision is in response to applicant’s “REQUEST TO CORRECT INVENTORSHIP UNDER 37 CFR § 1.48(a)” filed in the United States Patent and Trademark Office (USPTO) on 14 December 2005, which has properly been treated as a petition under 37 CFR 1.497(d).

BACKGROUND

On 09 December 2003, applicants filed international application PCT/EP2003/013951, which designated the United States and claimed a priority date of 09 December 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 24 June 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 09 June 2005.

On 09 June 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 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.

On 07 March 2005, applicants filed the instant “REQUEST TO CORRECT INVENTORSHIP UNDER 37 CFR § 1.48(a)”, which has properly been treated as a petition under 37 CFR 1.497(d). The petition was accompanied by, *inter alia*, a declaration of Antoni Santamaria, a declaration of Pau Cid, and a declaration of inventors identifying Pau Cid as the sole inventor and signed by him.

On 17 July 2006, the United States Designated/Elected Office mailed a NOTICE OF ACCEPTANCE OF APPLICATION (Form PCT/DO/EO/903) according to the application a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of 14 December 2005.

DISCUSSION

The NOTICE OF ACCEPTANCE OF APPLICATION mailed 17 July 2006 was mailed in error (i.e., before a decision on applicant's petition under 37 CFR 1.497(d) had been rendered) and is hereby VACATED.

37 CFR 1.497(d), provides:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92^{bis} subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:

- (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
- (2) The processing fee set forth in Sec. 1.17(1); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see Sec. 3.73(b) of this chapter); and
- (4) Any new oath or declaration required by paragraph (f) of this section.

Applicants have satisfied items (1) and (2).

Item (3) has not been satisfied. No mention is made in the petition regarding whether an assignment has been executed. If an assignment has been executed, the written consent of the assignee is required. See MPEP § 324 for a proper showing under 37 CFR 3.73(b).

As to item (4), a new declaration is not required by 37 CFR 1.497(f) in the instant situation.

CONCLUSION

The request under 37 CFR 1.497(d) is **DISMISSED** without prejudice for the reasons set forth above.

The NOTICE OF ACCEPTANCE OF APPLICATION mailed 17 July 2006 is **VACATED** for the reasons set forth above.

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 1.497(d)." No additional petition fee is required.

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



Daniel Stemmer

Legal Examiner

PCT Legal Affairs

Office of Patent Cooperation Treaty

Legal Administration

Telephone: (571) 272-3301

Facsimile: (571) 273-0459



06 DEC 2006

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

In re Application of	:	
SANTAMARIA	:	
Application No.: 10/537,989	:	DECISION ON PETITION
PCT No.: PCT/EP2003/013951	:	
Int. Filing Date: 09 December 2003	:	UNDER
Priority Date: 09 December 2002	:	
Attorney Docket No.: 613-97	:	37 CFR 1.497(d)
For: ANHYDROUS CRYSTALLINE FORM	:	
OF VALACYCLOVIR HYDROCHLORIDE	:	

This decision is in response to applicant’s “RENEWED PETITION UNDER 37 CFR 1.497(d)” filed in the United States Patent and Trademark Office (USPTO) on 06 November 2006.

BACKGROUND

On 09 December 2003, applicants filed international application PCT/EP2003/013951, which designated the United States and claimed a priority date of 09 December 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 24 June 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 09 June 2005.

On 09 June 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 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.

On 07 March 2005, applicants filed a “REQUEST TO CORRECT INVENTORSHIP UNDER 37 CFR § 1.48(a)”, which was properly treated as a petition under 37 CFR 1.497(d). The petition was accompanied by, *inter alia*, a declaration of Antoni Santamaria, a declaration of Pau Cid, and a declaration of inventors identifying Pau Cid as the sole inventor and signed by him.

On 17 July 2006, the United States Designated/Elected Office 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 14 December 2005.

On 13 September 2006, a decision was mailed dismissing applicant's petition under 37 CFR 1.497(d) without prejudice for failing to satisfy 37 CFR 1.497(d)(3). The decision also vacated the NOTICE OF ACCEPTANCE OF APPLICATION mailed 17 July 2006

On 06 November 2006, the instant "RENEWED PETITION UNDER 37 CFR 1.497(d)" was filed.

DISCUSSION

37 CFR 1.497(d), provides:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92^{bis} subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:

- (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
- (2) The processing fee set forth in Sec. 1.17(I); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see Sec. 3.73(b) of this chapter); and
- (4) Any new oath or declaration required by paragraph (f) of this section.

As noted in the decision mailed 13 September 2006, items (1) and (2) have been satisfied and item (4) is not required. Item (3) has now been satisfied as well.

The declaration of inventors filed 14 December 2005 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

The request under 37 CFR 1.497(d) is **GRANTED** for the reasons set forth above.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision including (1) processing the application in the name of Pau Cid as the sole inventor and (2) preparation and mailing of a new NOTICE OF ACCEPTANCE OF APPLICATION.


Daniel Stemmer

Legal Examiner

PCT Legal Affairs

Office of Patent Cooperation Treaty

Legal Administration

Telephone: (571) 272-3301; Facsimile: (571) 273-0459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 25, 2007

TO SPE OF : ART UNIT 2823

SUBJECT : Request for Certificate of Correction on Patent No.: 7172925 B2 – 10/537994

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

Please complete this form and return with file, within 7 days to:

Palm location 7580, Certificates of Correction Branch – South Tower – 9A22

If response is for an IFW, return to employee (named below) via PUBSCofC Team in MADRAS.

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Elisha Evans

Certificates of Correction Branch

Tel. No. 703-308-9390 EXT 110

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments:

SPE

Art Unit

17 JUN 2005

3



UNITED STATES PATENT and TRADEMARK OFFICE

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

LINDER, Christopher B.
THOMAS, KAYDEN, HORSTEMEYER
& RISLEY, LLP
100 Galleria Parkway, N.W., Suite 1750
Atlanta, GA 30339-5948
US

In re Application of	:	DECISION ON
GEWIRTZ et al	:	
Application No.: 10/538,034	:	
PCT No.: PCT/US03/37749	:	
Int. Filing Date: 24 November 2003	:	PETITION UNDER
Priority Date: 22 November 2002	:	
Attorney's Docket No.: 050508-1350	:	
For: DIAGNOSTIC TESTS AND METHODS	:	
FOR DIAGNOSING INFLAMMATORY BOWEL	:	
DISEASE	:	37 CFR 1.137(b)

This decision is in response to applicants' "Petition For Revival Of An International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 09 June 2005.

BACKGROUND

On 24 November 2003, this international application was filed, claiming an earliest priority date of 22 November 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 22 May 2005. This international application became abandoned with respect to the United States at midnight on 22 May 2005 for failure to pay the required basic national fee.

On 09 June 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



COPY MAILED
DEC 10 2007
OFFICE OF PETITIONS

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

In re Application of :
Erikmats, et al. :
Application No. 10/538,044 : DECISION
Filed: 8 June, 2005 :
Attorney Docket No. 3670-58 :

This is a decision on the petition filed on 9 August, 2007, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 18 August, 2006, with reply due on or before 18 November, 2006;
- on 12 December, 2006, Petitioner filed, *inter alia*, a request and fee for extension of time and a reply in the form of an amendment;
- on 22 December, 2006 the Office mailed a Notice of Non-Compliant Amendment (NCA) and Petitioner was given one (1) month in which to reply (i.e., on or before 22 January, 2007);
- the application went abandoned after midnight 22 January, 2007;
- the Office mailed the Notice of Abandonment 6 August, 2007;

- on 9 August, 2007, Petitioner filed the instant petition with, *inter alia*, an averment that a reply to the NCA was filed online on 28 December, 2006, and Petitioner made such showings with copies of documents (including the electronic filing receipt from the Office dated “28 DEC 2006”) and of the reply and made such statements of Petitioner’s own knowledge as set forth in the guidance in the Commentary at MEEP §711.03(c)—and the record now evidences that filing.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation—since all owe to the Office the continuing duty to disclose.²

² See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner’s duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

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).³

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

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.⁴

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 regulatory requirements of unavoidable delay, and also, by definition, are not intentional.⁷))

- (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]

³ 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

⁴ 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*.

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.⁸

The commentary at MPEP §711.03(c) provides in pertinent part:

* * *

**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.

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).

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

* * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears not to have satisfied the showing requirements herein.

CONCLUSION

Petitioner appears to have satisfied the burdens herein, and the petition as considered under 37 C.F.R. §1.181 is **granted** and the 6 August, 2007, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center 3600 for further processing in due course.

Application No. 10/538,044

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. §1.2⁹) 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

⁹ The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.



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.
10/538,073	06/09/2005	Takashi Asakura	AKA-0284	8913

23599 7590 12/27/2007
MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

EXAMINER

SOROUSH, ALI

ART UNIT	PAPER NUMBER
1616	

1616

MAIL DATE	DELIVERY MODE
12/27/2007	PAPER

12/27/2007

PAPER

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

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



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United States Patent and Trademark Office
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DEC 27 2007

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON VA 22201

In re Application of :
Takashi Asakura :
Serial No.: 10/538,073 : PETITION DECISION
Filed: January 9, 2005 :
Attorney Docket No.: AKA-0284 :

This is in response to the petition under 37 CFR 1.181, filed November 28, 2007, requesting withdrawal of the Finality of the Office action mailed October 1, 2007.

BACKGROUND

A review of the file history shows that the examiner mailed a first Office action on the merits to applicant on April 20, 2007, setting forth a rejection of claims 15 and 18-19 under 35 U.S.C. 103(a) as unpatentable over Ellis et al in view of Bruno. Claims 16-17 were indicated allowable. Claims 20-28 were withdrawn pursuant to a restriction requirement.

Applicant replied on July 20, 2007, by amending claims 15, 18 and 20, cancelling claims 21-22 and adding claim 29. The rejection of record was addressed and argued appropriately.

The examiner mailed a Final Office action to applicant on October 1, 2007, withdrawing the rejection of record in view of applicant's amendments. The examiner then set forth a new rejection of claims 15 and 18-19 under 35 U.S.C. 102(b), as anticipated by Saida et al (newly cited). Claims 16-17 were rejected under 35 U.S.C. 103(a) as unpatentable over Saida et al. The examiner justified Finality in view of applicant's amendments to the claims. (It is noted that claim 29 is indicated as rejected on the summary sheet, but not included in either of the rejections of record.)

Applicant filed this petition on November 28, 2007.

DISCUSSION

Applicant requests withdrawal of the finality of the Office action of October 1, 2007, on the basis that the amendments to claims, especially claims 16-17, did not justify making the action Final.

A review of claims 16-17 shows that these claims were allowed in the first Office action and were not amended in reply to the first Office action, but were rejected over a new reference. Although these claims are dependent claims the claim from which they depend was amended only to incorporate some of the limitations of claim 16 into it. Thus the scope of claims 16 and 17 did not change, although the scope of claim 15 from which they depend did. However, unamended claims 16 and 17 were rejected over a new reference which rejection could not have been caused by applicant's amendment of the claims since they were not amended. In view thereof the Finality of the Office action was not justified and is with drawn.

DECISION

The petition is **GRANTED**.

The Office action mailed October 1, 2007, is redesignated a non-Final Office action and applicant remains under obligation to reply thereto within the time period specified or as extended under 37 CFR 1.136(a).

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 571-273-8300.



Bruce M. Kisiuk
Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/29/07

Paper No.:

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/538134 Patent No: 7271172 B2

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:
Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

Approved

All changes apply.

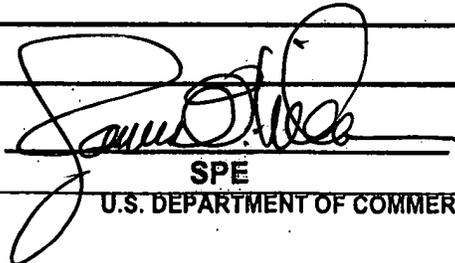
Approved In Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments: _____


SPE

1624
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE CERTIFICATE OF CORRECTION

PATENT NO. : 7,271,172 B2

Page 1 of 1

APPLICATION NO. : 10/538,134

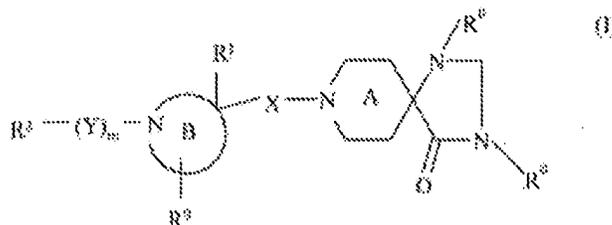
ISSUE DATE : September 18, 2007

INVENTOR(S) : Yang *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 Claims:

The chemical structure of Claim 3 (Column 115, Lines 10-15) should read as follows:



Claim 3 (Column 115, Line 40) should read as follows:

-- each R⁶ is independently selected from the group consisting of halogen, -CF₃, --

Claim 3 (Column 115, Line 61) should read as follows:

-- each R⁷ is independently selected from the group consisting of halogen, -CF₃, --

Claim 3 (Column 116, Lines 21-23) should read as follows:

-- each R⁹ is independently selected from the group consisting of hydrogen, alkyl, alkenyl, alkynyl, cycloalkyl, carbocyclylalkyl, aryl, heteroaryl, aralkyl, heteroaralkyl, heterocyclyl, and het- --

Claim 5 (Column 116, Lines 46-47) should read as follows:

-- 5. The compound of claim 3 wherein R¹ is phenyl mono- or di-substituted with halogen. --

MAILING ADDRESS OF SENDER (Please do not use customer number below):

GLAXOSMITHKLINE
Corporate Intellectual Property
5 Moore Drive, P.O. Box 13398
Research Triangle Park, NC 27709-3398

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 36 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing the burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



01 NOV 2006

21828
CARRIER BLACKMAN AND ASSOCIATES
24101 Novi Road, Suite 100
Novi, MI 48375

In re Application of :
IWA1 *et al* :
U.S. Application No.: 10/538,146 :
PCT No.: PCT/JP2003/016346 :
Int. Filing Date: 19 December 2003 :
Priority Date: 20 December 2002 :
Attorney Docket No.: CSP-117-A :
For: CONVEYANCE SYSTEM :

DECISION

This decision is in response to the request to correct the notice regarding change of power of attorney filed via facsimile on 10 August 2006 and request for corrected filing receipt filed 11 September 2006.

These requests are treated under 37 CFR 1.181 and hereby **GRANTED** as follows:

A communication containing a Power of Attorney and Statement Under 37 CFR 3.73(b) referencing the subject application was filed 17 July 2006. A Notice Regarding Change of Power of Attorney was mailed 31 July 2006.

A review of the documents filed 17 July 2006 show that the papers were for another application. The papers were misidentified for U.S. application number 10/538,146. The U.S. application number should have been "10/538,416."

Accordingly, the Notice Regarding Change of Power of Attorney mailed 31 July 2006 is hereby **VACATED**. These papers have been removed from this application.

Moreover, the filing receipt contained erroneous information on the attorney docket number and assignment information. Hence, a corrected filing receipt will be mailed with this decision.


James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302



UNITED STATES PATENT AND TRADEMARK OFFICE

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/538,146	06/08/2005	3651	1500	CSP 117-A	38	27	1

CONFIRMATION NO. 8701

CORRECTED FILING RECEIPT



OC00000021065125

21828
 CARRIER BLACKMAN AND ASSOCIATES
 24101 NOVI ROAD
 SUITE 100
 NOVI, MI 48375

Date Mailed: 11/01/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Yoshiharu Iwai, Komaki-shi, JAPAN;
 Masanori Nonaka, Kakamigahara-shi, JAPAN;

Assignment For Published Patent Application

Honda Motor Co., Ltd., Tokyo, JAPAN
 Iwata Koki Co., Ltd., Aichi-Ken, JAPAN

Power of Attorney:

Joseph Carrier—31748
 William Blackman—32397

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/JP03/16346 12/19/2003

Foreign Applications

JAPAN 2002-370635 12/20/2002
 JAPAN 2002-370642 12/20/2002
 JAPAN 2002-370657 12/20/2002
 JAPAN 2002-370669 12/20/2002
 JAPAN 2002-370685 12/20/2002

If Required, Foreign Filing License Granted: 08/09/2006

The country code and number of your priority application, to be used for filing abroad under the Paris

Convention, is **US10/538,146**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Conveyance system

Preliminary Class

198

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

**LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15**

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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



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Paper No. None

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BOTHELL WA 98041-3003

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OCT 0 2 2006

OFFICE OF PETITIONS

Application No. 10/538,154 :
Filing Date: November 7, 2005 :
Inventor: Laurence Germond- :
Rouet et al. : DECISION ON PETITION
Attorney Docket Number: : UNDER 37 C.F.R. §1.182
FR020143 US :
Title of Invention: ULTRASONIC :
DOPPLER SYSTEM FOR DETERMINING :
MOVEMENT OF ARTERY WALLS :

This is a decision on the "notice to withdraw intention to abandon by applicant," which is properly treated as a petition pursuant to 37 C.F.R. §1.182. The petition was filed on August 9, 2006, and requests that a notice of express abandonment be withdrawn.

The electronic file indicates that on August 7, 2006, Petitioner filed a notice of express abandonment, requesting that the present application go abandoned.

With the present petition, Petitioner has explained that the notice was filed by mistake, and that the "notice should have been directed to another patent¹."

MPEP §711.01 sets forth, in pertinent part:

A letter of abandonment properly signed becomes effective when an appropriate official of the Office takes action thereon. When so recognized, the date of abandonment may be the date of recognition or a later date if so specified in the letter itself.

¹ Petition, page 1.

As of the time of the mailing of this decision, the Office has not yet taken action on the August 7, 2006 letter of abandonment. As such, the previously made request to abandon this application can be withdrawn.

Petitioner is reminded that errors such as occurred can result in loss of rights and care must be taken to avoid such.

The petition under 37 C.F.R. §1.182 is **GRANTED**.

Examination on this application will proceed.

The Technology Center will be made aware of this decision, and this application will receive examination in due course.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225². All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.



Paul Shanowski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

² Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).



THELEN REID & PRIEST L.L.P
P.O. BOX 640640
SAN JOSE CA 95164-0640

02 OCT 2006

In re Application of	:	
Grant et al.	:	
Application No.: 10/538,160	:	
PCT No.: PCT/US03/38899	:	
Int. Filing Date: 08 December 2003	:	DECISION
Priority Date: 08 December 2002	:	
Attorney Docket No.:IMMR-0152A (034701-000510)	:	
For: Methods And Systems For Providing Haptic	:	
Messaging To Handheld Communication Devices	:	

This is in response to the "Petition To Correct Inventorship Under 37 CFR 1.497" filed on 27 June 2006, which is being treated under 37 CFR 1.497(d).

BACKGROUND

This international application was filed on 08 December 2003, claimed an earlier priority date of 08 December 2002, and designated the U.S. The 30 month time period for paying the basic national fee in the United States expired at midnight on 08 June 2005. Applicant filed *inter alia* the basic national fee on 08 June 2005.

On 23 February 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant, requiring the submission of an executed oath or declaration and a surcharge under 37 CFR 1.492(h).

DISCUSSION

The declaration of the inventors filed on 27 June 2006 nominates two inventors, Erik J. Shahoian and Dean C. Chang, who were not nominated in the published international application, nor is an appropriate Form PCT/IB/306 present in the application file. Counsel requests treatment under 37 CFR 1.497. 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 each of Erik J. Shahoian and Dean C. Chang.

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

Regarding requirement (3), the "Consent of Assignee" document included among the instant correspondence is signed on behalf of Immersion Corporation by Laura Peter in the capacity of "Vice President and General Counsel," and who further states that she is "authorized to execute this Consent of

Assignee." The "Consent of Assignee" is accompanied by a "Statement Under 37 CFR 3.73(b)," also signed by Ms. Peter, which asserts that Immersion Corporation is "the assignee of the entire right, title and interest" in this application. The "Statement..." references attached "copies of assignments or other documents in the chain of title." A copy of an assignment document has provided; however, the assignment is accompanied by neither an instruction to record the assignment nor by a statement specifying where documentary evidence of a chain of title is recorded in the assignment records of the USPTO (e.g., reel and frame number). As such, applicants have failed to comply with 37 CFR 3.73(b). Therefore, requirement (3) has not been satisfied.

Inspection of the declaration filed on 27 June 2006 reveals that it 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. Moreover, the declaration includes an uninitialed alteration to Mr. Shahoian's name. 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.



Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration



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02 APR 2007

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In re Application of :
Grant et al. :
Application No.: 10/538,160 :
PCT No.: PCT/US03/38899 :
Int. Filing Date: 08 December 2003 : DECISION
Priority Date: 08 December 2002 :
Attorney Docket No.:IMMR-0152A (034701-000510) :
For: Methods And Systems For Providing Haptic :
Messaging To Handheld Communication Devices :

This is in response to the renewed submission under 37 CFR 1.497(d) filed on 05 March 2007, and the declaration of inventorship filed on 19 March 2007.

DISCUSSION

In a Decision mailed on 02 October 2006, the declaration of the inventors filed on 27 June 2006 was not accepted under 37 CFR 1.497(d), without prejudice, because

Regarding requirement (3), the "Consent of Assignee" document included among the instant correspondence is signed on behalf of Immersion Corporation by Laura Peter in the capacity of "Vice President and General Counsel," and who further states that she is "authorized to execute this Consent of Assignee." The "Consent of Assignee" is accompanied by a "Statement Under 37 CFR 3.73(b)," also signed by Ms. Peter, which asserts that Immersion Corporation is "the assignee of the entire right, title and interest" in this application. The "Statement..." references attached "copies of assignments or other documents in the chain of title." A copy of an assignment document has provided; however, the assignment is accompanied by neither an instruction to record the assignment nor by a statement specifying where documentary evidence of a chain of title is recorded in the assignment records of the USPTO (e.g., reel and frame number). As such, applicants have failed to comply with 37 CFR 3.73(b). Therefore, requirement (3) has not been satisfied.

Inspection of the declaration filed on 27 June 2006 reveals that it 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. Moreover, the declaration includes an uninitialed alteration to Mr. Shahoian's name. Therefore, it would not be appropriate to grant the requested relief at this time.

In response, counsel has identified the Reel and Frame numbers where the assignment has been recorded in the records of the USPTO. Counsel's attention is directed to MPEP 324, which states in part that

II. ESTABLISHING OWNERSHIP

When an assignee first seeks to take action in a matter before the Office with respect to a patent application, patent, or reexamination proceeding, the assignee must establish its ownership of the property to the satisfaction of the Director. 37 CFR 3.73(b). The assignee's ownership may be established under 37 CFR 3.73(b) by submitting to the Office, in the Office file related to the matter in which action is sought to be taken:

(A) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is, submitted for recordation pursuant to 37 CFR 3.11; or

(B) a statement specifying, by reel and frame number, where such evidence is recorded in the Office.

Documents submitted to establish ownership are required to be recorded, or submitted for recordation pursuant to 37 CFR 3.11, as a condition to permitting the assignee to take action in a matter pending before the Office.

The action taken by the assignee, and the 37 CFR 3.73(b) submission establishing that the assignee is the appropriate assignee to take such action, can be combined in one paper.

The establishment of ownership by the assignee must be submitted prior to, or at the same time as, the paper requesting or taking action is submitted. 37 CFR 3.73(c). If the submission establishing ownership is not present, the action sought to be taken will not be given effect. If the submission establishing ownership is submitted at a later date, that date will be the date of the request for action or the date of the assignee's action taken.

The submission establishing ownership by the assignee must be signed by a party who is authorized to act on behalf of the assignee. See discussion below. Once 37 CFR 3.73(b) is complied with by an assignee, that assignee may continue to take action in that application, patent, or reexamination proceeding without filing a 37 CFR 3.73(b) submission each time, provided that ownership has not changed.

The submission establishing ownership by the assignee pursuant to 37 CFR 3.73(b) is generally referred to as the "statement under 37 CFR 3.73(b)" or the "37 CFR 3.73(b) statement." A duplicate copy of the 37 CFR 3.73(b) statement is not required and should not be submitted. See 37 CFR 1.4(b) and MPEP § 502.04.

In the instant case, the submission establishing ownership has not been "signed by a party who is authorized to act on behalf of the assignee" in that the reference to the Reel/Frame numbers has not been signed by an individual whose authority to sign on behalf of assignee has been established. As further explained at MPEP 324,

(A) The submission may be signed by a person in the organization having apparent authority to sign on behalf of the organization. 37 CFR 3.73(b)(2)(ii). 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 (37 CFR 1.32(b)(4)) 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.

(B) The submission may be signed by any person, if the submission sets forth that the person signing is authorized (or empowered) to act on behalf of the assignee, i.e., to sign the submission on behalf of the assignee. 37 CFR 3.73(b)(2)(i).

(C) 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, or was previously, submitted in the record.

Therefore, the assignee's ownership has not yet been adequately established under 37 CFR 3.73(b). As such, it would not be appropriate to grant the requested relief at this time. An appropriate response would be a reference to the Reel/Frame numbers signed by an individual whose authority to sign on behalf of assignee has been properly established pursuant to (A), (B) or (C) above.

Inspection of the declaration documents submitted on 05 March 2007 and 19 March 2007 reveals that, taken together, they satisfy the requirements of 37 CFR 1.497(a) and (b).

CONCLUSION

The declaration is **NOT ACCEPTED** under 37 CFR 1.497(d), without prejudice.

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



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In re Application of :
Grant et al. :
Application No.: 10/538,160 :
PCT No.: PCT/US03/38899 :
Int. Filing Date: 08 December 2003 : DECISION
Priority Date: 08 December 2002 :
Attorney Docket No.:IMMR-0152A (034701-000510) :
For: Methods And Systems For Providing Haptic :
Messaging To Handheld Communication Devices :

This is in response to the renewed submission under 37 CFR 1.497(d) filed on 06 August 2007.

DISCUSSION

In a Decision mailed on 02 April 2007, the declaration of the inventors filed on 27 June 2006 was not accepted under 37 CFR 1.497(d), without prejudice, because

In response, counsel has identified the Reel and Frame numbers where the assignment has been recorded in the records of the USPTO. Counsel's attention is directed to MPEP 324, which states in part that...

In the instant case, the submission establishing ownership has not been "signed by a party who is authorized to act on behalf of the assignee" in that the reference to the Reel/Frame numbers has not been signed by an individual whose authority to sign on behalf of assignee has been established. As further explained at MPEP 324,...

Therefore, the assignee's ownership has not yet been adequately established under 37 CFR 3.73(b). As such, it would not be appropriate to grant the requested relief at this time. An appropriate response would be a reference to the Reel/Frame numbers signed by an individual whose authority to sign on behalf of assignee has been properly established pursuant to (A), (B) or (C) above.

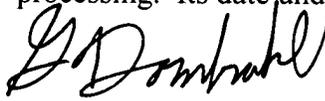
Inspection of the declaration documents submitted on 05 March 2007 and 19 March 2007 reveals that, taken together, they satisfy the requirements of 37 CFR 1.497(a) and (b).

Counsel now presents a "Statement Under 37 CFR 3.73(b)" identifying the reel and frame numbers where the appropriate assignment is recorded in the USPTO. This "Statement..." is signed on behalf of Immersion Corporation by Laura A. Peter, who is stated to be "authorized to act on behalf of the assignee." In view of the totality of the evidence now presented, it would be appropriate to accept the declaration under 37 CFR 1.497(d).

CONCLUSION

The declaration is **ACCEPTED** under 37 CFR 1.497(d), without prejudice.

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 **19 March 2007**.



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09 AUG 2006

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In re Application of :
Grant et al : DECISION ON
Int. Application: PCT/US2003/38862 :
Application No.: 10/538,161 :
Int. Filing Date: 08 December 2003 : REQUEST UNDER
Priority Date: 08 December 2002 :
Attorney's Docket No.: IMMR-0152D :
For: METHOD AND APPARATUS FOR... :
COMMUNICATION DEVICES : 37 CFR 1.497(d)

This is a decision on applicants' "PETITION TO CORRECT INVENTORSHIP UNDER 37 CFR 1.497" filed on 19 June 2006, to add joint inventors Eric SHAHOIAN and Dean CHANG in the executed declaration.

BACKGROUND

On 08 December 2003, applicants filed international application No.: PCT/US2003/38862, which claims a priority date of 08 December 2002.

On 08 June 2005, applicants filed a Transmittal Letter for entry into the national stage in the United States of America. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee. No executed oath or declaration was filed at such time.

On 18 April 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, *inter alia*, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.47(a) and (b), identifying the application by International application number and international filing date" must be submitted within two months from the date of mailing of this notice or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 19 June 2006, applicants filed a "PETITION TO ADD INVENTORS UNDER 37 CFR 1.497," which included, *inter alia*, statements to add joint inventors Eric SHAHOIAN and Dean CHANG in the executed declaration.

DISCUSSION

A submission under 37 CFR 1.497(d) must include:

- (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
- (2) the fee set forth in § 1.17(i); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see 37 CFR §3.73(b) of this chapter).

A review of the application file reveals that applicants have satisfied items (1) - (3) under 37 CFR 1.497(d).

With respect to item (1), the statements submitted on 19 June 2006 by Eric SHAHOIAN and Dean CHANG are sufficient because the statements state that the error in inventorship occurred without a deceptive intent.

With respect to item (2), the processing fee of \$130.00 has been paid by check.

With respect to item (3), Immersion Corporation, the assignee, consents to the correction of inventorship to the above application and it has filed in the requisite papers (i.e., executed assignment) establishing their right to take action under 37 CFR §3.73(b).

Accordingly, the requests are deemed to satisfy requirements (1), (2), and (3) under 37 CFR 1.497(d).

However, for the reason below, the application may not enter into national stage processing at this time. The declaration filed on 19 June 2006 is defective since it does not comply with 37 CFR 1.497(a)(3). A Declaration, under 37 CFR 1.497(a)(3), must identify each inventor. See MPEP § 602. In this instance, applicants submitted a composite declaration comprising of five sets of declarations, which four are incomplete because each set must be complete by having the correct number of pages and listing all the inventors. In this case only, one set is complete because it comprises of the four (4) pages of the declaration. The other sets are incomplete because they only contain page 4 and they do not have the other pages of the Declaration to make them complete. Therefore the composite Declaration is incomplete.

Copies of the same page is not part of a proper declaration since it is considered a composite declaration and each must be a complete declaration with the proper statement and the names of each inventor even though each set of declarations may not have all the signatures of the inventors. Therefore, a proper declaration must consist of individual complete sets of declaration that taken as a whole would have all the required signatures as required under 37 CFR 1.497(a)(3).

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.



Rafael Bacares

PCT Legal Examiner

PCT Legal Office

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11 SEP 2006

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Commissioner for Patents
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09/11/2006 SBASHKIR 00000001 501698 10538163
0.001407 100.00 LA

In re Application of :
GRANT et al. :
Application No.: 10/538,163 :
PCT No.: PCT/US03/38900 : DECISION ON REQUEST
Int. Filing Date: 08 December 2003 :
Priority Date: 08 December 2002 : UNDER 37 CFR 1.497(d)
Atty Docket No.:IMMR-0152B(34701-000512) :
For: HAPTIC MESSAGING IN HANDHELD :
COMMUNICATION DEVICES :

This is a decision on applicants' "Response to Notice to File Missing Parts", treated as a petition to correct inventorship under 37 CFR 1.497(d), and filed on 02 June 2006 in the United States Patent and Trademark Office (USPTO). Petitioner seeks to add Erik J. Shahoian and Dean C. Chang as inventors in the above referenced application. The requisite \$130 petition fee was paid.

BACKGROUND

On 08 June 2005, 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 30 March 2006, 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 02 June 2006, applicant filed a response to the Notification of Missing Requirements along with an executed declaration. Although the published international application did not identify them as such, the declaration identified Erik J. Shahoian and Dean C. Chang as inventors. Applicant filed a petition for correction of inventorship to add them as inventors. In addition to the \$130 petition fee, Petitioner provided the statements of the inventors Shahoian and Chang in support of the correction of inventorship under 37 CFR 1.497(d).

DISCUSSION

Where the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and 37 CFR 1.497(d) names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor that any error in inventorship occurred without deceptive intention on his or her part; (2) the fee set forth in § 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee(s).¹

¹37 CFR 1.497(d) 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

Applicants provided statements, signed by Erik J. Shahoian and Dean C. Chang, stating that any error in inventorship in the international application occurred without deceptive intent. These statements satisfy item (1) of 37 CFR 1.497(d). The processing fee of \$130.00 has been paid, satisfying Item (2) above. With regard to Item (3), the written consent of the assignee, Immersion Corporation, consenting to the addition of Erik J. Shahoian and Dean C. Chang as inventors in this application was submitted. Item (3) above is satisfied. Accordingly, applicant has met all of the requirements to add Erik J. Shahoian and Dean C. Chang as co-inventors in the above-identified international application.

However, the declaration appears to be a compilation created from the combination of separately executed declarations. The declaration contains multiple Page 4s. 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. The declaration is not properly executed. What is required is one declaration where all inventors have signed or separate complete declarations. The requirements of 37 CFR 1.497 (a) and (b) have not been met and the declaration is unacceptable as filed.

CONCLUSION

For the reasons discussed above, the submission under 37 CFR 1.497(d) to add Erik J. Shahoian and Dean C. Chang as inventors is hereby **GRANTED**.

As stated above, the declaration submitted on 02 June 2006 is unacceptable as filed. What is required is one declaration where all inventors have signed or separate complete declarations in compliance with 37 CFR 1.497(a) and (b).

Applicant is required to correct the above-noted defects including the furnishing of an oath/declaration in compliance with 1.497(a) and (b) within ONE (1) MONTH from the mail date of this Decision or the time remaining under the 30 March 2006 Notification of Missing Requirements, whichever is longer. No extension of this time limit may be granted under 37 CFR 1.136 but the period for response set forth in the Notification of Missing Requirements may be extended 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

application, the oath or declaration must be accompanied by:

- (1) A statement from each person being added as an inventor . . . that any error in inventorship in the international application occurred without deceptive intention on his or her part;
- (2) The processing fee set forth in § 1.17(I); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees.

Application No.: 10/538,163

2

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



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2 6 SEP 2007



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Commissioner for Patents
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Immersion - Thelan Reid & Priest L.L.P.
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San Jose, CA 95164-0640

In re Application of :
GRANT et al. :
Application No.: 10/538,164 : DECISION ON REQUEST
PCT No.: PCT/US03/38961 :
Int. Filing Date: 08 December 2003 :
Priority Date: 08 December 2002 :
Attorney Docket No.: IMMR-0152E(034701-518) :
For: HAPTIC COMMUNICATION DEVICES :

This decision is issued in reply to applicants' response to Notification of Missing Requirements filed 02 June 2006, which is being treated as a request under 37 CFR 1.497(d) to correct the inventorship of the present national stage application. Deposit Account No. 50-1698 will be charged the required petition fee.

BACKGROUND

On 08 December 2003, applicants filed international application PCT/US03/38961 which claimed a priority date of 08 December 2002. The published international application identified three applicant/inventors for the United States: Danny Grant; Jeffrey Eid; and Schoichi Endo. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 08 June 2005.

On 08 June 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 30 March 2006, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that 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 02 June 2006, applicants filed the present request under 37 CFR 1.497(d) to add inventors Dean C. Chang and Erik J. Shahoian.

DISCUSSION

The present submission seeks to correct the inventorship so as to add inventors Dean C. Chang and Erik J. Shahoian¹ 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.

Item (1) has not been satisfied. The statement provided by Erik J. Shahoian is not acceptable pursuant to 37 CFR 1.497(d)(1). Specifically, the statement includes no alteration to Mr. Shahoian's name that has not been explained or initialed. Therefore, a newly executed statement which explains the alteration and asserts that the error in inventorship occurred without deceptive intent is required.

The statement from Dean C. Chang is acceptable pursuant to 37 CFR 1.497(d)(1).

Item (2) has been satisfied. The \$130 petition fee will be charged to Deposit Account no. 50-1698.

Item (3) has not been satisfied. Applicants have submitted a statement of consent from the purported assignee which consents to the addition of inventor Erik J. Shohian, not Erik J. Shahoian.

Item (4) has not been satisfied. The declaration filed on 02 June 2006 is not in an acceptable form. Specifically, there is an issue as to whether the declaration has been

¹It appears that the correct name of the added inventor is Erik J. Shahoian.

properly executed. The declaration filed with petition includes duplicate sheets of page 4. It is unclear if the inventors were presented with only page 4, in which case the execution would be improper, or if they were presented with a complete declaration for signing, but counsel subsequently compiled the declaration into the single document, which is improper. (See MPEP 201.03(B) on how to correct this matter)

Additionally, the declaration submitted includes an alteration to the fourth inventor's name. (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 alteration 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 is required.

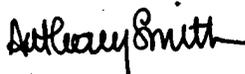
Because applicants have not satisfied all the requirements of 37 CFR 1.497(d), inventors Dean C. Chang and Erik J. Shahoian cannot be added to the application on the present record.

CONCLUSION

Applicants' request to add inventors Dean C. Chang and Erik J. Shahoian under 37 CFR 1.497(d) is **DISMISSED** without prejudice. The inventors of record remain the inventors named on the international application.

Applicants must file a proper response to this decision within **TWO (2) MONTHS** from the mail date indicated above. 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
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UNITED STATES PATENT AND TRADEMARK OFFICE

16 JAN 2008

Commissioner for Patents
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IMMERSION -THELEN REID BROWN RAYSMAN & STEINER LLP
P.O. BOX 640640
SAN JOSE CA 95164-0640

In re Application of: GRANT, et al.	:	
U.S. Application No.: 10/538,164	:	DECISION ON RENEWED
PCT No.: PCT/US2003/038961	:	REQUEST UNDER
International Filing Date: 08 December 2003	:	37 CFR 1.497(d)
Priority Date: 08 December 2002	:	
Atty Docket No.: IMMR-0152E(034701-518)	:	
For: HAPTIC COMMUNICATION	:	
DEVICES	:	

In a decision mailed by this Office on 26 September 2007, applicants' request to correct inventorship was dismissed without prejudice for failure to satisfy all the requirements of 37 CFR 1.497(d).

On 26 December 2007, applicants filed the "Response To Dismissed Petition" considered herein as a renewed request under 37 CFR 1.497(d), with required extension fee. The present submission resolves a number of the defects identified in the previous decision. Specifically, applicants have provided: (1) a revised statement of lack of deceptive intent from added inventor Erik J. SHAHOIAN in which the hand-written alteration in the inventor's name has been corrected; (2) a revised statement of the assignee's consent to the correction in which the hand-written alteration in the inventor's name has been corrected (with required statement under 37 CFR 3.73(b)); and (3) complete copies of the declarations executed by each of the inventors, including the two inventors being added, Dean C. CHANG and Erik J SHAHOIAN.

However, applicants have failed to address the final issue raised in the previous decision, that is, the non-dated, non-initialed handwritten change in the spelling of inventor Erik J. SHAHOIAN's name contained on page 4 of the declaration. As expressly stated in the previous decision, because the Office will not consider whether non-initialed and/or non-dated alterations were made before or after the signing of the oath or declaration, "a newly executed declaration is required." The renewed petition includes a newly executed declaration from added inventor Eric J. SHAHOIAN in which the hand-written alteration has been corrected. However, the complete declarations executed by each of the other inventors provided with the renewed petition all contain the hand-written alteration on page 4 identified as a defect in the previous decision.

Based on the above, applicants have not satisfied all the outstanding requirements for a grantable petition, as set forth in the previous decision. Accordingly, the renewed petition under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Second Renewed Request Under 37 CFR 1.497(d)" and must include final requirement for a grantable petition, that is, a newly executed declaration in which the hand-written alteration on page 4 has been corrected.

Failure to file a proper response will result in abandonment of the application. Extensions of time are available under 37 CFR 1.136(a)

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



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17 JUN 2008

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IMMERSION - THELEN REID BROWN RAYSMAN & STEINER LLP
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SAN JOSE, CA 95164-0640

In re Application of:	:	
GRANT, et al.	:	DECISION ON SECOND
U.S. Application No.: 10/538,164	:	RENEWED REQUEST UNDER
PCT No.: PCT/US2003/038961	:	37 CFR 1.497(d)
International Filing Date: 08 December 2003	:	
Priority Date: 08 December 2002	:	
Docket No.: IMMR-0152E (034701-000518)	:	
For: HAPTIC COMMUNICATION	:	
DEVICES	:	

This decision is issued in response to the "Second Renewed Request Under 37 CFR 1.497(d)" filed 18 March 2008. No additional processing fee is required.

BACKGROUND

The procedural background for the present application was set forth in the decisions mailed herein on 26 September 2007 and 16 January 2008. These decisions dismissed applicants' request to correct inventorship under 37 CFR 1.497(d) for failure to satisfy all the requirements of a grantable request. Specifically, the 16 January 2008 decision indicated that applicants had failed to provide acceptable declarations executed by all the inventors.

On 18 March 2008, applicants filed the "Second Renewed Request Under 37 CFR 1.497(d)" considered herein, accompanied by revised declarations.

DISCUSSION

The renewed petition is accompanied by revised declarations executed by the four inventors who had not previously submitted acceptable declarations (as indicated in the 16 January 2008 decision, the declaration executed by Eric J. SHAHOIAN submitted with the previous petition was acceptable as filed). These declarations are acceptable under 37 CFR 1.497.

Applicants have now satisfied the final requirement for a grantable request under 37 CFR 1.497(d). The addition of Dean C. CHANG and Erik J. SHAHOIAN as additional inventors of record pursuant to 37 CFR 1.497(d) is therefore appropriate.

CONCLUSION

Applicants' renewed request to correct inventorship under 37 CFR 1.497(d) is **GRANTED**.

The inventorship of record herein is corrected to include added inventors Dean C. CHANG and Erik J. SHAHOIAN.

This application is being referred to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 18 March 2008.



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24 FEB 2006



UNITED STATES PATENT AND TRADEMARK OFFICE

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Matthias Scholl
1478 Memorial Drive, Suite 1319
Houston, TX 77079

In re Application of :
ANLIKER : DECISION ON
Application No.: 10/538,168 :
PCT No.: PCT/DE03/03229 : PETITION
Int. Filing Date: 27 September 2003 :
Priority Date: 02 October 2002 : UNDER 37 CFR 1.137(b)
Attorney's Docket No.: TMEY-00101-NUS :
For: SUPPOSITORY-PACKAGING DEVICE :

The petition to revive under 37 CFR 1.137(b) filed 09 June 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant filed on 09 June 2005 the required petition fee, the basic national fee, the national stage search and examination fees.

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

A declaration and the surcharge for filing the declaration later than 30 months from the priority date and an English translation of the international application and processing fee for filing the translation later than 30 months from the priority date are required.

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

A handwritten signature in cursive script, appearing to read "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
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15 MAR 2006

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Matthias Scholl
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Houston, TX 77079

In re Application of	:	
ANLIKER	:	DECISION ON
Application No.: 10/538,168	:	
PCT No.: PCT/DE03/03229	:	PETITION
Int. Filing Date: 27 September 2003	:	
Priority Date: 02 October 2002	:	UNDER 37 CFR 1.137(b)
Attorney's Docket No.: TMEY-00101-NUS	:	
For: SUPPOSITORY-PACKAGING DEVICE	:	

The petition to revive under 37 CFR 1.137(b) filed 09 June 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant filed on 09 June 2005 the required petition fee, the basic national fee, the national stage search and examination fees.

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

A declaration and the surcharge for filing the declaration later than 30 months from the priority date and an English translation of the international application and processing fee for filing the translation later than 30 months from the priority date are required.

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

Leonard E. Smith
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26 SEP 2007

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LERNER GREENBERG STEMER LLP
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HOLLYWOOD, FL 33022-2480

In re Application of ANLIKER	:	
U.S. Application No.: 10/538,168	:	
PCT Application No.: PCT/DE2003/003229	:	DECISION
Int. Filing Date: 27 September 2003	:	
Priority Date Claimed: 02 October 2002	:	
Attorney Docket No.: TMEY-00101-NUS	:	
For: SUPPOSITORY-PACKAGING DEVICE	:	

This is in response to applicant's "Response" filed 26 May 2007.

BACKGROUND

On 27 September 2003, applicant filed international application PCT/DE2003/003229, which claimed priority of an earlier Germany application filed 02 October 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 15 April 2004. The thirty-month period for paying the basic national fee in the United States expired on 02 April 2005.

On 09 June 2005, applicant filed a petition to revive under 37 CFR 1.137(b) along with national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 24 February 2006, this Office mailed a decision granting the 09 June 2005 petition.

On 08 April 2006, applicant filed an executed declaration.

On 22 March 2007, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that the given name of the inventor listed on the declaration does not match that shown in the published international application.

On 26 May 2007, applicant filed the present response.

DISCUSSION

A review of the application file reveals that the given name of the first inventor is listed in the international application as "Franz" while the given name is listed in the declaration as "Markus". In that this is clearly more than a mere typographical error or transliteration error, a proper petition under 37 CFR 1.182 is required in order to resolve the matter. Such a petition must be accompanied by the requisite petition fee of \$400.00 as well as a statement from the inventor and statements from any other persons having firsthand knowledge of the error. These statements must set forth the specific circumstances as to how and when the error was made and discovered and must also set forth that the mistake was an inadvertent error without deceptive intent.

CONCLUSION

Because the 26 May 2007 correspondence appears to be a bona fide attempt to respond to the Notification of Missing Requirements Under 35 U.S.C. 371, applicant is given a time limit of ONE (1) MONTH from the mail date of this communication in which to submit a proper response. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are NOT available under 37 CFR 1.136(a).

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

Bryan Lin

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0 2 NOV 2007

LERNER GREENBERG STEMER LLP
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In re Application of ANLIKER	:	
U.S. Application No.: 10/538,168	:	
PCT Application No.: PCT/DE2003/003229	:	DECISION
Int. Filing Date: 27 September 2003	:	
Priority Date Claimed: 02 October 2002	:	
Attorney Docket No.: TMEY-00101-NUS	:	
For: SUPPOSITORY-PACKAGING DEVICE	:	

This is in response to applicant's "Petition Under 37 CFR 1.182" filed 17 October 2007, which is being treated under 37 CFR 1.497(d).

BACKGROUND

On 27 September 2003, applicant filed international application PCT/DE2003/003229, which claimed priority of an earlier Germany application filed 02 October 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 15 April 2004. The thirty-month period for paying the basic national fee in the United States expired on 02 April 2005.

On 09 June 2005, applicant filed a petition to revive under 37 CFR 1.137(b) along with national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 24 February 2006, this Office mailed a decision granting the 09 June 2005 petition.

On 08 April 2006, applicant filed an executed declaration.

On 22 March 2007, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that the given name of the inventor listed on the declaration does not match that shown in the published international application.

On 17 October 2007, applicant filed the present petition under 37 CFR 1.497(d).

DISCUSSION

The published international application lists Franz Anliker as the sole inventor. The petition states that Markus Anliker is the sole inventor.

37 CFR 1.497(d) states,

If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92bis 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.

With regard to item (1) above, the requisite statements have been provided.

With regard to item (2) above, the requisite processing fee has been provided.

With regard to item (3) above, the petition fails to state whether an assignment has been executed by any of the original inventors. If such an assignment exists, written consent of the assignee must be provided, and proof of ownership of the assignee must be established. See 37 CFR 3.73(b).

With regard to item (4) above, a new oath or declaration is not required.

CONCLUSION

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

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. 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 1.497(d)". No additional petition fee is required.

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



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08 FEB 2008

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In re Application of ANLIKER	:	
U.S. Application No.: 10/538,168	:	
PCT Application No.: PCT/DE2003/003229	:	DECISION
Int. Filing Date: 27 September 2003	:	
Priority Date Claimed: 02 October 2002	:	
Attorney Docket No.: TMEY-00101-NUS	:	
For: SUPPOSITORY-PACKAGING DEVICE	:	

This is in response to applicant's "Renewed Petition Under 37 CFR 1.182" filed 14 November 2007, which is being treated as a renewed petition under 37 CFR 1.497(d).

BACKGROUND

On 27 September 2003, applicant filed international application PCT/DE2003/003229, which claimed priority of an earlier Germany application filed 02 October 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 15 April 2004. The thirty-month period for paying the basic national fee in the United States expired on 02 April 2005.

On 09 June 2005, applicant filed a petition to revive under 37 CFR 1.137(b) along with national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 24 February 2006, this Office mailed a decision granting the 09 June 2005 petition.

On 08 April 2006, applicant filed an executed declaration.

On 22 March 2007, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that the given name of the inventor listed on the declaration does not match that shown in the published international application.

On 17 October 2007, applicant filed a petition under 37 CFR 1.497(d).

On 02 November 2007, this Office mailed a decision dismissing the 17 October 2007 petition.

On 14 November 2007, applicant filed the present renewed petition under 37 CFR 1.497(d).

DISCUSSION

The published international application lists Franz Anliker as the sole inventor. The petition states that Markus Anliker is the sole inventor.

37 CFR 1.497(d) states,

If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92bis 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.

Applicant has previously satisfied items (1), (2), and (4) above.

With regard to item (3) above, the renewed petition states that no assignment has been executed by the originally named inventor.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.497(d) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 27 September 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 08 April 2006.

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

Bryan Lin

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SEP -3 2008

Martin D. Moynihan
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2001 Jefferson Davis Highway
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In re Application of:

Fine

Serial No.: 10/538,173

Filed: 07 August 2006

Attorney Docket No.: 30063

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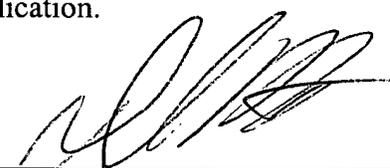
DECISION ON PETITION
FOR USE OF COLOR PHOTOGRAPHS
UNDER 37 C.F.R 1.84(a)(2) AND (b)(2)

This is a decision in response to the petition under 37 C.F.R. 1.84(a)(2) and (b)(2) filed July 28, 2008. The petition fee has been paid.

The petition is **GRANTED**.

The Petition sets forth the required fee, three sets of color photographs, and the required paragraph in the Specification.

Accordingly, the color photographs are accepted as formal drawings in the above-referenced application.



David P. Porta, Supervisor
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components



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OFFICE OF PETITIONS

MARTIN D. MOYNIHAN d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON, VA 22215

In re Application of
Eran Fine
Application No. 10/538,173
Filed: August 7, 2006
Attorney Docket No. 30063

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ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed August 27, 2009.

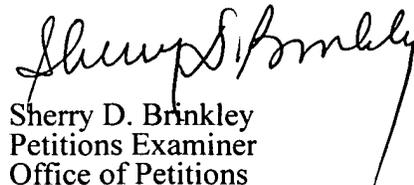
The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before August 21, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed May 21, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on August 22, 2009. This decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the \$755 issue fee and \$300 publication fee; (2) the petition fee of \$810; 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



04 SEP 2007

Finnegan, Henderson, Farabow,
Garrett & Denner, L.L.P.
901 New York Avenue, NW
Washington, D.C. 20001-4413

In re Application of
BORRA et al. :
U.S. Application No.: 10/538,192 :
PCT No.: PCT/IB02/05216 : DECISION ON PETITION
Int. Filing Date: 10 December 2002 : UNDER 37 CFR 1.47(a)
Priority Date: None :
Attorney Docket No.: 05788.0365-00000 :
For: METHOD FOR OPTIMIZING THE :
POSITIONING OF HIGH SENSITIVITY :
RECEIVER FRONT-ENDS IN A :
MOBILE TELEPHONY NETWORK AND :
RELATED MOBILE TELEPHONY :
NETWORK :

This decision is issued in response to applicants' "Petition under 37 CFR 1.47(a)" filed 06 July 2007 to accept the application without the signature of joint-inventor, Enrico Giovanardi.

BACKGROUND

On 10 December 2002, applicants filed international application PCT/IB02/05216, which claimed no priority date. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the international filing date, 10 June 2005.

On 09 June 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; a preliminary amendment; and a petition under 37 CFR 1.137(b).

On 10 April 2007, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 06 July 2007, applicants filed 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:

Applicants here have 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."

Here, the evidence submitted to demonstrate Enrico Giovanardi's refusal to execute the application papers is contained in the three declarations (of facts under 37 CFR 1.47(a)) included in the petition, and the exhibits thereto. These materials provide the required firsthand statement regarding the delivery to the nonsigning inventor of a copy of the complete application, and the nonsigning inventor's refusal to execute the application, with documentary evidence supporting the statement. Item (2) is therefore satisfied.

Regarding item (3), applicants have 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, applicants have filed declarations executed by six of the seven inventors and including an unsigned signature box identifying the nonsigning inventor (Enrico Giovanardi). 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 Enrico Giovanardi under 37 CFR 1.47(a) at this time.

CONCLUSION

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

The application will be given an international filing date of 10 December 2002 under 35 U.S.C. 363, and a date of 06 July 2007 under 35 U.S.C. 371(c).

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



UNITED STATES 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
JAN 14 2008
OFFICE OF PETITIONS**

In re Application of :
Michael A.A. In't Zandt et al. :
Application No. 10/538,214 : **ON PETITION**
Filed: June 9, 2005 :
Attorney Docket No. GB03 0189 US :

This is a decision on the petition under 37 CFR 1.137(b), filed December 4, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file drawing corrections in a timely manner in reply to the Notice of Allowance mailed July 17, 2007, which set a shortened statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on October 18, 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 the corrected drawings (2) the petition fee of \$1,540; and (3) the required statement of unintentional delay have been received. Accordingly, the corrected drawings are accepted as having been unintentionally delayed.

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

The application file is being referred to the Office of Patent Publication.


David Bucci
Petitions Examiner
Office of Petitions

#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

22 MAY 2007

Robert W. Strozier, P.L.L.C
PO BOX 429
Bellaire, Texas 77402-0429

In re Application of	:	
RASMUSSEN, Ole-Bendt	:	
Application No.: 10/538,224	:	DECISION ON PETITION
PCT No.: PCT/EP03/15001	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 12 September 2003	:	
Priority Date: 13 December 2002	:	
Attorney Docket No.: 50000/OR03	:	
For: LAMINATES OF FILMS HAVING IMPROVED	:	
RESISTANCE . . . AND APPARATUS FOR	:	
THEIR MANUFACTURE	:	

This decision is issued in response to the petition under 37 CFR 1.137(b) filed 07 November 2005 to revive the above-entitled application. Additionally, this decision is issued in response to applicant's facsimile communication (Petition to Accept Lost Documentation) dated 30 April 2007.¹

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

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

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

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

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

¹It is noted that the original petition to revive filed 07 November 2005 has been located and placed in the application folder.



17 AUG 2007

Bayer Cropscience LP
Patent Department
100 Bayer Road
Pittsburgh, PA 15205-9741

In re Application of	:	
DUNKEL et al.	:	
Application No. 10/538,242	:	
PCT No.: PCT/EP03/13498	:	DECISION ON PETITION
Int. Filing Date: 01 December 2003	:	UNDER 37 CFR 1.181
Priority Date: 13 December 2002	:	
Attorney Docket No.: CS8535/LeA 36,334	:	
For: BIPHENYLCABOXAMIDES	:	

This decision is issued in response to applicant's "Petition under 37 CFR 1.181" filed in the United States Patent and Trademark Office (USPTO) on 23 March 2007 which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 01 December 2003, applicant filed international application no. PCT/EP03/13498 which claimed a priority date of 13 December 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 01 July 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 13 June 2005.

On 07 June 2005, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the basic national fee; a copy of the international application; and a preliminary amendment.

On 30 December 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that 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 March 2007, applicant filed the petition considered herein. The petition states that a declaration/power of attorney was submitted, by facsimile, on 15 December 2005.

DISCUSSION

The present petition is accompanied by a facsimile cover sheet entitled "Submission of Missing Parts of Application under 35 U.S.C. 371" that references an attached declaration, contains the authorization to charge Deposit Account No. 50-2510 dated 15 December 2005; and includes confirmation report from applicants' facsimile machine. The petition also includes a copy of an executed declaration.

The application file does not contain the materials purportedly filed by facsimile on 15 December 2005. In order to confirm the 15 December 2005 filing of the materials accompanying the present petition, applicants must satisfy the requirements set forth in 37 CFR 1.8(b), which states the following:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Applicant has informed the Office of the previous transmission of the correspondence promptly after becoming aware that Office has no evidence of receipt of the correspondence. Therefore item (1) is satisfied.

As to item (2), applicant has not provided an additional copy of the previously transmitted correspondence and certificate. The exhibits filed with the present petition are not a true and correct copy of the papers submitted on 15 December 2005. Further, a copy

of the Certificate of Transmission for papers filed 15 December 2005 has not been included with the present petition. Therefore, item (2) has not been satisfied.

Referring to the statement required by 37 CFR 1.8(b)(3), MPEP § 512 states the following: "If the person signing the statement did not sign the certificate of mailing, then the person signing the statement should explain how they have firsthand knowledge of the previous timely mailing or transmission."

The present petition, which is signed by Richard E.L. Henderson, states that the attached materials were submitted by facsimile on 15 December 2005. However, Mr. Henderson does not state "how he has firsthand knowledge of the previous mailing or transmission" as required by MPEP § 512; and the petition does not include a Certificate of Transmission or a confirming statement from the person who executed the Certificate of Transmission on the response materials. Based on the above, the present petition does not satisfy the requirement of 37 CFR 1.8(b)(3).

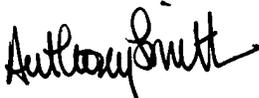
CONCLUSION

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

The application, by operation of law, is **ABANDONED**.

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

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



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29 OCT 2007

Bayer CropScience LP
Patent Department
2 T.W. Alexander Drive
Research Triangle Park, NC 27709

In re Application of	:	
DUNKEL et al.	:	
Application No. 10/538,242	:	
PCT No.: PCT/EP03/13498	:	DECISION ON PETITION
Int. Filing Date: 01 December 2003	:	UNDER 37 CFR 1.181
Priority Date: 13 December 2002	:	
Attorney Docket No.: CS8535/LeA 36,334	:	
For: BIPHENYLCABOXAMIDES	:	

This decision is issued in response to applicant's "Second Petition under 37 CFR 1.181" filed in the United States Patent and Trademark Office (USPTO) on 10 October 2007. No petition fee is required.

BACKGROUND

On 01 December 2003, applicant filed international application no. PCT/EP03/13498 which claimed a priority date of 13 December 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 01 July 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 13 June 2005.

On 07 June 2005, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the basic national fee; a copy of the international application; and a preliminary amendment.

On 30 December 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that 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 March 2007, applicant filed a Petition under 37 CFR 1.181. (The petition included a copy of the declaration purportedly filed on 15 December 2005.) In a decision dated 17 August 2007, applicant's petition under 37 CFR 1.181 was dismissed without prejudice.

On 10 October 2007, applicant filed a "Second Petition under 37 CFR 1.181." The petition requests withdrawal of the holding of abandonment stating that the declaration was previously filed via facsimile on 15 December 2005.

DISCUSSION

The present petition is accompanied by a facsimile cover sheet entitled "Submission of Missing Parts of Application under 35 U.S.C. 371" that references an attached declaration, contains the authorization to charge Deposit Account No. 50-2510 dated 15 December 2005; and includes confirmation report from applicant's facsimile machine. The petition also includes a copy of an executed declaration.

The application file does not contain the materials purportedly filed by facsimile on 15 December 2005. In order to confirm the 15 December 2005 filing of the materials accompanying the present petition, applicants must satisfy the requirements set forth in 37 CFR 1.8(b), which states the following:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The evidence filed with the present petition is convincing that the 15 December 2005 response included a declaration with a certificate of facsimile transmission. Additionally, applicants have: (1) informed the Office of the previous mailing of the correspondence promptly after becoming aware that the Office did not receive the items

transmitted on 15 December 2005, (2) supplied copies of the previously mailed correspondence; and (3) included a statement by Richard E.L. Henderson which attests on a personal knowledge of the 15 December 2005 transmission. Additionally, petitioner has provided a copy of the sending unit's report confirming transmission on 15 December 2005.

The declaration submitted will be given a receipt date of 23 March 2007. (See 37 CFR 1.8(a)). Accordingly, it is considered appropriate to withdraw the holding of abandonment.

CONCLUSION

As construed above, applicants' petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**. The Notification Of Missing Requirements mailed on 30 December 2005 is hereby **VACATED**.

The application has an international filing date of 01 December 2003 under 35 U.S.C. 363, and a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of 23 March 2007.

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



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30 JUN 2006



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#6

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE WA 98104-7092

In re Application of	:	
LEEMING et al.	:	
Application No.: 10/538,249	:	DECISION
PCT No.: PCT/AU03/01646	:	
Int. Filing Date: 09 December 2003	:	
Priority Date: 09 December 2002	:	
Attorney Docket No.: 470044.406USPC	:	
For: COMPOUNDS AND COMPOSITIONS FOR	:	
USE AS FOAMING OR FROTHING AGENTS IN	:	
ORE AND COAL FLOTATION	:	

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 13 April 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 09 December 2003, applicants filed international application PCT/AU03/01646, which designated the United States and claimed a priority date of 09 December 2002. A copy of the international application was communicated from the International Bureau to the USPTO on 24 June 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 09 June 2005.

On 08 June 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(h).

On 20 October 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).

On 13 April 2006, applicants filed the instant petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a petition/fee for a four-month extension of time, three declarations of

inventors signed by four of the five joint inventors, a declaration of facts by Stewart J. Knight, copies of letters from Mr. Knight to nonsigning inventor Philip J. Leeming, copies of letters from Mr. Leeming to Mr. Knight, and a copy of an e-mail from Mr. Leeming to Mr. Knight.

DISCUSSION

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

Items (1)-(4) have been satisfied.

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 **13 April 2006**.



Daniel Stemmer

Legal Examiner

PCT Legal Affairs

Office of Patent Cooperation Treaty

Legal Administration

Telephone: (571) 272-3301

Facsimile: (571) 273-0459

30 JUN 2006



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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PHILIP J. LEEMING
60 REMBRANDT DRIVE
MEREWEATHER HEIGHTS
NEW SOUTH WALES
AUSTRALIA 2291

In re Application of
LEEMING et al.

Application No.: 10/538,249

PCT No.: PCT/AU03/01646

Int. Filing Date: 09 December 2003

Priority Date: 09 December 2002

Attorney Docket No.: 470044.406USPC

For: COMPOUNDS AND COMPOSITIONS FOR USE AS FOAMING OR FROTHING AGENTS
IN ORE AND COAL FLOTATION

Dear Mr. Leeming:

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.

A handwritten signature in black ink, appearing to read "Daniel Stemmer".

Daniel Stemmer

PCT Legal Examiner

PCT Legal Affairs

Office of Patent Cooperation Treaty

Legal Administration

Telephone: (571) 272-3301

Facsimile: (571) 273-0459

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE WA 98104-7092



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United States Patent and Trademark Office
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HUNTSMAN CORPORATION
LEGAL DEPARTMENT
10003 WOODLOCH FOREST DRIVE
THE WOODLANDS, TX 77380

Mail Date: 04/21/2010

Applicant : Philip J. Leeming : DECISION ON REQUEST FOR
Patent Number : 7576244 : RECALCULATION of PATENT
Issue Date : 08/18/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/538,249 : OF WYETH AND NOTICE OF INTENT TO
Filed : 04/13/2006 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **757** 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 NOV 2005

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MCCORMICK, PAULDING & HUBER LLP
City Place II
185 Asylum Street
Hartford, CT 06103

In re Application of:	:	
VOGLER, Jes	:	DECISION ON PETITION
Application No.: 10/538,254	:	
PCT No.: PCT/DK2003/000849	:	
Int. Filing Date: 10 December 2003	:	
Priority Date: 12 December 2002	:	
Attorney Docket No.: 6495-0109WOUS	:	
For: A PRESSURE SENSOR	:	

This decision is issued in response to applicant's "Petition To Obtain Earlier 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" filed 07 November 2005, treated herein as a petition under 37 CFR 1.181 to correct the 35 U.S.C. 371(c) date. No petition fee is required.

BACKGROUND

On 10 December 2003, applicant filed international application PCT/DK2003/000849 which claimed a priority date of 12 December 2002, was published in English, and designated the United States. On 24 June 2004, a copy of the international application was transmitted to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB"). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 13 June 2005 (12 June 2005 was a Sunday).

On 09 June 2005, applicant filed a transmittal letter for entry into the national stage accompanied by, among other materials, payment of the basic national fee, an Application Data Sheet (ADS), a Preliminary Amendment, and a declaration executed by the sole inventor.

On 22 July 2005, applicant filed a Supplemental ADS, accompanied by a copy of the previously filed declaration. The cover letter included with this submission noted that the Supplemental ADS corrected errors in the inventor's mailing and residence address, and that the corrected information corresponded to the information contained in the previously filed declaration.

On 29 September 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) identifying 22 July 2005 as the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) Requirements" and the "Date Of Completion Of All 35 U.S.C. 371(c) Requirements." Also on 29 September 2005, a filing receipt was issued which identified 22 July 2005 as the 35 U.S.C. 371(c) date.

On 07 November 2005, applicant filed the petition considered herein. In the petition, applicant asserts that the 09 June 2005 submission initiating the national stage application materials included all the materials required under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4), and that 09 June 2005 is therefore the proper 35 U.S.C. 371(c) date for the present application.

DISCUSSION

A review of the application file confirms that the 09 June 2005 submission included payment of the basic national fee and an executed declaration in compliance with 37 CFR 1.497. A copy of the international application had previously been communicated by the IB. Accordingly, the proper date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) for this application is 09 June 2005. Applicant's 22 July 2005 submission of a Supplemental ADS (and a second copy of the previously filed declaration) did not serve to change this date.

CONCLUSION

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

The correct date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) for the present application is 09 June 2005.

The Notification Of Acceptance and filing receipt mailed 29 September 2005, which identified the 35 U.S.C. 371(c) date as 22 July 2005, are hereby **VACATED**.

This application is being referred to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision, including the issuance of a corrected Notification Of Acceptance and filing receipt that properly identify the date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) as 09 June 2005.



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



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

COPY MAILED

DEC 1 0 2008

OFFICE OF PETITIONS

In re Patent No. 7,323,848 :
Application No. 10/538,268 :
Filed: June 10, 2005 : ON PETITION
Issued: January 29, 2008 :
Attorney Docket No. Q87480 :

This is a decision on the petition filed November 12, 2008, which is being treated as a request under 37 CFR 3.81(b)¹ to add the name of the third assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

Telephone inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

Mail Date: 04/21/2010

Applicant	: Holger Thielert	: DECISION ON REQUEST FOR
Patent Number	: 7604686	: RECALCULATION OF PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/538,271	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/10/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **805** 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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COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

Mail Date: 05/18/2010

Applicant : Holger Thielert : NOTICE CONCERNING IMPROPER
Patent Number : 7604686 : CALCULATION OF PATENT TERM
Issue Date : 10/20/2009 : ADJUSTMENT BASED UPON USPTO
Application No : 10/538,271 : IMPROPERLY MEASURING REDUCTION
Filed : 04/10/2006 : 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 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 **852** 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).

03 DEC 2007



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Phillips Electronic North America Corp.
Intellectual Property & Standards
370 W. Trimble Road MS 91/MG
San Jose, CA 95131

In re Application of	:	
UKAWA, Yusel	:	
U.S. Application No.: 10/538,280	:	DECISION ON
PCT No.: PCT/IB2003/005948	:	
Int. Filing Date: 11 December 2003	:	PETITION
Priority Date: 17 December 2002	:	
Attorney Docket No.: JP020023US	:	UNDER 37 CFR 1.181
For: LIQUID CRYSTAL DISPLAY ...	:	
THEIR MANUFACTURING METHODS	:	

This decision is in response to applicant's "Second Request For Confirmation of Application on 04 October 2007.

BACKGROUND

On 10 June 2005, applicant filed a transmittal letter for entry into the national phase in the above application.

On 14 December 2005, the Office mailed Notification of Acceptance (Form PCT/DO/EO/903) indicating that the application had a 35 USC 371 (c)(1), (c)(2) and (c)(4) date of 10 June 2005 and a date of completion of all 35 USC 371 requirements of 17 June 2005.

On 22 February 2007, the Office mailed a non-final rejection.

On 27 September 2007, the Office mailed a Notice of Abandonment, indicating that the application went abandoned for failure to timely reply to the 22 February 2007 Office action.

DISCUSSION

On 10 June 2005, applicants filed two entries into the national phase in the United States and accompanying papers, one for each of two applications, using the same Express Mail envelope. It appears both entries were placed in the same application file and were scanned into the same application serial number.

One of applicants earlier petitions on this matter was scanned into application no. 11/667,364. However, that application is currently a mixture of papers for each of the national phase entries.

To correct the above processing errors, applicant should submit a complete copy of the 10 June 2005 submission for PCT/IB2003/05955, a copy of the postcard receipt and a statement that they are a true copy of the earlier submission. The Office can then create an application file for the national phase with only the appropriate papers.

CONCLUSION

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

Further, this application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper reply is required 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."

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

0 2 MAR 2009



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

In re Application of: UKAWA, Yusel	:	
U.S. Application No.: 10/538,280	:	DECISION ON RENEWED
PCT No.: PCT/IB2003/005948	:	PETITION
International Filing Date: 11 December 2003	:	(37 CFR 1.181)
Priority Date: 17 December 2002	:	
Atty Docket No.: JP02 0024 US	:	
For: COLOR FILTER AND LIQUID	:	
CRYSTAL DISPLAY DEVICE,	:	
USING IT, AND THEIR	:	
MANUFACTURING METHODS	:	

This decision is issued in response to the "Renewed Petition Under 37 CFR 1.181" filed 05 May 2008. No petition fee is required.

BACKGROUND

As discussed in the decision mailed herein on 03 December 2007, petitioner asserts that on 10 June 2005, national stage entry papers for two separate international applications were filed using the same envelope, and that the materials for both of these submissions were scanned into the present application file. More specifically, petitioner asserts that the 10 June 2005 submission included the materials to initiate the present national stage on international application PCT/IB2003/005948 (subsequently abandoned), as well as the materials to initiate the U.S. national stage for international application PCT/IB2003/005955.

As also noted in the previous decision, a 14 March 2007 submission by petitioner regarding the status of the second national stage application resulted in a separate U.S. application file, 11/667,364, being established by the USPTO as the U.S. national stage for PCT/IB2003/005955. At the time the second national stage application file was initiated, Deposit Account No. 14-1270 was charged the basic national fee, search fee, and examination fee required for the second national stage application (such fees remain in application file 11/667,364). However, no further processing of U.S. application 11/667,364 has taken place.

On 05 May 2008, applicant filed the present "Renewed Petition Under 37 CFR 1.181." The petition is accompanied by a copy of the materials filed on 10 June 2005 with respect to the national stage of PCT/IB2003/005955, accompanied by a return postcard itemizing these materials and bearing a USPTO receipt stamp dated 10 June 2005.

DISCUSSION

Based on the statements in the present petition and the stamped return postcard, it is concluded that the papers accompanying the present petition were originally filed in the USPTO on 10 June 2005 (specifically, the Form PTO-1390 Transmittal Letter, the preliminary amendment, the two-page declaration, the assignment recordation sheet, the assignment, the two-page IDS Transmittal, and the 3.73(b) statement). However, as noted by applicant in the present petition, the Form PTO-1390 Transmittal Letter included with such materials identified the international application number for such national stage materials as PCT/IB03/05948 (the international application for the present national stage application), rather than PCT/IB03/05955, the second international application for which applicant was attempting to enter the U.S. national stage. The present petition asserts that "the rest of the documents identified the correct PCT Application No.;" however, a review of such papers reveals that the intended international application number, PCT/IB03/05955, does not appear on any of the papers filed 10 June 2005. The fact that only one international application number (PCT/IB03/05948) was present on the materials filed by applicant on 10 June 2005 explains why all such materials were placed in the present file, the U.S. national stage of PCT/IB03/05948, rather than used to establish a second national stage application for unlisted international application number PCT/IB03/05955.

Under the present circumstances, even though it is concluded that the materials accompanying the present petition were filed on 10 June 2005, such materials, which do not contain an explicit reference to international application number PCT/IB03/05955, cannot be treated as having been filed with respect to international application PCT/IB03/05955 on such date. Petitioner therefore did not file national stage materials expressly directed to international application PCT/IB03/05955 prior to the expiration of thirty months from the priority date of such international application (i.e., 17 June 2005). Accordingly, international application PCT/IB03/05955 is abandoned with respect to the United States (see 37 CFR 1.495(h)).

CONCLUSION

The petition under 37 CFR 1.181 to confirm that the materials accompanying the present petition were originally filed in the USPTO on 10 June 2005 is **GRANTED**.

Copies of the materials accompanying the present petition will be placed in application file 11/667,364, which was previously initiated as the U.S. national stage of PCT/IB03/05955, and such materials will be treated as having been filed therein 10 June 2005.

However, as discussed above, international application PCT/IB03/05955 is considered abandoned based on applicant's failure to set forth in the materials filed 10 June 2005 the correct international application number, that is, PCT/IB03/05955.

A copy of this decision will be placed in application file 11/667,364, and any further correspondence regarding the U.S. national stage of PCT/IB03/05955, including any petition to revive such application, should be directed to U.S. application file 11/667,364.

No further correspondence with respect to this matter should be directed to the present application file, 10/538, 280, which is an abandoned application.

U.S. application number 11/667,364 will be referred to the National Stage Processing Branch of the Office of PCT Operations for the mailing of a Notification Of Abandonment (Form PCT/DO/EO/909) confirming that such application is abandoned for failure to file a properly identified request for entry into the U.S. national stage prior to the expiration of the thirty-month deadline.

A handwritten signature in black ink, appearing to read 'r m ross'.

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



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INTELLECTUAL PROPERTY & STANDARDS
370 W. TRIMBLE ROAD MS 91/MG
SAN JOSE CA 95131

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JUN 06 2008

In re Application of :
Stephen M. Pitchers :
Application No.: 10/538282 : **ON PETITION**
Filing or 371(c) Date: 06/10/2005 :
Attorney Docket Number: :
GB02 0227 US :

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed November 27, 2007.

This Petition is hereby granted.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed December 13, 2006. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on March 14, 2007. A Notice of Abandonment was mailed August 23, 2007.

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

The address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application is being referred to Technology Center Art Unit 2618 for processing of the Amendment/reply filed with the petition in due course.

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



Derek L. Woods

Attorney

Office of Petitions

CC: THORNE & HALAJIAN, LLP
APPLIED TECHNOLOGY CENTER
111 WEST MAIN STREET
BAY SHORE, NY 11706



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LION BUILDING
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WASHINGTON DC 20036

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OFFICE OF PETITIONS

In re Application of :
Hiroshi Ohata :
Application No. 10/538,304 : DECISION ON
Filed: June 9, 2005 : PETITION
Attorney Docket No. KOH-0208 :

This is in response to the petition to revive under 37 CFR 1.137(b), filed October 16, 2007.

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

The above application became abandoned for failure to timely submit corrected drawings as required by the Notice of Allowability mailed on June 4, 2007. This Notice set a non extendable period for reply of three months. No corrected drawings having been received, the application became abandoned on September 5, 2007. A Notice of Abandonment was mailed on September 28, 2007.

With the instant petition, petition paid the petition fee, submitted corrected drawings together with a Rule 312 Amendment, and made the proper statement of unintentional delay.

The application file is being forwarded to Group Art Unit 1772 for consideration of the corrected drawing and the Rule 312 Amendment, filed October 16, 2007.

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

Cliff Congo
Petitions Attorney
Office of Petitions



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CLARK & BRODY
1090 VERMONT AVENUE, NW
SUITE 250
WASHINGTON DC 20005

3/13/08

In re Application of:
Belanger, Richard A
Serial No.: 10/538,325
Filed: Jun. 10, 2005
Docket: 70300-0103
Title: HOT MELT DISPENSER WITH
SILICONE VALVE

DECISION ON PETITION TO
WITHDRAW HOLDING OF
FINALITY

This is a decision on the petition filed on Feb. 8, 2008 to withdraw the finality of the Office Action of Dec. 10, 2007. The petition is being considered pursuant to 37 CFR § 1.181 and no fee is required for the petition.

The petition is **DISMISSED**.

In the petition, the applicants requested withdrawal of the finality of the Office action dated Dec. 10, 2007. Petitioner claims that the finality of the Office action is premature because the amendment of Sep. 20, 2007 did not necessitate the new grounds of rejection.

The record shows that:

1. On Jun. 20, 2007 the examiner mailed a non-final Office action. In the non-final Office action, claims 1, 4, 6 and 7 were rejected under 35 U.S.C. 102 as anticipated by Gordon et al (U.S. Pat. 3,884,396). Claims 2, 3 and 5 were rejected under 35 U.S.C. 103 as unpatentable over Gordon et al in view of Brown (U.S. 4,991,745) and Steinel (U.S. Pat. 6,575,340).
2. In response to the Office action mailed Jun. 20, 2007, the applicant filed an amendment on Sep. 20, 2007. Claims 1 and 4 were amended.
3. On Dec. 10, 2007 the examiner issued a final Office action. In the final Office action, claims 1, 2 and 4 were rejected under 35 USC 102(b) as anticipated by Flier (U.S. Pat. 4,616,768). Claims 3 and 5 were rejected under 35 USC 103 as unpatentable over Flier (U.S. Pat. 4,616,768) in view of Brown (U.S. 4,991,745) and Steinel (U.S. Pat. 6,575,340).
4. The present petition, filed on Feb. 8, 2008 requests withdrawal of the finality of the Office action mailed on Dec. 10, 2007 as premature.

Discussion and Analysis

The relevant portion of MPEP § 706.07(a): Final Rejection, When Proper on Second Action, states:

Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

Petitioner requests withdrawal of finality of the Office action mailed Dec. 10, 2007. Petitioner asserts that a second action on the merits should not be made final because the added limitations in the claims are reasonably expected to be claimed. The first search of prior art should have covered the invention and its concept as described and claimed. Petitioner relies on MPEP §§ 706.07(a) and § 904 to support his contention. This line of arguments is not convincing. The issue in the current petition is whether amended independent claims 1 and 4 changed the scope of original independent claims 1 and 4. If so, the new ground of rejection in the final Office action was necessitated by applicant's amendment.

In order to determine whether or not the original independent claims 1 and 4 and the amended independent claims 1 and 4 are identical in scope, a comparison of the claims must be made. The amended claims 1 and 4 are reproduced below with additions being underlined and deletion being bracketed or strikethrough.

The amended claims 1 and 4 filed on Sep. 20, 2007 are reproduced below:

1. (Currently amended) A valve configured to be inserted into a dispenser and engage a front wall of said dispenser comprising a disc of flexible material having a front wall and a rear wall, a central ~~portion~~ section formed between said front and rear walls, an annular portion contiguous with and surrounding said central section formed between said front and rear walls and including a marginal edge portion, wherein said [(a)] front wall of said central portion is displaced toward said rear wall from the front wall of said annular portion, [(a)] said rear wall of said annular portion is recessed toward said front wall from [(a)] said rear wall of said central portion and [(a)] said rear wall of said marginal edge, and said central portion is slit to provide at least one movable flap forming a valve for dispensing material.
4. (Currently amended) A dispenser forming a cavity for containing material to be dispensed and having a ~~valve piston~~ at one end of said cavity and a valve at an opposed end, wherein said dispenser has an internal wall and a front dispenser wall, and said valve comprises a disc with a front wall and a rear wall, a central ~~portion~~ section formed between said front and rear walls, an annular portion contiguous with and surrounding said central section formed between said front and rear walls, and including a marginal edge portion, wherein said [(a)] front wall of said central portion is displaced toward said rear wall from the front wall of said annular portion, [(a)] said rear wall of said annular portion is recessed toward said front wall from [(a)] said rear wall of said central portion and [(a)] said rear wall of said marginal edge, and said central portion is slit to provide at least one movable flap forming a valve for dispensing material and said front

wall of said annular portion engages said front dispenser wall and said marginal edge portion engages said internal wall.

A comparison of the amended independent claim 1 (with underlining and strikethroughs) and the original independent claim 1 (without underlining and strikethroughs) reveals that amended independent claim 1 now defines the specific valve structure inserted into a dispenser, a disk of flexible material with front and rear walls. Amended claim 1 further defines the details of a central section, annular portion contiguous with and surrounding said central section formed between front and rear walls, etc., whereas original claim 1 contains no such limitations. The newly amended independent claim 1 indeed changes the scope of original independent claim 1 because the limitations added to original independent claim 1 clearly shows a different valve structure. In view of the newly added limitations in claim 1, the examiner needed to search and found U.S. patent to Flier (US Pat. 4,616,768) for the rejection of amended claims 1 and 2. These added limitations to claim 1 in the amendment filed on Sep. 20, 2007 necessitated the new grounds of rejection in accordance with M.P.E.P. 706.07(a) mailed on Dec. 10, 2007.

A comparison of the amended independent claim 4 (with underlining and strikethroughs) and the original independent claim 4 (without underlining and strikethroughs) reveals that the amended independent claim 4 now defines the specific dispenser structure with one piston at one end and a valve at the opposite end of the cavity. Claim 4 also added valve details of a disk with a front and rear walls. Amended claim 4 further defines the details of a central section, annular portion contiguous with and surrounding said central section formed between front and rear walls, etc., whereas original claim 4 contains no such limitations. The newly amended independent claim 4 indeed changes the scope of original independent claim 4 because the limitations added to original independent claim 4 clearly shows a different dispenser structure. In view of the newly added limitations in claim 4, the examiner needed to search and found U.S. patent to Flier (US Pat. 4,616,768) for the rejection of amended claim 4. These added limitations to claim 4 in the amendment filed on Sep. 20, 2007 necessitated the new grounds of rejection in accordance with MPEP § 706.07(a) mailed on Dec. 10, 2007.

Petitioner argues that the amendment of Sep. 20, 2007 merely clarifies claimed limitations without substantially changing the claimed subject matter. The Gordon patent applied in the first Office action is similar to the newly found Flier patent. There are no significant differences between the two primary references. Therefore, the application of the Flier patent was evidently not necessitated by any amendment to the claims. This line of arguments is not persuasive. As analyzed above, amended claims 1 and 4 add substantial detail structure to the valves and dispenser. In the final Office action of Dec. 10, 2007, the newly applied Flier patent is only applicable to the amended claims 1, 2 and 4 under 35 U.S.C. 102(b). In the first Office action of Jun. 20, 2007, the Gordon patent was applicable toward original claims 1, 4, 6 and 7. This is evidence of the necessitation of a new reference in meeting the added claim limitations.

Petitioner also argues that the added limitations to claims 1 and 4 should have been reasonably expected. This line of argument is speculative. In view of the lengthy added limitations in claims 1 and 4, there is no reasonable expectation that the examiner would anticipate the applicant to add such detailed structure of the valve and dispenser in the claims. As also stated in MPEP § 706.07(a):

**>However, note that an examiner cannot be expected to foresee whether or how an applicant will amend a claim to overcome a rejection except in very limited circumstances (e.g., where the examiner suggests how applicant can overcome a rejection under 35 U.S.C. 112, second paragraph)<.

Finally, petitioner argues that the failure to cite Flier patent in the first Office action was simply an oversight on the part of PTO and not a direct result of the amendments to the claims. This line of argument is also speculative. Petitioner provides no proof to support this allegation. Moreover, MPEP §706.02 states, "Merely cumulative rejections, i.e., those which would clearly fall if the primary rejection were not sustained, should be avoided. Based on such guidance, it is possible the examiner had seen the reference and determined it was, at best, cumulative when the first Office action was prepared. Admittedly, this is speculative on the part of the undersigned, but certainly is a possibility why the reference may not have been cited, let alone applied.

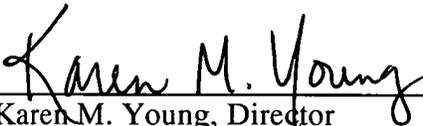
A review of the record shows that the examiner was in compliance with proper examining practice as set forth in MPEP 706.07(a). The finality of the Office action is appropriate.

Conclusion

For the foregoing reasons, the relief requested by petitioner will not be granted. Specifically, the finality of the Office action dated Dec. 10, 2007 is proper.

The application is being forwarded to Art Unit 3754 for waiting applicant's response to the final rejection of Dec. 10, 2007. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED.



Karen M. Young, Director
Technology Center 3700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100427

DATE : April 27, 2010

TO SPE OF : ART UNIT 2831

SUBJECT : Request for Certificate of Correction on Patent No.: 7,436,175

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

Please complete this form and return with file, within **7** days to:

Certificates of Correction Branch - PK 3-910

Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes **do not** apply.

Denied

State the reasons for denial below.

Comments:

See attachement

SPE: /Diego Gutierrez/

Art Unit 2831

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100505

DATE : May 12, 2010

TO SPE OF : ART UNIT 2831

SUBJECT : Request for Certificate of Correction on Patent No.: 7,436,175 B2

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

Please complete this form and return with file, within **7** days to:

Certificates of Correction Branch - PK 3-910

Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes **do not** apply.

Denied

State the reasons for denial below.

Comments:

During a telephonic conversation on May 3, 2010 with applicant's representative, Denise Marvel, it was clarified that the amendments submitted herein were done in order to correct the errors printed in the patent issued and correct the mathematical expressions to be as originally filed.

/Diego Gutierrez/

Au 2831



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SUITE 1201
NEW HAVEN, CT 06510

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OFFICE OF PETITIONS

In re Application of :
Yukinari Fukumoto, et. al. :
Application No. 10/538,386 :
Filed: June 13, 2005 :
Attorney Docket No. 05-430 :

ON PETITION

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

The application became abandoned for failure to timely respond to the Notice of Allowability mailed August 17, 2006. A Notice of Abandonment was mailed on December 13, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of seven (7) sheets of formal drawings containing Figures 1-7; (2) the petition fee of \$1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Publications for review of the formal drawings filed on January 8, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.


Andrea Smith
Petitions Examiner
Office of Petitions



PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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BRIARCLIFF MANOR NY 10510

MAILED

NOV 23 2009

In re Application of :
Paulus Cornelis Duineveld, et al. :
Application No. 10/538,409 :
Filed: June 10, 2005 :
Attorney Docket No. NL030545US1 :

OFFICE OF PETITIONS
DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 30, 2009, 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, October 3, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 4, 2009.

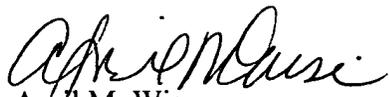
The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of \$1620, and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed the Technology Center.

This application is being referred to Technology Center AU 1797 for appropriate action by the Examiner in the normal course of business on the reply received September 30, 2009.



April M. Wise
Petitions Examiner
Office of Petitions

cc: TODD A. HOLMBO
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BRIARCLIFF MANOR, NY 10510



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Leydig Voit & Mayer, Ltd.
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180 North Stetson Avenue
Chicago, IL 60601-6780

15 SEP 2006

In re Application of	:	
SAWALL, Rolf-Reiner et al.	:	
Application No.: 10/538,430	:	DECISION ON
PCT No.: PCT/EP03/13418	:	
Int. Filing Date: 28 November 2003	:	REQUEST
Priority Date: 12 December 2002	:	
Attorney's Docket No.: 235838	:	UNDER 37 CFR 1.42
For: HAND HELD YARN MEASURING	:	
DEVICE	:	

This is a decision on applicants' 06 March 2006, submission of a declaration containing an indication that joint inventor Rolf-Reiner Sawall is deceased. The declaration has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 28 November 2003, applicants filed international application PCT/EP03/13418, which claimed a priority date of 12 December 2002. A copy of the international application was transmitted to the Office by the International Bureau on 24 June 2004. The deadline for entry into the national stage in the United States was 12 June 2005.

On 10 June 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 07 November 2005, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors and the fee for late furnishing of the search fee, examination fee or oath or declaration were required.

On 06 March 2006, applicants submitted a declaration of the inventors, with an indication that a joint inventor was deceased, the surcharge for late filing of the search fee, examination fee or the oath or declaration and the fee for an extension of time.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42.

The declaration lists the inventors and their citizenships and the legal representatives and each legal representative's citizenship, residence and postal address. See 37 CFR 1.497. However, the date

has been added to the declaration. The alteration is neither initialed nor dated. It is improper for anyone including counsel to alter an oath or declaration subsequent to execution by the inventors. MPEP 605.04(a). A new oath or declaration of the inventors is required.

Further, the declaration contains foreign language text, but it is not a USPTO form and is not accompanied by a statement that the English text is an accurate translation of the foreign text. See 37 CFR 1.69.

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(a)-(b) 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
Attorney Advisor
PCT Legal Administration

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02 MAR 2007

LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6731

In re Application of SAWALL (deceased) et al. :
Application No.: 10/538,430 :
PCT No.: PCT/EP03/13418 : DECISION ON
Int. Filing: 28 November 2003 :
Priority Date: 12 December 2002 : SUBMISSION
Attorney Docket No.: 235838 :
For: HAND HELD YARN MEASURING : under 37 CFR 1.42
DEVICE :

This application is before the Office of PCT Legal Administration for consideration of issues arising under 35 U.S.C. 371 and 37 CFR 1.42.

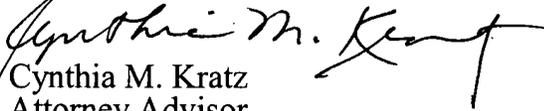
On 6 March 2006, applicant filed a declaration executed by the joint inventors and the legal representatives of deceased inventor Rolf-Reiner Sawall.

On 15 September 2006, a decision on the submission was mailed to applicant indicating, inter alia, that the declaration was not the USPTO form declaration and contained foreign language text. A statement that the English text of the declaration is an accurate translation of the foreign text was required.

On 13 November 2006, applicant submitted a "Renewed Submission under 37 CFR 1.42 Request for Reconsideration" in the U.S. Designated/Elected Office (DO/US) in the United States Patent and Trademark Office (USPTO) accompanied by an English translation of the executed Declaration.

The executed declaration, submitted on 6 March 2006, is in compliance with 37 CFR 1.497(a) and (b) and is acceptable.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 06 March 2006.


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

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Nixon Peabody LLP
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Rochester NY 14604

MAILED

JUL 07 2010

OFFICE OF PETITIONS

In re Application of :
JAHN et al. :
Application No. 10/538,434 : ON APPLICATION FOR
Filed: 07/31/2006 : PATENT TERM ADJUSTMENT
Attorney Docket No. 19603/4252 :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed May 5, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is 855 days, not 333 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR

1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

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

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

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

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

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

C. Y. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



15 NOV 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

#4

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

Paul, Hasting, Janofsky & Walker LLP
P.O. Box 919092
San Diego, CA 92191-9092

In re Application of	:	
CHENG et al.	:	
Application No.: 10/538,439	:	DECISION ON PETITION
PCT No.: PCT/US03/01853	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 21 January 2003	:	
Priority Date: 18 January 2002	:	
Attorney Docket No.: 45259.00002.UTL1	:	
For: SYSTEM AND METHOD FOR DATA	:	
TRACKING AND MANAGEMENT	:	

The petition to revive under 37 CFR 1.137(b) filed 10 June 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
Attorney-Advisor
Office PCT Legal Administration
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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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JACKSON WALKER, L.L.P.
112 E. PECAN, SUITE 2400
SAN ANTONIO, TX 78205

Mail Date: 04/27/2010

Applicant : William John Metheringham : DECISION ON REQUEST FOR
Patent Number : 7620193 : RECALCULATION of PATENT
Issue Date : 11/17/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/538,441 : OF WYETH AND NOTICE OF INTENT TO
Filed : 08/08/2005 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **1061** 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.



Marc S. Hanish
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PO Box 640640
San Jose, CA 95165-0640

1 1 JUN 2007

In re Application of	:	
Roques et al.	:	
Application No.: 10/538,446	:	DECISION
PCT No.: PCT/FR03/50153	:	
Int. Filing Date: 04 December 2003	:	ON
Priority Date: 09 December 2002	:	
Attorney Docket No.: 034299-645	:	PETITION
For: Door Designed To Be Inserted Between	:	
An Aircraft Cockpit And Cabin	:	

This is a decision on applicants' submissions entitled "Request For Updated Filing Receipt" filed on 11 January 2007 and on 26 February 2007, which are being treated as a petition under 37 CFR 1.10(c).

BACKGROUND

This international application was filed on 04 December 2003, claimed a priority date of 09 December 2002, and designated the United States. The International Bureau transmitted a copy of the published international application to the USPTO on 01 July 2004. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 09 June 2005. On 10 June 2005, applicants filed *inter alia* the basic national fee.

On 07 November 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 10 June 2005.

DISCUSSION

Petitioner requests that the correspondence (and fees) received in the USPTO on 10 June 2005 be accorded a filing date of 09 June 2005 on the basis of Express Mail evidence. Under 37 CFR 1.10(c), where a discrepancy can be shown between the filing date accorded to correspondence by the USPTO and the date of deposit as shown as the "date-in" on the "Express Mail" mailing label or other USPS notation, the Commissioner may be petitioned to accord the correspondence a filing date as of the "date-in" or other official USPS notation. The instant petition complies with 37 CFR 1.10(c)(1).

Concerning 37 CFR 1.10(c)(2), an Express Mail mailing label number, EV310861440US, was recorded on certain elements of the correspondence in controversy (including the specification, claims, abstract and drawings), but it was not recorded on all of the elements of the correspondence (such as the declaration and the Transmittal Letter bearing a fee authorization). Nor was it recorded on a cover or transmittal letter itemizing the papers and fees. Petitioner's attention is drawn to MPEP 513, which states in part that

However, if the number of the mailing label did not appear on the correspondence as originally filed, relief will not be granted on petition under 37 CFR 1.10(c) **>

(d), (e), (g) or (h)<, even if the party who filed the correspondence satisfies the other requirements of 37 CFR 1.10(c), 1.10(d) * 1.10(e)>, 1.10(g), or 1.10(h)<. To be effective, the number must be placed on each separate paper and each fee transmittal either directly on the document or by a separate paper firmly and securely attached thereto. In situations wherein the correspondence includes several papers directed to the same application (for example, the specification, drawings, and declaration for a new application), the correspondence may be submitted with a cover or transmittal letter which should itemize the papers. It is not necessary that the number be placed on each page of a particular paper or fee transmittal. Merely placing the number in one prominent location on each separate paper or fee transmittal (or cover sheet or transmittal letter which should itemize the separate papers and fees) will be sufficient.

Since the filing of correspondence under 37 CFR 1.10 without the number of the "Express Mail" mailing label thereon is an oversight that can be avoided by the exercise of reasonable care, requests for waiver of this requirement will not be granted on petition. A party's inadvertent failure to comply with the requirements of a rule is not deemed to be an extraordinary situation that would warrant waiver of a rule under 37 CFR 1.183, 2.146(a)(5) or 2.148, nor is such an inadvertent omission considered "unavoidable," within the meaning of 15 U.S.C. 1062(b), 35 U.S.C. 133, 37 CFR 1.137(a) or 37 CFR 2.66(a). See *Honigsbaum v. Lehman*, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995) (Commissioner did not abuse his discretion in refusing to waive requirements of 37 CFR 1.10(c) in order to grant filing date to patent application, where applicant failed to produce "Express Mail" customer receipt or any other evidence that application was actually deposited with USPS as "Express Mail."), *aff'd* without opinion, 95 F.3d 1166 (Fed. Cir. 1996); *Nitto Chemical Industry, Co., Ltd. v. Comer*, 39 USPQ2d 1778, 1782 (D.D.C. 1994) (Commissioner's refusal to waive requirements of 37 CFR 1.10 in order to grant priority filing date to patent application not arbitrary and capricious, because failure to comply with the requirements of 37 CFR 1.10 is an "avoidable" oversight that could have been prevented by the exercise of ordinary care or diligence, and thus not an extraordinary situation under 37 CFR 1.183.); *Vincent v. Mossinghoff*, 230 USPQ 621 (D.D.C. 1985) (misunderstanding of 37 CFR 1.8 not unavoidable delay in responding to Office Action); *Gustafson v. Strange*, 227 USPQ 174 (Comm'r Pat. 1985) (counsel's unawareness of 37 CFR 1.8 not extraordinary situation warranting waiver of a rule); *In re Chicago Historical Antique Automobile Museum, Inc.*, 197 USPQ 289 (Comm'r Pat. 1978) (since certificate of mailing procedure under 37 CFR 1.8 was available to petitioner, lateness due to mail delay not deemed to be extraordinary situation).

In the instant case, the Express Mail mailing label number was recorded on the correspondence, all of which is shown by the official records of the USPTO to have been received on 10 June 2005. Based on the totality of the circumstances present in this case, it would be appropriate to conclude that 37 CFR 1.10(c)(2) has been satisfied.

With regard to 37 CFR 1.10(c)(3), counsel has provided a copy of the Customer Copy of an Express Mail mailing label, number EV310861440US, showing a "date-in" of "6-9-05" and bearing a USPS plug stamp dated "JUN 9 2005." Therefore, the requirements of 37 CFR 1.10(c)(3) have been satisfied.

Review of the declaration document reveals that it is defective in that it includes an uninitialed alteration of Mr. Mallaval's name.

The correspondence received in the USPTO on 10 June 2005 will be regarded as having been filed on 09 June 2005, per 37 CFR 1.10(c).

The Notice of Acceptance mailed on 07 November 2005 was issued in error, and it is hereby VACATED.

CONCLUSION

The petition is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration compliant with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(h).



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PCT Legal Examiner
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19 JUN 2006

#-4



UNITED STATES PATENT AND TRADEMARK OFFICE

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Carolyn A. Fischer
3M Innovative Properties Company
P.O. Box 33427
St. Paul, MN 55133-3427

In re Application of	:	
YODA, et al.	:	DECISION ON PETITION
Serial No.: 10/538,450	:	
PCT No.: PCT/US03/39866	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 15 December 2003	:	
Priority Date: 08 January 2003	:	
Atty Docket No.: 58343US005	:	
For: FLEXIBLE MOLD FOR A BACK SURFACE	:	
PLATE OF PLASMA DISPLAY PANEL (PDP)	:	
AND PROTECTION METHODS OF THE MOLD	:	
AND BACK SURFACE PLATE	:	

This decision is in response to applicant's petition under 37 CFR 1.47(a) filed 16 December 2005 in the United States Patent and Trademark Office (USPTO) to accept the application without the signature of joint inventor Chikafumi Yokoyama.

BACKGROUND

On 15 December 2003, applicant filed international application PCT/US03/39866 which claimed priority to a previous application filed 08 January 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 08 July 2005.

On 10 June 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); a preliminary amendment and an Information Disclosure Statement.

On 16 November 2005, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an 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 16 December 2005, applicant filed the present petition under 37 CFR 1.47(a) to accept the application without the signature of joint inventor Chikafumi Yokoyama.

DISCUSSION

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

Regarding item (1), applicant is advised that pursuant to 37 CFR 1.17(g) the petition fee is \$200.00. As authorized, the petition fee will be deducted from deposit account no.: 13-3723.

As to item (2), as stated in the Manual of Patent Examination Procedure (MPEP), Section 409.03(d) Proof of Unavailability or Refusal, "Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature." 409.03(d) also states that:

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts.

In the present case, counsel states that she sent a copy of the application, an assignment document and declaration and power of attorney to Mr. Toshio Tamura to obtain the inventor's signatures. In his signed statement Mr. Tamura merely states that he "personally contacted" inventor Yokoyama and that the inventor refused to sign the documents. As shown above, this evidence is insufficient for granting a petition under 37 CFR 1.47(a). Applicant has not shown that a complete set of the application papers were provided to the inventor prior to the alleged refusal to sign the declaration. In addition, the Tamura statement does not provide any details of the alleged refusal. In order to proceed under 37 CFR 1.47(a) applicant must provide a firsthand account of the presentation of the papers to the nonsigning inventor, as well as, the details of the alleged refusal. Applicant must submit either a copy of a written refusal to cooperate or a statement of facts including time and place if the refusal was communicated orally.

In light of the above, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(a) is **DISMISSED**.

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

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



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25 OCT 2006

Carolyn A. Fisher
3M Innovative Properties Company
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St. Paul, MN 55133-3427

In re Application of	:	
YODA, et al.	:	
U.S. Application No.: 10/538,450	:	DECISION ON RENEWED
PCT No.: PCT/US03/39866	:	
Int. Filing Date: 15 December 2003	:	PETITION UNDER
Priority Date: 08 January 2003	:	
Attorney Docket No.: 58343US005	:	37 CFR 1.47(a)
For: FLEXIBLE MOLD FOR A BACK SURFACE	:	
PLATE OF PLASMA DISPLAY PANEL (PDP)	:	
AND PROTECTION METHODS OF THE MOLD	:	
AND BACK SURFACE PLATE	:	

This decision is in response to the applicant's "RENEWED PETITION UNDER 37 C.F.R. § 1.47" filed 02 October 2006 in the United States Patent and Trademark Office (USPTO) to accept the filed declaration without the signature of joint inventor Chikafumi Yokoyama.

BACKGROUND

On 19 June 2006, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(a). Applicant was afforded two months to file any request for reconsideration.

On 02 October 2006, applicant filed the present renewed petition accompanied by a petition for two-month extension of time. With the filing of the petition for a two-month extension of time and payment of the appropriate fee, the renewed petition is considered timely filed.

DISCUSSION

As discussed in the decision mailed 19 June 2006, a petition under 37 CFR 1.47(a) must be accompanied by: (1) the requisite \$200 petition fee required by 37 CFR 1.17(g); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing joint inventor; and (4) an oath or declaration executed by each of the signing joint inventors on their behalf and on behalf of the non-signing joint inventor(s). Applicant previously satisfied items (1), (3) and (4) above.

With the filing of the present renewed petition and supporting exhibits applicant has satisfied all of the concerns raised in the previous decision and 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(a) is **GRANTED**.

The application has an international filing date of 15 December 2003 under 35 U.S.C. 363, and will be given a date of **16 December 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(c), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known addresses of record. A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the DO/EO/US for processing in accordance with this decision. 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



25 OCT 2006

Mr. Chikafumi Yokoyama
6-25-30, Minami-Kurihara
Zama-shi, Kanagawa, 228-0015
JAPAN

In re Application of
YODA, et al.

U.S. Application No.: 10/538,450

PCT No.: PCT/US03/39866

Int. Filing Date: 15 December 2003

Priority Date: 08 January 2003

Attorney Docket No.: 58343US005

For: FLEXIBLE MOLD FOR A BACK SURFACE
PLATE OF PLASMA DISPLAY PANEL (PDP)
AND PROTECTION METHODS OF THE MOLD
AND BACK SURFACE PLATE

Dear Mr. Yokoyama:

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

Carolyn A. Fisher
3M Innovative Properties Company
P.O. Box 33427
St. Paul, MN 55133-3427
United States of America



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

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

COPY MAILED
MAR 16 2010

In re Patent No. 7,605,159 : DECISION ON REQUEST
McInally et al. : FOR
Issue Date: October 20, 2009 : RECONSIDERATION OF
Application No. 10/538,452 : PATENT TERM ADJUSTMENT
Filed: June 10, 2005 : and
Atty Docket No. : NOTICE OF INTENT TO ISSUE
06275-455US1 100927-1P US : CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 17, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred fifty-four (754) 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 fifty-four (754) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred fifty-four (754) days**.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.


Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,605,159 B2

DATED : **October 20, 2009**

DRAFT

INVENTOR(S) : McInally 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 434 days.

Delete the phrase "by 434 days" and insert – by 754 days--



28 SEP 2006

Karin H Butchko
Carlson Gaskey & Olds
400 W Maple Road
Suite 350
Birmingham MI 48009

In re Application of	:	
Meyer et al.	:	
Application No. 10/538,461	:	
PCT No.: PCT/US03/03801	:	
Int. Filing Date: 07 February 2003	:	COMMUNICATION
Priority Date: 13 December 2002	:	
Atty. Docket No.:60469-215; OT-5043A	:	
For: Stepchain Link For A	:	
Passenger Conveyor System	:	

This is in response to the declaration of the inventors filed under PCT Rule 4.17(iv), which is being treated under 37 CFR 1.42.

BACKGROUND

This international application was filed on 07 February 2003, claimed an earliest priority date of 13 December 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 13 June 2005. Applicants filed, *inter alia*, the basic national fee on 10 June 2005.

On 14 September 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(h).

DISCUSSION

Review of the declaration of the inventors filed under PCT Rule 4.17(iv) (a copy of which was filed on 10 June 2005) reveals that joint inventor Jorg OSTERMEIER is indicated to be "deceased" and that Helene Ostermeier geb. Wagener and Heike Helene Rojahn geb. Ostermeier have signed on his behalf. 37 CFR 1.42 provides in part that

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

Meanwhile, 37 CFR 1.497(b)(2), as amended effective 08 September 2000, provides that

If the person making the oath or declaration is not the inventor (§§ 1.42, 1.43 or 1.47), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing the oath or declaration is the

legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.

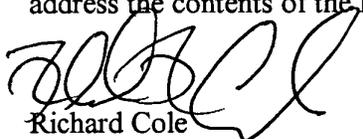
Further examination of the declaration reveals that it properly identifies the international application number to which it is directed. Helene Ostermeier geb. Wagener and Heike Helene Rojahn geb. Ostermeier have signed the declaration in the capacity of "Legal Representative," and the declaration provides their respective citizenship, residence and postal address information. However, it does not provide "the facts which the inventor would have been required to state" in that Jorg Ostermeier's citizenship, residence and mailing address information is not listed. As such, the declaration does not comply with 37 CFR 1.497(b)(2). It is also noted that the declaration nominates Andreas Stuffel, who is not named in the published international application. Accordingly, it would not be appropriate to accept the declaration of the inventors under 37 CFR 1.42 at this time.

CONCLUSION

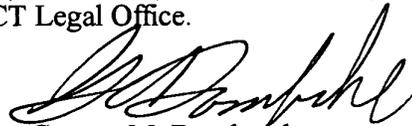
The declaration is **NOT ACCEPTED** under 37 CFR 1.42, without prejudice.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42." Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

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



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

13 FEB 2007

United States Patent and Trademark Office



Commissioner for Patents
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Karin H Butchko
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400 W Maple Road
Suite 350
Birmingham MI 48009

In re Application of	:	
Meyer et al.	:	
Application No. 10/538,461	:	
PCT No.: PCT/US03/03801	:	
Int. Filing Date: 07 February 2003	:	COMMUNICATION
Priority Date: 13 December 2002	:	
Att. Docket No.: 60469-215; OT-5043A	:	
For: Stepchain Link For A	:	
Passenger Conveyor System	:	

This is in response to the renewed submission under 37 CFR 1.42 filed on 17 November 2006.

DISCUSSION

In a Communication mailed on 28 September 2006, the declaration filed under PCT Rule 4.17(iv) was not accepted under 37 CFR 1.42 because

Further examination of the declaration reveals that it properly identifies the international application number to which it is directed. Helene Ostermeier geb. Wagener and Heike Helene Rojahn geb. Ostermeier have signed the declaration in the capacity of "Legal Representative," and the declaration provides their respective citizenship, residence and postal address information. However, it does not provide "the facts which the inventor would have been required to state" in that Jorg Ostermeier's citizenship, residence and mailing address information is not listed. As such, the declaration does not comply with 37 CFR 1.497(b)(2). It is also noted that the declaration nominates Andreas Stuffel, who is not named in the published international application. Accordingly, it would not be appropriate to accept the declaration of the inventors under 37 CFR 1.42 at this time.

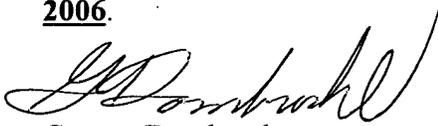
In response, applicants have filed a copy of a 4.17(iv) declaration form which provides the residence, citizenship and postal address information for Jorg Ostermeier, and which is signed by the same legal representatives as signed the declaration filed on 10 June 2005. The declaration nominates the same inventive entity as the declaration filed on 10 June 2005, including Andreas Stuffel, who is not named in the published international application. However, on 30 November 2006, applicants submitted a copy Form PCT/IB/306 evidencing the recording of a change under Rule 92bis to add "STUFFEL, Andreas" as an applicant/inventor. Based on the totality of the evidence currently of record, it would be appropriate to accept the declaration under 37 CFR 1.42, for purposes of compliance with 37 CFR 1.497(a) and (b).

It is noted that the surcharge under 37 CFR 1.492(h) has been paid twice. Therefore, \$130.00 is being refunded to Deposit Account No. 50-1482 (which was the source of the second payment of the surcharge).

CONCLUSION

The declaration is **ACCEPTED** under 37 CFR 1.42.

This application is being forwarded to the National Stage Processing Branch for further processing. The date of this application under 35 U.S.C. 371(c)(1), (2) and (4) is **17 November 2006**.



George Dombroske
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02/13/2007 SBASHEIR 00000003 10530461

01 FC:1617

130.00 OP

Adjustment date: 02/13/2007 SBASHEIR
12/04/2006 AKAYPAGH 00000036 501402 10530461
01 FC:1617 130.00 CR



EASTMAN KODAK COMPANY
PATENT LEGAL STAFF
343 STATE STREET
ROCHESTER NY 14650-2201

DEC 10 2007

In re Application of :
MURRAY FIGOV :
Application No. 10/538,489 :
Filed: December 8, 2003 :
Attorney Docket No. 91255JLT :

DECISION ON PETITION TO
REVERSE THE EXAMINER
UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed July 20, 2007, requesting the Group Director to exercise her supervisory authority to reverse the examiner's refusal to enter applicant's second amendment filed under 37 C.F.R. § 1.116 amendment (rule 116 amendment) that was submitted on June 12, 2007 and to direct entry of the amendment.

The petition is granted to the extent that the examiner's action has been reviewed but denied as to making any change thereto.

BACKGROUND

A preliminary amendment was filed June 9, 2005. Original claims 1-39 were cancelled and new claims 40-70 were added.

A restriction requirement Office action was mailed May 24, 2006, requiring restriction between two groups: Group I, claims 1-30 and 38-39, a lithographic printing blank, a method of producing said blank, and a wet lithographic printing process using said blank, and Group II, claims 31-37, an ink-jet ink.

A response to the restriction requirement was timely filed on June 26, 2006 and Group I was elected. Applicant stated that the election was made with traverse but did not present any arguments. Further, applicant did not bring to the examiner's attention that a preliminary amendment had been filed and that claims 40-70 are now pending in the application.

A non-final Office was mailed August 14, 2006. The examiner held the election of Group I as having been made without traverse since no arguments were presented with the response to the restriction requirement. Claims 1-30 and 38-39 was rejected and claims 31-37 were withdrawn from consideration as being drawn to a nonelected invention.

On September 20, 2006 a new non-final Office action was mailed. Claims 40-70, as presented in the preliminary amendment, were subject to a restriction requirement: Group I, claims 39[sic]40-61 and 69-70, a lithographic printing blank, a method of producing said blank, and a wet lithographic printing process using said blank, and Group II, claims 62-68, an ink-jet ink.

The examiner treated the response to the restriction requirement filed on June 26, 2006 as an election of Group I, claims 40-61 and 69-70 and reexamined the application. Claims 40-61 and 69-70 was rejected and claims 62-68 were withdrawn from consideration as being drawn to a nonelected invention.

A response to the non-final Office action was filed on December 18, 2006. Claims 54, 56 and 61 were amended, claim 60 was cancelled and new claim 71 added. Applicant presented arguments traversing the rejections and requested reconsideration.

A Final Office action was mailed March 22, 2007 rejecting claims 40-59, 61 and 69-71. After addressing applicant's arguments, it was stated that applicant's amendment necessitated the new grounds of rejection and the action was made final.

A rule 116 amendment was filed on May 15, 2007, with an amendment to claims 40, 54 and 69 to include the subject matter of claims 46-48, 51 and 52. Claims 46-48, 51 and 52 thereafter were cancelled.

An Advisory action was mailed May 25, 2007, indicating that the rule 116 amendment would not be entered because the amendments raised new issues that would require further consideration and/or new search. The examiner stated that the added limitations in the independent claims requiring a range of concentrations of the components raised new issues.

A second rule 116 amendment was filed on June 12, 2007, with an amendment to claim 40 to include the subject matter of claims 46-48, 51 and 52. Claims 46-48, 51 and 52 was cancelled. Claims 54-70 were also cancelled in order to expedite allowance of the application.

An Advisory action was mailed July 10, 2007, indicating that the second rule 116 amendment would not be entered because the proposed amendments raised new issues that would require further consideration and/or new search. The examiner stated that new issues were raised because amended claim 40 specified that the polyvinyl alcohol (PVA) and polyacrylic acid (PAA) both be present at a certain percentage.

Petitioner seeks relief by filing a petition under 37 C.F.R. § 1.181 requesting that the second rule 116 amendment be entered.

A Notice of Appeal was filed on September 25, 2007.

REGULATIONS AND PRACTICE

37 C.F.R. § 1.116(a) and (b) state that:

- (a) An amendment after final action must comply with § 1.114 or this section.
- (b) After a final rejection or other final action (§ 1.113) in an application or in an ex

parte reexamination filed under § 1.510, or an action closing prosecution (§ 1.949) in an inter partes reexamination filed under § 1.913, but before or on the same date of filing an appeal (§ 41.31 or § 41.61 of this title):

- (1) An amendment may be made canceling claims or complying with any requirement of form expressly set forth in a previous Office action;
- (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.

M.P.E.P. § 714.12 states in part that:

Once a final rejection that is not premature has been entered in an application, applicant or patent owner no longer has any right to unrestricted further prosecution. This does not mean that no further amendment or argument will be considered. Any amendment that will place the application either in condition for allowance or in better form for appeal may be entered. Also, amendments >filed after a final rejection, but before or on the date of filing an appeal,< complying with objections or requirements as to form are to be permitted after final action in accordance with 37 CFR § 1.116(b).

OPINION

Petitioner asserts that his second rule 116 amendment submitted on June 12, 2007 should be entered as it will further prosecution and simplify issues for any appeal. Petitioner further asserts that the examiner has sufficiently considered the subject matter added to claim 40 so that no new issue is raised requiring a new search or consideration.

Petitioner points to several provisions of the Manual of Patent Examination Procedure (M.P.E.P.) that provide guidance for this situation as it gives directions to examiners in the searching and consideration of claimed subject matter.

M.P.E.P. § 904.01: “During patent examination, the claims are given the broadest reasonable interpretation consistent with the specification”.

M.P.E.P. § 904.02 (second paragraph): “The search should cover the claimed subject matter and should also cover the disclosed features which might reasonably be expected to be claimed”.

M.P.E.P. § 904.02(a) (second paragraph): “The field of search should extend to all probable areas relevant to the claimed subject matter and should cover the disclosed features which might reasonably be expected to be claimed”.

M.P.E.P. § 904.03 (first paragraph): “It is a prerequisite to a speedy and just determination of the issues involved in the examination of an application that a careful and comprehensive search, commensurate with the limitations appearing in the most

detailed claims in the case, be made in preparing the first action on the merits so that the second action on the merits can be made final or the application allowed with no further searching other than to update the original search. It is normally not enough that references be selected to meet only the terms of the claims alone, especially if only broad claims are presented; but the search should, insofar as possible, also cover all subject matter which the examiner reasonably anticipates might be incorporated into applicant's amendment".

M.P.E.P. § 904.03 (last paragraph): In all references considered, including nonpatent, foreign patents, and domestic patents, the examiner should study the specification or description sufficiently to determine the full value of the reference disclosure relative to the claimed or claimable subject matter.

Petitioner concludes from the directions given to examiners in searching and consideration of claimed subject matter, the features of amended claim 40 were presumably searched and considered individually. Petitioner also states that it is clearly reasonable to expect combinations of the ranges of components to be claimed, as in amended claim 40, particularly in view of the teaching in applicant's examples as well as the text of the general disclosure.

A review of the file record indicates that second rule 116 amendment raises new issues which would require further consideration and/or search by the examiner if entered. The individual use of the ranges of amounts of components as well as their combinations as presented in amended claim 40 are not limitations that might reasonably have been expected to be claimed. For example, the hydrophilic or oleophilic composition in the specified ranges was not previously presented. Entry of amended claim 40 would avoid the rejections and require new considerations.

Further, the teaching of applicant's examples as well as the text of the general disclosure would not have provided the examiner a clear reasonable expectation of the combinations of the ranges of components as in amended claim 40. Applicant does not claim the specific compositions of examples 1-3, presumably embodiments of the invention. No reason is offered to indicate why the amendment was not or could not be presented earlier.

Petitioner's attention is also directed to the attached memorandum from the Deputy Commissioner for Examination Policy, titled "Clarification of Second Action Final Rejection Practice with Respect to Claims Drafted Using Alternative Language," dated January 24, 2007. The last paragraph in reference to M.P.E.P. § 904.02 states "[a]n examiner cannot be expected to foresee whether or how an applicant will amend a claim to overcome a rejection except in very limited circumstances (e.g., where the examiner suggests how applicant can overcome a rejection under 35 U.S.C. §112 second paragraph)."

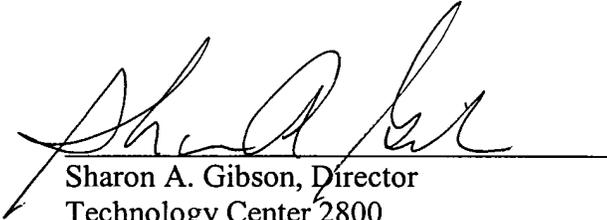
CONCLUSION

The second rule 116 amendment clearly raises new issues which would require further consideration by the examiner. No evidence has been presented that amended claim 40 places the application in better form for appeal. Neither has applicant presented good and sufficient reasons why the amendment is necessary and could not be earlier presented. Further, amended claim 40

does not *prima facie* put the application in condition for allowance. Entry of the amendment was properly refused by the examiner as provided for under the above quoted Rules and M.P.E.P. sections.

The petition is DENIED. Entry of the amendment was properly refused by the examiner as provided for under the above quoted Rules and M.P.E.P. sections.

Inquiries regarding this decision should be directed to Jose' G. Dees at 571-272-1569.

A handwritten signature in black ink, appearing to read 'Sharon A. Gibson', is written over a horizontal line.

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

'See Attachment'



03 NOV 2006

23552
MERCHANT & GOULD PC
P.O. Box 2903
Minneapolis, MN 55402-0903

In re Application of :
WALDNER *et al* :
Application No.: 10/538,515 :
PCT No.: PCT/EP03/13959 :
Int. Filing Date: 09 December 2003 :
Priority Date: 09 December 2002 :
Attorney Docket No.: 12684.0015USWO :
For: INHALATION THERAPY DEVICE :

DECISION

This decision is in response to the "Petition Under 37 C.F.R. §1.182" to change the name of an inventor filed 09 August 2006.

BACKGROUND

On 14 October 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee must be provided. Applicants were given two months to respond with extensions of time available pursuant to 37 CFR 1.136(a).

On 10 November 2005, applicants filed an executed declaration and surcharge fee. The name of the second named inventor was listed as Daniela MUNDENBRUCH on the declaration. However, the surname was listed as HAUSER on the international publication.

On 14 July 2006, a communication was mailed notifying applicant that the declaration was not in compliance with 37 CFR 1.497 and were given one month to provide an acceptable declaration, or file a petition to change the name of the inventor.

On 09 August 2006, applicants filed the subject petition which was accompanied by, *inter alia*, a certified copy of a German court order and the \$400.00 petition fee.

DISCUSSION

Section 605.04(c), *Inventor Changes Name*, of the Manual of Patent Examining Procedures (MPEP) states, in part:

The petition must include an appropriate petition fee and an affidavit signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a certified copy of the court order.

In the response filed 09 August 2006, applicants' petition to change the name of the second inventor and have provided the requisite \$400.00 petition fee and a certified copy of the court order as required.

This evidence would have been acceptable for a grantable petition.

However, the court order submitted to the Office as the required proof needed for a grantable petition is in German without an English translation. The Office does not accept foreign language documents as evidence without an accompanying English translation.

CONCLUSION

For the reason discussed above, applicants' petition under 37 CFR 1.182 is **DISMISSED** without prejudice.

The declaration filed 10 November 2005 is still not in compliance with 37 CFR 1.497(a) and (b).

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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



James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

grantable petition.

CONCLUSION

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

The family name of the second inventor has been changed to MUNDENBRUCH.

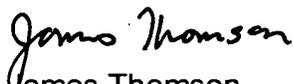
A review of the declaration submitted 10 November 2005 shows that the pen and ink change of the name to Mundenbruch was not initialed. This is not acceptable. Section 605.04(a) of the MPEP states that:

Any changes made in ink in the application or oath prior to signing should be initialed and dated by the applicants prior to execution of the oath or declaration. The Office will not consider whether noninitialed and/or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration."

A new declaration in compliance with 37 CFR 1.497(a) and (b) is required.

Applicants must provide an acceptable declaration within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to provide an acceptable declaration within the time provided will result in the **ABANDONMENT** of the application.

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



James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302



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www.uspto.gov

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant : Christian Danz : DECISION ON REQUEST FOR
Patent Number : 7602312 : RECALCULATION of PATENT
Issue Date : 10/13/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/538,518 : OF WYETH AND NOTICE OF INTENT TO
Filed : 12/15/2005 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **723** 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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INTELLECTUAL PROPERTY GROUP
FREDRIKSON & BYRON, P.A.
200 SOUTH SIXTH STREET, SUITE 4000
MINNEAPOLIS, MN 55402

Mail Date: 05/13/2010

Applicant	: Giacomo Nicolao Maccalli	: DECISION ON REQUEST FOR
Patent Number	: 7615121	: RECALCULATION OF PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/538,529	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/10/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **216** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

16 AUG 2005

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William R. Reid
Basell USA Inc.
912 Appleton Road
Elkton, MD 21921

In re Application of
Rohde et al.
Application No. 10/538,536
PCT No.: PCT/EP03/13914
Int. Filing Date: 09 December 2003
Priority Date: 10 December 2002
Atty. Docket No.: LU 6075 (US)
For: Supported Chromium Catalyst And
Its Use For Preparing Homopolymers
And Copolymers Of Ethylene

.....

COMMUNICATION

This is in response to the petition under 37 CFR 1.10(d) filed on 25 July 2005.

BACKGROUND

This international application was filed on 09 December 2003, claimed an earlier priority date of 10 December 2002, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 24 June 2004. The 30 month time period for paying the basic national fee in the United States expired at midnight on 10 June 2005.

DISCUSSION

Petitioner requests that "the Office change the filing date of this application from June 11, 2005 to June 10, 2005" pursuant to 37 CFR 1.10(d), which provides that

Any person mailing 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 instant petition satisfies the requirements of 37 CFR 1.10(d)(1).

Regarding 37 CFR 1.10(d)(2), the original copy of an "Express Mailing Certificate" attached to the correspondence in question is present in the application file, and bears Express Mail mailing label number ER935731504US, and is being accepted in satisfaction of 37 CFR 1.10(d)(2).

Regarding 37 CFR 1.10(d)(3), the petition is accompanied by a copy of Express Mail mailing label number ER935731504US which bears a "Date-In" of "6 11 05," rather than 10 June 2005 as requested by petitioner. The petition is also accompanied by a print-out of a from the USPS "Track/Confirm - Intranet Item Inquiry - Domestic" page which reflects an "ACCEPT OR PICKUP" date of "06/10/2005." This evidence is supplemented by a statement by Allen E. Conklin of the USPS. Based on the totality of the evidence presented, it would be appropriate to grant the requested relief.

The transmittal letter, declaration of the inventors, fee payments, assignment, application data sheet and preliminary amendment included in the correspondence in question and originally marked as filed on 11 June 2005 are, pursuant to 37 CFR 1.10(d), being regarded as filed on 10 June 2005.

DECISION

The petition under 37 CFR 1.10(d) is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **10 June 2005**.



Boris Milef
PCT Legal Examiner
PCT Legal Office



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



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INTERNATIONAL BUSINESS MACHINES CORPORATION
650 Harry Road, L2PA/J2C
INTELLECTUAL PROPERTY LAW
SAN JOSE, CA 95120-6099

Mail Date: 04/20/2010

Applicant : Christoph Raisch : DECISION ON REQUEST FOR
Patent Number : 7593413 : RECALCULATION of PATENT
Issue Date : 09/22/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/538,537 : OF WYETH AND NOTICE OF INTENT TO
Filed : 06/10/2005 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **821** 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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DECHERT LLP
P.O. BOX 390460
MOUNTAIN VIEW CA 94039-0460

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In re Application of :
Uwe Marquart :
Application No. 10/538,539 : **DECISION ON PETITION**
Filed: June 19, 2006 :
Attorney Docket No. 374658- :
00321(356449) :

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed February 14, 2008, is accepted as having been unintentionally delayed.

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

This application is being referred to the Office of Data Management to be processed into a patent.

Karen Creasy
Petitions Examiner
Office of Petitions

02 AUG 2005



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BASELL USA INC.
INTELLECTUAL PROPERTY
912 APPLETON ROAD
ELKTON, MD 21921

In re Application of :
MIHAN, Shahram et al. :
Application No.: 10/538,540 :
PCT No.: PCT/EP03/14437 :
Int. Filing Date: 18 December 2003 :
Priority Date: 20 December 2002 :
Docket No.: LU 6084 (US) :
For: COPOLYMERS OF ETHYLENE WITH :
α-OLEFINS :

DECISION
ON PETITION UNDER
37 CFR 1.10(d)

This decision is in response to applicants' "Petition to Correct Filing Date Under 37 CFR 1.10(d)," filed 25 July 2005.

BACKGROUND

On 18 December 2003, applicant filed international application PCT/EP03/14437, which claimed a priority date of 20 December 2002. A copy of the international application was transmitted to the Office by the International Bureau on 08 July 2004. Accordingly, the thirty month period for paying the basic national fee expired at midnight on 20 June 2005.

Applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by, *inter alia*, the basic national fee. It was accorded a filing date of 11 June 2005.

On 25 July 2005, applicant submitted the instant petition, accompanied by a copy of the transmittal letter, Express Mail label and Express Mail tracking information from USPS.

DISCUSSION

In the instant petition, applicant requests that the receipt date be amended to 10 June 2005. The Express Mail mailing label lists the "date in" as 11 June 2005.

Applicant argues that the application was submitted to the USPS on 10 June 2005. 37 CFR § 1.10(d) allows an applicant to petition to correct an incorrectly entered "Date In" of an Express Mail receipt and states that:

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

was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

- (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
- (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";
- (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.

Applicant has satisfied items (1), (2) and (3). The petition was filed promptly and the papers in the file reflect the mailing label number. Applicant has furnished a print out from USPS track and confirm database indicating the package was accepted by USPS on 10 June 2005 and submitted a letter on USPS stationery from a Supervisor at the Elkton Post Office.

CONCLUSION

For the reasons listed above, applicant's petition under 37 CFR 1.10(d) to correct the date of receipt of the papers for entry into the national stage in the United States to 10 June 2005 is GRANTED.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing. The application has a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of 10 June 2005.



Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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



07 NOV 2006

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Jones Day
222 East 41st Street
New York, New York 10017

In re Application of :
AEBI et al. :
Application No.: 10/538,542 :
PCT No.: PCT/CH02/000706 :
Int. Filing: 17 December 2002 :
Priority Date: None :
Attorney Docket No.: LUS-16099 :
For: INTERVERTEBRAL IMPLANT :
 COMPRISING JOINT PARTS THAT :
 ARE MOUNTED TO FORM A :
 UNIVERSAL JOINT :

DECISION ON PETITION

This decision is in response to applicants' "Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)" and "Petition under 37 CFR 1.47(a)" filed 22 September 2006 in the above-captioned application. The requisite \$1500 petition fee for the filing of a petition under 37 CFR 1.137(b) and the requisite \$200 petition fee have been submitted. The above captioned national stage application became abandoned for failure to submit an oath or declaration within the time period set forth in the Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 25 November 2005.

BACKGROUND

On 17 December 2002, applicants filed international application PCT/CH02/000706, which claimed no priority date. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 01 July 2004. Pursuant to 37 CFR 1.495, the period for paying the basic national fee in the United States expired 30 months from the international filing date, 17 June 2005.

On 10 June 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 translation of the international application; an application data sheet; and a preliminary amendment.

On 25 November 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that 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.

Application No.: 10/538,542

On 04 August 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 25 November 2005 within the time period set therein.

On 22 September 2006, applicants filed a "Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)" and a Petition under 37 CFR 1.47(a).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional delay 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).

In order to comply with the proper response requirement of item (1) above for revival under 37 CFR 1.137(b), applicants submitted the present Petition Under 37 CFR 1.47(a). Under the present circumstances, in order for the response requirement, item (1) above, to be satisfied, the petition to accept the application without the signature of Max Aebi must be grantable.

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

Regarding item (2) above, petitioner states that Max Aebi 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.

Application No.: 10/538,542

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 Max Aebi 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 Max Aebi. The statement of Carrie A. McPherson states that a copy of the application papers were sent (via electronic mail) to Max Aebi on August 22, 2006. A copy of the electronic mail has been provided. However, petitioner fails to include evidence to demonstrate that the materials were actually received by the nonsigning inventor. (The "Delivery Status Notification" only confirms delivery, not receipt.) 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.

Regarding item (3) above, a clear statement of the last known address of the nonsigning 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)

For the above reasons, it would not be appropriate to accept this application without the signature of Max Aebi at this time and the application remains abandoned.

CONCLUSION

The petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice and the application remains **ABANDONED**.

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

Application No.: 10/538,542

request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a) and 37 CFR 1.137(b)." No additional petition fee is required.

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



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

09 FEB 2007



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222 East 41st Street
New York, New York 10017

In re Application of :
AEBI et al. :
Application No.: 10/538,542 :
PCT No.: PCT/CH02/000706 :
Int. Filing: 17 December 2002 :
Priority Date: None :
Attorney Docket No.: LUS-16099 :
For: INTERVERTEBRAL IMPLANT :
COMPRISING . . . A UNIVERSAL :
JOINT :

DECISION ON PETITION

This decision is in response to applicants' "Renewed Petition under 1.137(b)" filed 08 January 2007 which is being treated as a renewed petition under 37 CFR 1.47(a) and 37 CFR 1.137(b).

The petition for status under 37 CFR 1.47(a) is moot since the declaration filed 08 January 2007 with the present renewed petition was executed by the named inventor, the previous nonsigning inventor, Max Aebi. The declaration filed 08 January 2007 is acceptable under 37 CFR 1.497. For the reasons above, the renewed petition under 37 CFR 1.47(a) is dismissed as moot.

As to the petition under 37 CFR 1.137(b), 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 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. The petition under 37 CFR 1.137(b) is GRANTED.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The application has an international filing date of 17 December 2002 under 35 U.S.C. 363 and a date of **08 January 2007** under 35 U.S.C. 371(c).

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

02/08/2007 SBASHEIR 00000001 503013 10538542
Sale Ref: 00000001 DA#: 503013 10538542
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13 MAR 2006

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THE WEBB LAW FIRM, P.C.
700 Koppers Bldg.
436 Seventh Avenue
Pittsburgh, PA 15219

In re Application of :
RENSEN *et al* :
U.S. Application No.: 10/538,545 :
PCT No.: PCT/NL03/00863 :
Int. Filing Date: 04 December 2003 :
Priority Date: 10 December 2002 :
Attorney Docket No.: 3135-051782 :
For: METHOD FOR RELEASING SLUG :
AFTER PUNCHING, AND PUNCHING :
MACHINE :

DECISION

Applicants' "Request to Correct Filing Receipt" filed via facsimile on 09 March 2006 is treated as a petition under 37 CFR 1.181 and hereby **GRANTED** as follows:

The filing receipt mailed 25 January 2006 recorded the citizenship of the second inventor as the Netherlands. The correct citizenship is Germany. Moreover, the third named inventor Adrianus Wilhelmus Van Dalen was not listed on the filing receipt.

Accordingly, the filing receipt mailed 25 January 2006 is **VACATED**.

A new filing receipt will be mailed with this decision.

This application is being forwarded to Tech Center 3724 for further processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302



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RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS MI 48304-0610

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OFFICE OF PETITIONS

Applicant: Young, et al.
Appl. No.: 10/538,546
International Filing Date: December 10, 2003
Title: CANCER IMMUNOTHERAPY USING POLYCOMB PROTEINS
Attorney Docket No.: 66221-0048
Pub. No.: US 2006/0127408 A1
Pub. Date: June 15, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on August 17, 2006, for the above-identified application

The request is DISMISSED.

37 CFR 1.221 (b) is applicable “only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within **two months** from the date of the patent application publication. This period is not extendable.” A material mistake must affect the public’s ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.¹

The request for corrected publication, received on August 17, 2006, was not timely filed under 37 CFR 1.221(b).

¹Changes 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).

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

By fax: Attn: Petitions
 (571) 273-8300

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

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



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



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

MAILED

JUN 09 2009

OFFICE OF PETITIONS

In re Application of :
Bonnie C. SEXTON :
Application No. 10/538,556 : DECISION ON PETITION
Filed: June 13, 2005 :
Attorney Docket No. US02 0576 US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 21, 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, July 15, 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 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 an amendment, (2) the petition fee of \$1620; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future

correspondence regarding this application, the appropriate power of attorney document must be submitted.

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

This application is being referred to Technology Center AU 2437 for appropriate action by the Examiner in the normal course of business on the reply received April 21, 2009.


Thurman Page
Petitions Examiner
Office of Petitions



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Commissioner for Patents
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SAN JOSE, CA 95131

MAILED

SEP 29 2009

OFFICE OF PETITIONS

In re Application of :
Marko Van Houdt et al :
Application No. 10/538,576 : DECISION ON PETITION
Filed: June 15, 2005 :
Attorney Docket No. NL02 1302 US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 13, 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 August 22, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is November 23, 2008

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of \$1620; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2611 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.


Irvin Dingle
Petition Examiner
Office of Petitions



28 APR 2006

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

In re Application of	:	
SMITH	:	
Application No.: 10/538,589	:	DECISION
PCT No.: PCT/US03/41391	:	
Int. Filing Date: 22 December 2003	:	
Priority Date: 20 December 2002	:	
Attorney's Docket No.: 112981.125US1	:	
For: COATED PARTICLES FOR SUSTAINED-	:	
RELEASE PHARMACEUTICAL ADMINISTRATION	:	

This decision is in response to applicant's submission filed on 15 June 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 22 December 2003, applicants filed international application PCT/US03/41391, which designated the U.S. and claimed a priority date of 20 December 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 15 July 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 20 June 2005.

On 15 June 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, an assertion of small entity status, an Application Data Sheet, and the a "PETITION TO CORRECT PRIORITY UNDER 37 C.F.R. § 1.182".

DISCUSSION

The petition indicates that provisional application serial number 60/435,448 was incorrectly listed as serial number 60/435,488 in international application number PCT/US03/41391. The petition also indicates that applicant has included the correct priority claim to provisional application serial number 60/435,448 in the accompanying Application Data Sheet. The petition under 37 CFR 1.182 was filed to correct this priority claim.

A petition under 37 CFR 1.182 is not necessary in the instant situation. Either applicant complies with 37 CFR 1.78(a)(5) or applicant does not. If applicant complies, no petition is

necessary. If applicant does not comply, a petition under 37 CFR 1.78(a)(6) is required. The petition fee has not been charged.

In the instant situation, applicant has failed to comply with 37 CFR 1.78(a)(5). Although the Application Data Sheet with the purported correct priority claim was filed within four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f), the application does not in fact include the correct priority claim. Applicant may file a petition under 37 CFR 1.78(a)(6) along with a new Application Data Sheet to correct the incorrect priority claim number.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.182 is **DISMISSED** as **MOOT**.

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



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

31 MAY 2007



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E. I. du Pont de Nemours and Company
Legal - Patents
Wilmington DE 19898

In re Application of	:	
EBERSOLE, Richard C. et al.	:	
Application No.: 10/538,590	:	DECISION ON
PCT No.: PCT/US03/41808	:	
Int. Filing Date: 19 December 2003	:	PETITION
Priority Date: 20 December 2002	:	
Attorney's Docket No.: CL2272USPCT	:	UNDER 37 CFR 1.182
For: SEQUENCES DIAGNOSTIC FOR FOOT	:	
AND MOUTH DISEASE	:	

This decision responds to applicant's petition under 37 CFR 1.182, filed with the United States Patent and Trademark Office on 12 February 2007.

BACKGROUND

On 19 December 2003, applicant filed international application PCT/US03/41808, claiming a priority date of 20 December 2002. The deadline for entry into the national stage in the United States was midnight 20 June 2005.

On 15 June 2005, applicant filed a submission for entry into the national stage in the United States which was accompanied by the basic national fee and a declaration of the inventors.

On 17 August 2006, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration and the surcharge for late filing the search fee, examination fee or oath or declaration were required and indicating that the last name of the second inventor did not match the international application and that an explanation was required.

On 12 February 2007, applicant submitted a petition to change the name of the second inventor.

DISCUSSION

The fee for a petition under 37 CFR 1.182 is \$400, not \$130. The balance of the petition fee will be charged to deposit account no. 04-1928, as authorized.

The declaration is executed by Linda Besl. Applicant explains that she was formerly "Linda Schwartz," but was listed as "Linda Scwartz" on the international application as the result

of a typographical error. Subsequent to her divorce, "Linda Schwartz" became known as "Linda Besl." When she later married, "Linda Besl," became "Linda J. DeCarolis." This petition adequately explains the name changes for the second inventor.

However, the declaration does not match the inventor's name. Inventor DeCarolis must execute a declaration in her current name, as it is the name that she wishes the Office to use. A new oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required.

CONCLUSION

Applicant's petition under 37 CFR 1.182 is **DISMISSED** without prejudice.

An oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the fee for late filing of the search fee, examination fee or oath or declaration are required within **TWO (2) MONTHS** of the mailing of this decision. Failure to timely reply will result in the abandonment of this application. Extensions of time under 37 CFR 1.136(a) are available.

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



Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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



0 5 OCT 2007

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E. I. du Pont de Nemours and Company
Legal - Patents
Wilmington DE 19898

In re Application of	:	
EBERSOLE, Richard C. et al.	:	
Application No.: 10/538,590	:	DECISION ON
PCT No.: PCT/US03/41808	:	
Int. Filing Date: 19 December 2003	:	PETITION
Priority Date: 20 December 2002	:	
Attorney's Docket No.: CL2272USPCT	:	UNDER 37 CFR 1.182
For: SEQUENCES DIAGNOSTIC FOR FOOT	:	
AND MOUTH DISEASE	:	

This decision responds to applicant's renewed petition under 37 CFR 1.182, filed with the United States Patent and Trademark Office on 30 July 2007.

BACKGROUND

On 31 May 2007, the Office mailed Decision On Petition Under 37 CFR 1.182, dismissing applicants' petition to change Inventor DeCarolis' name, without prejudice.

On 30 July 2007, applicants submitted this renewed petition, accompanied by a new declaration of the inventors.

DISCUSSION

The new declaration of the inventors complies with 37 CFR 1.497(a)-(b).

CONCLUSION

Applicants' petition under 37 CFR 1.182 to correct the inventor's name is **GRANTED**.

This application is being referred to the national stage processing branch of the Office of PCT Operations for further action consistent with this decision. The application has a 35 USC 371(c)(1), (c)(2) and (c)(4) date of 30 July 2007.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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



CANTOR COLBURN, LLP
20 CHURCH STREET
22ND FLOOR
HARTFORD, CT 06103

COPY MAILED

OCT 27 2008

In re Application of :
Werner Bieck, et al. :
Application No. 10/538,598 : **ON PETITION**
Filed: June 9, 2005 :
Attorney Docket No. ETF-0025 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 18, 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 August 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 November 3, 2007.

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

With respect to item 1:

The proposed reply required for reconsideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). Since the amendment submitted does not prima facie place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). A courtesy copy of the Advisory Action is being mailed with this decision on petition.

With respect to item 3:

Petitions under the unintentional provisions of 37 CFR 1.137 are required to be signed by an attorney or agent registered to practice before the Patent and Trademark Office, the patentee, the assignee, or other party in interest. Since it is unclear whether the petition is signed by someone with authority, the statement of unintentional delay cannot be accepted at this time.

If the instant petition is filed on behalf of the assignee, the petition fails to comply with the requirements of 37 CFR 3.73(b). 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A blank Statement under 37 CFR 3.73(b) is enclosed for petitioner's convenience.

A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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.

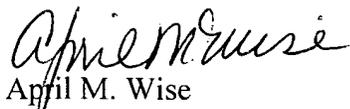
Further correspondence with respect to this matter should be addressed as follows:

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

Enclosures: Advisory Action
Blank Statement under 37 CFR 3.73(b)

cc : JEAN BIESSEL
OFFICE FREYLINGER S.A.
PO BOX 48, L-8001 STRASSEN
GERMANY

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/538,598

Applicant(s)

BIECK ET AL.

Examiner

Marina Fishman

Art Unit

2832

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

THE REPLY FILED 18 March 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) The period for reply expires 3 months from the mailing date of the final rejection.
b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

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

NOTICE OF APPEAL

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

AMENDMENTS

3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) They raise new issues that would require further consideration and/or search (see NOTE below);
(b) They raise the issue of new matter (see NOTE below);
(c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. Applicant's reply has overcome the following rejection(s): _____.
6. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 16-30.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

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

/EGE/ SPE AU2832

Continuation of 3. NOTE: Newly amended claims would require further consideration.

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.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Entitled:

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

- 1. the assignee of the entire right, title, and interest; or
- 2. an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is _____ %)

in the patent application/patent identified above by virtue of either:

A. An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy therefore is attached.

OR

B. A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

Additional documents in the chain of title are listed on a supplemental sheet.

As required by 37 CFR 3.73(b)(1)(i), 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 37 CFR 3.11.

[NOTE: A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Signature

Date

Printed or Typed Name

Telephone Number

Title

This collection of information is required by 37 CFR 3.73(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 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: 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.

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 disclosure of these records is required by the Freedom of Information Act.
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 inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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OCT 26 2009

OFFICE OF PETITIONS

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

In re Application of	:	
Germond-Rouet et al.	:	
Application No. 10/538,621	:	
Filed: June 10, 2005	:	DECISION ON PETITION
Attorney Docket No. FR 020142	:	PURSUANT TO
Title: ULTRASONIC APPARATUS	:	37 C.F.R. § 1.137(B)
FOR ESTIMATING ARTERY	:	
PARAMETERS	:	

This is a decision on the petition filed March 31, 2009, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

The petition pursuant to 37 C.F.R. § 1.137(b) is **DISMISSED** as unnecessary.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed January 25, 2008, which set a shortened statutory period for reply of three months. An after-final amendment was received on March 19, 2008, and an advisory action was mailed on October 28, 2008. A one-month extension of time under the provisions of 37 C.F.R § 1.136(a) was received on November 25, 2008, along with both a notice of appeal and the associated fee.

This petition and both an Appeal Brief and the associated fee were submitted on March 31, 2009, prior to the expiration of the maximum extendable period for submitting an Appeal Brief. It is noted that the transmittal sheet that was included on filing contains an authorization to charge any fee deficiencies to Deposit Account number 14-1270. As such, a three-month extension of time will be charged to this Deposit Account in due course so as to make timely the Appeal Brief. The petition fee will be refunded in due course.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the Appeal Brief that was received on March 31, 2009 can be processed.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the status of the application has been updated to show that it is not abandoned. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.¹ All other inquiries concerning the status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

¹ Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.



UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

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AUG 08 2007

OFFICE OF PETITIONS

In re Application of	:	
Huub Ehlhardt	:	
Application No. 10/538,623	:	ON PETITION
Filed: June 10, 2005	:	
Attorney Docket No. NL 021334	:	

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

The petition is **DISMISSED**.

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

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

It is noted that an amendment, in response to the final Office action mailed July 11, 2006, was included with the petition filed on March 21, 2007. However, the amendment is considered non-responsive, since it does not place the application in condition for allowance. See the attached copy of an Advisory Action. The proposed reply required for consideration of a petition to revive this application must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition for allowance, or the filing of a submission under 37 CFR 114 (RCE) or a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2).

¹ As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

² In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

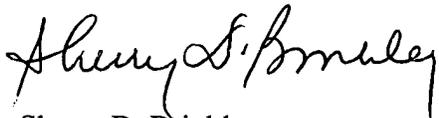
Further correspondence with respect to this matter should be addressed as follows:

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

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

Attachment: Advisory Action

cc: ROBERT J. CRAWFORD
 PHILIPS INTELLECUTAL PROPERTY & STANDARDS
 370 WEST TRIMBLE ROAD, MS91MG
 SAN JOSE, CA 24738

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/538,623	Applicant(s) EHLHARDT, HUUB	
Examiner Timothy F. Simone	Art Unit 1761	

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

THE REPLY FILED 21 March 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

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

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

NOTICE OF APPEAL

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

AMENDMENTS

3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) They raise the issue of new matter (see NOTE below);
- (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. Applicant's reply has overcome the following rejection(s): _____.
6. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: _____.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: the arguments are not persuasive.
12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. Other: _____.

Timothy F. Simone
Primary Examiner
Art Unit: 1761



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NOV 27 2007

OFFICE OF PETITIONS

In re Application of
Huub Ehlhardt
Application No. 10/538,623
Filed: June 10, 2005
Attorney Docket No. NL 021334

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:
:

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 22, 2007, to revive the above-identified application.

The petition is **GRANTED**.

A review of the record discloses that this application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed July 11, 2006. A Notice of Abandonment was mailed on February 7, 2007. On March 21, 2007 a petition to revive under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed August 8, 2007. In response, on August 22, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, including the fee of \$790; (2) the petition fee of \$1,500; and (3) an adequate statement of unintentional delay¹.

This application is being referred to Technology Center AU 1761 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.

It is noted that the address given on the petition differs from the address of record. While a change of address accompanied the present petition, it cannot be accepted since it is not signed

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.

by a registered patent attorney or patent agent of record in this case. A proper change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.



Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: ADAM L. STROUD
PHILIPS ELECTRONICS NORTH AMERICA CORPORATION
INTELLECTUAL PROPERTY & STANDARDS
370 WEST TRIMBLE ROAD MS 91-MG
SAN JOSE, CA 95131



30 MAR 2006

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Briarcliff Manor, NY 10510

In re Application of:	:	
OSMAN, Saleh, et al.	:	DECISION ON PETITION UNDER
U.S. Application No.: 10/538,624	:	37 CFR 1.47(a)
PCT No.: PCT/IB03/05881	:	
Int'l Filing Date: 10 December 2003	:	
Priority Date: 12 December 2002	:	
Atty Docket No.: PHUS020555	:	
For: PRESERVING LINEARITY OF AN	:	
ISOLATOR-FREE POWER	:	
AMPLIFIER BY DYNAMICALLY	:	
SWITCHING ACTIVE DEVICES	:	

This decision is issued in response to applicants' petition under 37 CFR 1.47(a) filed 09 February 2006. Deposit Account No. 14-1270 will be charged the required \$200 petition fee.

BACKGROUND

On 10 December 2003, applicants filed international application PCT/IB03/05881. The international application claimed a priority date of 12 December 2002 and designated the United States. On 24 June 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., 12 June 2005.

On 10 June 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 09 December 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date.

On 09 February 2006, applicants filed a response to the Notification Of Missing Requirements which included payment of the required surcharge, a declaration executed by two of the three inventors, and the petition under 37 CFR 1.47(a) considered herein. The petition seeks acceptance of the declaration without the signature of the remaining inventor Saleh OSMAN, whom applicants assert cannot be located after diligent effort.

DISCUSSION

A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the nonsigning inventor; (3) an oath or declaration executed by the other inventors on behalf of themselves and the nonsigning inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

Applicants here authorized a charge to Deposit Account No. 14-1270 for required fees, and the petition expressly states the last known address of the nonsigning inventor. Items (1) and (2) are therefore satisfied.

Regarding item (3), section 409.03(a) of the Manual of Patent Examining Practice (MPEP) states that:

An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, applicants have filed declarations executed by two of the three named inventors with an unsigned signature block for the nonsigning inventor, Saleh OSMAN. This declaration may be treated as having been signed by the joint inventors on their own behalf and on behalf of the nonsigning inventor. Item (3) is therefore satisfied.

Regarding item (4), the petition asserts that the nonsigning inventor cannot be reached or located after diligent effort. Section 409.03(d) of the MPEP states the following concerning such cases:

Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.

The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47.

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

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

Here, applicants have submitted a "Declaration Of Facts Regarding Inventor's Unavailability" executed by Dicran Halajian. The statement refers to attempts to forward the application papers to the nonsigning inventor by email (to his last known email address) and by Federal Express (to his last known address). The statement also refers to attempts to contact the inventor by telephone at his last known telephone number. However, the statement does not make clear whether Dicran Halajian is the person who performed these actions and therefore has the requisite first hand knowledge of such efforts. In addition, no documentation of such efforts is provided (i.e., copies of emails, return receipts and cover letters from the Federal Express package, etc.). Moreover, no evidence is provided to demonstrate that applicants have either confirmed that the inventor still resides at his last known address (for example, by obtaining a signed receipt for the delivery of the application and associated documents) or, if not, that a diligent effort has been made to identify a current address or telephone number for the inventor (i.e., an internet search). Applicants must supplement the present submission with proper firsthand evidence, and documentary support, confirming the efforts discussed in the present submission. Applicants must also submit proper evidence demonstrating that a diligent effort has been made to locate a current address for the nonsigning inventor and, if such an address is identified, that a copy of the complete application papers (with a request for the inventor's signature) has been provided to the inventor at such address. Such diligent efforts should include an internet search, with a copy of the results of such search being provided. On the present record, item (4) is not considered satisfied.

CONCLUSION

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

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)" and must include the firsthand and documentary evidence required to satisfy item (4) of a grantable petition, as discussed above and in MPEP § 409.03(d).

Failure to file a proper response will result in abandonment of the application. Extensions of time are available under 37 CFR 1.136(a).

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



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



02 FEB 2007

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P.O. Box 3001
Briarcliff Manor, NY 10510

In re Application of:	:	
OSMAN, Saleh, et al.	:	DECISION ON RENEWED
U.S. Application No.: 10/538,624	:	PETITION UNDER 37 CFR 1.47(a)
PCT No.: PCT/IB03/05881	:	AND PETITION FOR REVIVAL
Int'l Filing Date: 10 December 2003	:	UNDER 37 CFR 1.137(b)
Priority Date: 12 December 2002	:	
Atty Docket No.: PHUS020555	:	
For: PRESERVING LINEARITY OF AN	:	
ISOLATOR-FREE POWER	:	
AMPLIFIER BY DYNAMICALLY	:	
SWITCHING ACTIVE DEVICES	:	

The present decision is issued in response to the "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" and the renewed "Petition Under 37 CFR 1.47(a)" filed 16 January 2007. Applicants have paid the petition fee required for the petition under 37 CFR 1.137(b); no additional petition fee is required for the renewed petition under 37 CFR 1.47(a).

BACKGROUND

The procedural background for the present application was set forth in the decision mailed on 30 March 2006. That decision dismissed applicants' original petition under 37 CFR 1.47(a) for failure to satisfy all the requirements for a grantable petition. Specifically, applicants had not provided an acceptable showing that the non-signing inventor could not be reached after diligent effort.

The decision mailed 30 March 2006 provided applicants with a two-month response period, extendable under 37 CFR 1.136(a). Applicants did not file a response during the available period. Accordingly, the present application became abandoned at midnight on 30 May 2006 for failure to file a proper and timely response to the decision mailed 30 March 2006.

On 16 January 2007, applicants filed the "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" and the renewed "Petition Under 37 CFR 1.47(a)" considered herein.

DISCUSSION

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

With respect to item (1), the "required reply" in the present circumstances is a grantable renewed petition under 37 CFR 1.47(a). The materials included with the renewed petition under 37 CFR 1.47(a) filed 16 January 2007 supplement the original petition sufficiently to support a conclusion that the inventor cannot be located after diligent effort. Applicants have therefore satisfied the final requirement for a grantable petition under 37 CFR 1.47(a). Accordingly, the renewed petition under 37 CFR 1.47(a) is appropriately granted, and item (1) of a grantable petition for revival under 37 CFR 1.137(b) is satisfied.

As for the remaining elements of a grantable petition under 37 CFR 1.137(b), applicants have submitted the required petition fee, satisfying item (2), and the petition includes a statement that the "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," satisfying item (3) (item (4) does not apply to the present application). Thus, applicants have satisfied all the requirements for a grantable petition for revival under 37 CFR 1.137(b).

CONCLUSION

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

The renewed petition under 37 CFR 1.47(a) is **GRANTED**. The application is accepted without the signature of non-signing inventor Saleh OSMAN.

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

Finally, it is noted that present submission lists an address different from the correspondence address of record (listed above), and the submission includes a "Change of Correspondence Address" (Form PTO/SB/122) seeking to change the correspondence address of record. The attorney who signed the Form PTO/SB/122 is not of record herein. Accordingly, the request to change the correspondence address is ineffective. A courtesy copy of the present decision will be sent to the address listed on the present petition; however, until a proper request to change the correspondence address of record is submitted, all future correspondence herein will be directed solely to the above-listed address 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 09 February 2006.



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

cc: Peter Zawilski
NXP, B.V.
Intellectual Property Department
1109 McKay Drive MS41-SJ
San Jose, California 95131



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02 FEB 2007

Saleh OSMAN
2906 Village Road West
Norwood, MA 02062

In re Application of: OSMAN, Saleh, et al. .
U.S. Application No.: 10/538,624
PCT No.: PCT/IB03/05881
Int'l Filing Date: 10 December 2003
Priority Date: 12 December 2002
Atty Docket No.: PHUS020555
For: PRESERVING LINEARITY OF AN ISOLATOR-FREE POWER AMPLIFIER BY
DYNAMICALLY SWITCHING ACTIVE DEVICES

Dear Mr. OSMAN:

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:
PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. Box 3001
Briarcliff Manor, NY 10510

18 APR 2006

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

In re Application of	:	
OSMAN et al.	:	
U.S. Application No. 10/538,632	:	
PCT No.: PCT/IB03/05938	:	
It. Filing Date: 10 December 2003	:	DECISION ON PETITION
Priority Date: 12 December 2002	:	
Attorney Docket No.: PHUS020557	:	
For: PRESERVING LINEARITY OF AN	:	
ISOLATOR-FREE POWER AMPLIFIER	:	
BY DYNAMICALLY ADJUSTING GAIN	:	
AND PHASE	:	

This decision is in response to "Petition to File Application of Behalf of Co-Inventor Who Is Unavailable under 37 CFR 1.47(a)" filed 09 February 2006 to accept the application without the signature of joint inventor, Saleh Osman.

BACKGROUND

On 10 December 2003, applicants filed international application PCT/IB03/05938 which claimed a priority date of 12 December 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 June 2005.

On 10 June 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 08 December 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that 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 February 2006, applicants filed 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, (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 Saleh Osman 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, Saleh Osman. The declaration of Dicran Halajian states that he attempted to contact Saleh Osman by Federal Express and all attempts were unsuccessful. However, no documentary evidence to support the failed attempts were provided with the present petition. Further, the multiple mailings to the nonsigning inventor's last known address does not constitute a "diligent" effort to locate the nonsigning inventor(s). Applicant must show that alternative means were employed, such as a search of telephone and/or Internet directories, in an attempt to locate Saleh Osman. As stated above, copies of documentary evidence such as internet searches, certified mail return receipt, cover letter of instructions, telegrams, etc., should be supplied by a person having firsthand knowledge of the facts. All documents should be translated into English.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Saleh Osman 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.



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31 JAN 2007

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

In re Application of :
OSMAN et al. :
U.S. Application No. 10/538,632 :
PCT No.: PCT/IB03/05938 :
It. Filing Date: 10 December 2003 :
Priority Date: 12 December 2002 :
Attorney Docket No.: PHUS020557 :
For: PRESERVING LINEARITY OF AN :
ISOLATOR-FREE POWER AMPLIFIER :
BY DYNAMICALLY ADJUSTING GAIN :
AND PHASE :

DECISION ON PETITION

This decision is in response to applicants' "Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)" and applicants' (renewed) "Petition under 37 CFR 1.47(a)" filed 16 January 2007 to accept the application without the signature of joint-inventor, Saleh Osman.

BACKGROUND

On 10 December 2003, applicants filed international application PCT/IB03/05938 which claimed a priority date of 12 December 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 June 2005.

On 10 June 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 08 December 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that 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 February 2006, applicants filed a petition under 37 CFR 1.47(a). In a decision dated 18 April 2006, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 16 January 2007, applicants filed the present petition under 37 CFR 1.137(b) and 37 CFR 1.47(a).

DISCUSSION

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

With respect to item (1), the "required reply" in the present circumstances is a grantable renewed petition under 37 CFR 1.47(a). The materials included with the renewed petition under 37 CFR 1.47(a) supplement the original petition sufficiently to support a conclusion that the inventor cannot be located after diligent effort. Applicants have therefore satisfied the final requirement for a grantable petition under 37 CFR 1.47(a). Accordingly, the renewed petition under 37 CFR 1.47(a) is appropriately granted, and item (1) of a grantable petition for revival under 37 CFR 1.137(b) is satisfied.

As for the remaining elements of a grantable petition under 37 CFR 1.137(b), applicants have submitted the required petition fee, satisfying item (2), and the petition includes a statement that the "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," satisfying item (3); item (4) does not apply to the present application. Thus, applicants have satisfied all the requirements for a grantable petition for revival under 37 CFR 1.137(b).

CONCLUSION

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

The renewed petition under 37 CFR 1.47(a) is GRANTED. The application is accepted without the signature of non-signing inventor Saleh OSMAN.

The application will be given an international filing date of 10 December 2003 under 35 U.S.C. 363, and a date of 09 February 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
Attorney-Advisor
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Fax: (571) 273-0459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 15, 2009

TO SPE OF : ART UNIT 1795 - Patrick J. Ryan

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/538,638 Patent No.: 7,258,903 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)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206**

Antonio Johnson

Certificates of Correction Branch
(571)272-0483

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.

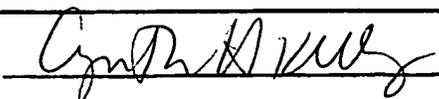
Approved in Part

Specify below which changes **do not** apply.

Denied

State the reasons for denial below.

Comments: _____

 SPET 795



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

BANNER & WITCOFF, LTD.
1100 13TH STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

COPY MAILED

JAN 07 2009

OFFICE OF PETITIONS

In re Application of	:	
Nickel et al.	:	
Application No. 10/538,651	:	DECISION ON PETITION
Filed: November 30, 2005	:	
Attorney Docket No. 007432.00001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 4, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely and properly reply within the meaning of 37 CFR 1.113 to the final Office action mailed May 29, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the application became abandoned on August 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 Notice of Appeal and fee of \$540.00; (2) the petition fee of \$1,620.00; and (3) a proper statement of unintentional delay.

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.

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

This application is being referred to Technology Center AU 1791 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

/Liana Walsh/
 Liana Walsh
 Petitions Examiner
 Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

25 JAN 2007

COMMISSIONER FOR PATENTS
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WASHINGTON DC 20004

In re Application of: :
KEMP, Stephen, J., et al. : DECISION ON PETITION UNDER
U.S. Application No.: 10/538,664 : 37 CFR 1.47(a)
PCT No.: PCT/GB2002/005588 :
International Filing Date: 10 December 2002 :
Priority Date: None :
Attorney's Docket No.: 86769-0020 :
For: DATA MODEL DEVELOPMENT :
TOOL :

This decision is issued in response to applicants' Petition Under 37 CFR 1.47(a), filed 14 November 2006. Applicants have submitted the required petition fee.

BACKGROUND

On 10 December 2002, applicants filed international application PCT/GB2002/005588. The international application did not claim an earlier priority date, and it designated the United States. On 24 June 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., 10 June 2005.

On 10 June 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 14 April 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirement (Form PCT/DO/EO/905) indicating that an executed declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date was required.

On 14 November 2006, applicants filed a response to the Notification Of Missing Requirements, with required five-month extension fee. The submission includes the required surcharge payment and the petition under 37 CFR 1.47(a) considered herein. The petition seeks acceptance of the application without the signatures of two of the inventors (Stephen J. KEMP and David HILLEWAERE), whom applicants assert have refused to execute the application or cannot be located after diligent effort.

DISCUSSION

A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the non-signing inventor(s); (3) an oath or declaration executed by the other inventors on behalf of themselves and the non-signing inventor(s); and (4) factual proof that the inventor(s) refuse to execute the application or cannot be reached after diligent effort.

Applicants here have paid the required petition fee. Item (1) is therefore satisfied.

With regard to item (2), the petition provides the last known address for one of the non-signing inventors, Stephen J. KEMP. However, the petition only provides a business address for the second non-signing inventor, David HILLEWAERE. The last known home address for this inventor is required (see MPEP section 605.03). Accordingly, item (2) is not satisfied with respect to inventor David HILLEWAERE.

Regarding item (3), section 409.03(a) of the 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 declarations executed by two of the named inventors; however, each of these declarations is defective. The declaration executed by Wim DECRAENE includes only page one and page three; the second page is missing. This incomplete two-page declaration is defective for failure to include all required language and for failure to identify all the inventors herein. Applicants must provide a complete copy of the declaration executed by Wim DECRAENE, with such declaration complying with the requirements of 37 CFR 1.497 and including unsigned signature blocks for both of the non-signing inventors.

With respect to the second executed declaration, all three pages are included; however, the signing inventor has changed her name from her name of record, Katherine A. MATHER, to Katherine A. NICHOLSON. The declaration is therefore defective for failure to properly identify the inventors of record herein (and for failure to initial the handwritten modification of the name on the declaration). If this inventor's name has changed since the filing of the international application, a petition under 37 CFR 1.182 is required; see MPEP Section 605.04(b):

Except for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 35 U.S.C. 1.182 together with an appropriate petition fee.

In this case, the change from MATHER to NICHOLSON is more than a mere typographical error or a phonetic misspelling of the applicant's name. Accordingly, a grantable

petition under 37 CFR 1.182 to correct the name of this inventor is required before the declaration can be accepted. For such a petition to be grantable, MPEP § 605.04(c) states that “the petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.”

Based on the above, applicants have not provided acceptable declarations executed by the cooperating inventors on their own behalf and on behalf of the non-signing inventors. Item (3) is therefore not satisfied.

Regarding item (4), applicants state that the non-signing inventors refuse to execute the application or cannot be located after diligent effort. With respect to the inability to locate an inventor, MPEP section 409.03(d) states the following:

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 statement of facts. It is important that the statement contain facts as opposed to conclusions.

In the alternative, where it is asserted that the inventor refuses to sign the application, MPEP section 409.03(d) states that “[a] copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.” The MPEP also states the following:

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Here, applicants have provided a declaration from David D. Nelson, with supporting documents, as evidence of the efforts made to obtain the signature of the non-signing inventors.

These materials refer to emails sent to the inventors by a Melissa Garrison, and to Federal Express packages subsequently sent to the two non-signing inventors by a Celine Jiminez Crowson. The accompanying exhibits indicate that the Federal Express package directed to Mr. KEMP at his home address was received and apparently signed for by the inventor; the second Federal Express package was directed to Mr. HELLEWAERE at a business address, and was signed for by a person named S. Maiolo.

These materials are not sufficient to demonstrate that the non-signing inventors have refused to execute the application or cannot be located after diligent effort. With respect to Mr. KEMP, applicants have not provided an adequate showing that the inventor was provided with a copy of the complete application papers (including specification, claims, and drawings), as required before a refusal to sign can be claimed. The statement of Mr. Nelson asserts that copies of the application as filed were included with the Federal Express package delivered to Mr. KEMP; however, the attached cover letter refers only to an enclosed declaration and assignment documents, and Mr. Nelson (who did not sign the letter) does not appear to have the required firsthand knowledge to confirm what was enclosed with such letter. A statement from Ms. Crowson, who signed the cover letter, is required to confirm that the complete application was included with this mailing or, if the application documents were not included, evidence that these materials have subsequently been forwarded to this inventor at his last known address are required. In addition, it is noted that the present petition was filed only two weeks after the request for signature was delivered to the inventor. Any subsequent submission herein should include a statement regarding whether any response has been received from the inventor in the time since the original petition was filed.

As for Mr. HILLEWAERE, applicants have provided no evidence to confirm any communications with this inventor. The Federal Express package was delivered to a business address, and signed for by a third party. From this submission, it cannot be confirmed that the inventor received the Federal Express.¹ In addition, applicants have not provided any evidence that a diligent effort has been made to locate a current home address for this inventor and deliver a request for signature, with a copy of the complete application papers, to such address (i.e., firsthand evidence, with documentary support, of internet searches and other inquiries made to locate the inventor). Absent such a showing, it cannot be concluded that this inventor cannot be located after diligent effort.

Based on the above, item (4) is not satisfied with respect to either non-signing inventor.

CONCLUSION

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

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)"

¹ Even if received, this Federal Express delivery has the same deficiency concerning the presence of the complete application papers as discussed above with respect to Mr. KEMP.

and must include the materials required to satisfy items (2), (3) and (4) of a grantable petition, as discussed above and in the MPEP.

Failure to file a proper response will result in abandonment of the application.
Extensions of time are available under 37 CFR 1.136(a).

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



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29 AUG 2007

ACCENTURE, LLP
C/O HOGAN & HARTSON, LLP (IPGROUP)
555 13TH STREET NW, SUITE 600E
WASHINGTON, DC 20004

In re Application of	:	
KEMP, Stephen et al.	:	DECISION ON
Application No.: 10/538,664	:	
PCT No.: PCT/GB02/05588	:	RENEWED PETITION
Int. Filing Date: 10 December 2002	:	
Priority Date: None	:	UNDER 37 CFR 1.47(a)
Attorney's Docket No.: 86769-0020	:	
For: Data Model Development Tool	:	

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed in the United States Patent and Trademark Office on 25 May 2007, to permit the applicants to file the above-captioned application on behalf of the non-signing inventor, David Hillewaere.

BACKGROUND

On 10 December 2002, applicants filed international application PCT/GB02/05588 and did not claim an earlier priority date. The thirty-month for paying the basic national fee in the United States expired at midnight on 10 June 2005.

On 10 June 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.

On 14 April 2006, the United States Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration and the surcharge for late filing of the oath or declaration were required.

On 14 November 2006, applicants filed a "Response To Notice To File Missing Parts" including, *inter alia*, a declaration accompanied by a petition under 37 CFR 1.47(a) to permit the applicants to file the above-captioned application on behalf of the non-signing inventors, Stephen Kemp and David Hillewaere.

On 25 January 2007, the Office mailed a "Decision On Petition under 37 CFR 1.47(a)" dismissing applicants' petition without prejudice. Specifically, the Decision stated that the evidence submitted was not sufficient to show that the non-signing inventors have refused to execute the declaration or cannot be located after diligent effort. Furthermore, the Decision indicated that the submitted declaration did not comply with 37 CFR 1.497(a)-(b) because the name of inventor "Katherine A. MATHER" has been changed to "Katherine A. NICHOLSON." The Decision advised applicants to file a petition under 37 CFR 1.182 including an affidavit signed with both names explaining the circumstances by which the name change occurred.

On 25 May 2007, applicants filed a new declaration accompanied by the instant renewed petition under 37 CFR 1.47(a) to permit the applicants to file the above-captioned application on behalf of the non-signing inventor, David Hillewaere.

DISCUSSION

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

As to items (1) and (2), applicants have submitted the correct fee of \$200.00 under 37 CFR 1.17(g) and a statement of the last known address of the non-signing inventor.

With regard to item (3), the supplied evidence is sufficient to show that non-signing inventor David Hillewaere was presented with a complete copy of the application papers. Specifically, the declaration by Mr. David Nelson (person having first-hand knowledge of presenting the complete application papers to non-signing inventor David Hillewaere) (see Attachment A) and FedEx Tracking Results (see Attachment B), together, show that a complete copy of the application papers were presented to non-signing inventor David Hillewaere. Furthermore, the Internet telephone directory search (see Attachment C) for non-signing inventor David Hillewaere, together with the FedEx Tracking Results (see Attachment B), show that non-signing inventor David Hillewaere is unreachable "after diligent effort." Hence, item (3) has been satisfied.

With regard to item (4), although applicants have submitted a declaration executed by the other cooperating inventor and containing an unsigned signature block for the non-signing inventor, this declaration does not with 37 CFR 1.497(a)-(b) because the name of inventor "Katherine A. MATHER" has been changed to "Katherine A. NICHOLSON." As stated in the Decision mailed 25 January 2007, applicants need to file a petition under 37 CFR 1.182 to correct the name of this inventor before the declaration can be accepted. For such a petition to be grantable, MPEP §605.04(c) states that, "the petition must include an appropriate petition fee and a statement signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a copy of the court order." Hence, item (4) has not been satisfied.

CONCLUSION

Applicants' renewed petition filed 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.



Leonard Smith
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30 NOV 2007

ACCENTURE, LLP
C/O HOGAN & HARTSON, LLP (IPGROUP)
555 13th Street NW, Suite 600E
Washington, DC 20004

In re Application of:	:	
KEMP, Stephen, et al.	:	DECISION ON PETITION UNDER
U.S. Application No.: 10/538,664	:	37 CFR 1.182 AND RENEWED
PCT No.: PCT/GB02/05588	:	PETITION UNDER 37 CFR 1.47(a)
Int'l Filing Date: 10 December 2002	:	
Priority Date: None	:	
Atty Docket No.: 86769-0020	:	
For: Data Model Development Tool	:	

This decision is issued in response to the "Petition Under 37 CFR 1.182 And Renewed Petition Under 37 CFR 1.47(a)" filed 29 October 2007. Applicants have paid the petition fee required for the petition under 37 CFR 1.182; no additional petition fee is required with respect to the renewed petition under 37 CFR 1.47(a).

BACKGROUND

The procedural background for the present application was set forth in the decisions mailed herein on 25 January 2007 and 29 August 2007. Those decisions dismissed applicants' previous petition under 37 CFR 1.47(a) for failure to satisfy the requirements of a grantable petition. Specifically, the most recent decision found that applicants had not submitted an acceptable declaration executed by the cooperating inventors on their own behalf and on behalf of the non-signing inventor. The decision noted that a petition under 37 CFR 1.182 to correct the second inventor's name was required before the declaration filed 25 May 2007 could be accepted in satisfaction of this requirement.

On 29 October 2007, applicants filed the "Petition Under 37 CFR 1.182 And Renewed Petition Under 37 CFR 1.47(a)" considered herein.

DISCUSSION

1. Petition Under 37 CFR 1.182

Section 1893.01(e) of the Manual Of Patent Examining Procedure ("MPEP") states the following:

Where ... the name of an inventor indicated in the international application during the international phase has changed such that the inventor's name is different from the corresponding name indicated in an oath or declaration

submitted under 37 CFR 1.497, for example, on account of marriage, then a petition under 37 CFR 1.182 will be required to accept the oath or declaration with the changed name. See MPEP § 605.04(c). However, where the discrepancy between the name of the inventor indicated in the international application during the international phase and the name of the inventor as it appears in the oath or declaration submitted under 37 CFR 1.497 is the result of a typographical or transliteration error, then a petition under 37 CFR 1.182 will not be required. In such case, the Office should simply be notified of the error.

As noted in the previous decisions, the discrepancy between the second inventor's name as listed in the international application (MATHER) and in the filed declaration (NICHOLSON) is more than a "typographical or transliteration error." Accordingly, in order to correct the name of record for this inventor, a grantable petition under 37 CFR 1.182 is required.

Section 605.04(c) of the MPEP sets forth the requirements for a petition under 37 CFR 1.182 to correct an inventor's name. According to the MPEP, such a petition "must include an appropriate petition fee and a statement signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a copy of the court order."

Applicants' present petition included the required petition fee. Applicants' submission also includes an "Affidavit" in which the inventor states that her name was legally changed after the filing of the international application from Katherine A. MATHER to Katherine A. NICHOLSON as a result of her marriage. These materials satisfy the requirements for a grantable petition under 37 CFR 1.182 to change the name of record for this inventor from Katherine A. MATHER to Katherine A. NICHOLSON.

2. Renewed Petition Under 37 CFR 1.47(a)

In light of the correction of the name of the second inventor from Katherine A. MATHER to Katherine A. NICHOLSON, the declaration filed by applicants on 25 May 2007 is no longer defective for failure to properly identify the inventors of record herein. Accordingly, this declaration (which was executed by the three cooperating inventors and included an unsigned signature box for non-signing inventor David HILLEWAERE) can be accepted as having been executed by the inventors on their own behalf and on behalf of the non-signing inventor.

Based on the above, applicants have now satisfied the final requirement for a grantable petition under 37 CFR 1.47(a).

CONCLUSION

The petition under 37 CFR 1.182 is **GRANTED**. The name of record for the second inventor is hereby changed from Katherine A. MATHER to Katherine A. NICHOLSON

The renewed petition under 37 CFR 1.47(a) is **GRANTED**. The application is accepted without the signature of non-signing inventor David HILLEWAERE.

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 referred to the National Stage Processing Branch of the Office of PCT Operations for further processing. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 25 May 2007.



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JUL 24 2008

In re Application of :
Castaing et al. :
Application No. 10/538,681 : **DECISION ON PETITION**
Filed: June 10, 2005 :
Attorney Docket No. R02168.US :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 4, 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 5, 2008. A Notice of Abandonment was mailed May 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) 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.

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

This application is being referred to Technology Center AU 1796 for appropriate action by the Examiner in the normal course of business on the reply received.



Liana Walsh
Petitions Examiner
Office of Petitions



HUNTLEY & ASSOCIATES
1105 NORTH MARKET STREET
P.O. BOX 948
WILMINGTON, DE 19899-0948

COPY MAILED

AUG 10 2006

OFFICE OF PETITIONS

In re Application of	:	
Yamada	:	
Application No. 10/538,690	:	DECISION ON PETITION
Filed: June 10, 2005	:	TO WITHDRAW
Attorney Docket No. Toyo-6	:	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 27, 2006.

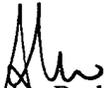
The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, “[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]” More specifically, 37 CFR 10.40 states, “[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in 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, transfer of application to Brian A. Gomez, a former associate in the law firm of Huntley & Associates, does not meet any the conditions set forth in 37 CFR 10.40.

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

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


Denise Pothier
Petitions Examiner
Office of Petitions

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



08 AUG 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Michael S. Gzybowski
Butzel Long
350 South Main Street
Suite 300
Ann Arbor, MI 48104

In re Application of	:	
ABE, Katsumi	:	
Application No.: 10/538,691	:	DECISION ON PETITION
PCT No.: PCT/JP03/11697	:	
Int. Filing Date: 12 September 2003	:	
Priority Date: None	:	
Attorney Docket No.: 121036-0082	:	
For: MAGNETIC ENCODER	:	

This decision is in response to applicants' "Response to Notification of Abandonment- Petition to Withdraw Abandonment and Petition to Maintain Original Filing Date" filed 27 March 2006, which is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 12 September 2003, applicants filed international application no. PCT/JP03/11697 which claimed no priority date. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 24 March 2005. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 12 March 2006.

On 10 June 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 copy of the international application. (The Transmittal Letter (PTOS-1390) incorrectly indicated the "priority date claimed" as 27 June 2002. This information has been removed from the USPTO PALM Database.)

On 09 March 2006, the United States Elected Office mailed a NOTIFICATION OF ABANDONMENT UNDER 37 CFR 1.495 (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to provide the full U.S. Basic National Fee by 30 months (37 CFR 1.495(b)(2).)

On 27 March 2006, applicants filed the present petition to withdraw the holding of abandonment.

DISCUSSION

A review of the application file and present petition reveals that the above identified application is the United States national stage application of PCT/JP03/11697 which claimed no priority date. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the international filing date, 12 March 2006. On 10 June 2005, applicants filed the appropriate basic national fee. Therefore, the payment of the basic national fee was timely and the Notification of Abandonment was mailed in error.

CONCLUSION

For the reasons above, the request is **GRANTED** and the Notification of Abandonment mailed 09 March 2006 is hereby **VACATED**. The holding of Abandonment is withdrawn.

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



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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Hanley, Flight & Zimmerman, LLC
150 S. Wacker Dr. Suite 2100
Chicago, IL 60606

Mail Date: 04/20/2010

Applicant	: Arun Ramaswamy	: DECISION ON REQUEST FOR
Patent Number	: 7609853	: RECALCULATION OF PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/538,692	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/13/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **867** 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.



SoCAL IP LAW GROUP LLP
310 N. WESTLAKE BLVD. STE 120
WESTLAKE VILLAGE CA 91362

COPY MAILED

AUG 10 2006

OFFICE OF PETITIONS

In re Application of	:	
O'Malley	:	
Application No. 10/538,698	:	DECISION ON PETITION
Filed: June 10, 2005	:	TO WITHDRAW
Attorney Docket No. T005-P05183US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 3, 2006.

The request is **APPROVED**.

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

The request was signed by Steven C. Sereboff on behalf of all attorneys of record who are associated with customer No. 33356.

All attorneys/agents associated with the Customer Number 33356 have been withdrawn.

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

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

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


Denise Pothier
Petitions Examiner
Office of Petitions

cc: Matt O'Malley
17326 Gilmore Street
Lake Balboa, CA 91406



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 NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/538,698	06/10/2005	Matt O'Malley	T005-P05183US

33356
 SoCAL IP LAW GROUP LLP
 310 N. WESTLAKE BLVD. STE 120
 WESTLAKE VILLAGE, CA 91362

CONFIRMATION NO. 6772

OC000000019966600

OC000000019966600

Date Mailed: 08/10/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/03/2006.

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

APRIL M WISE
 OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY



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POLSTER, LIEDER, WOODRUFF & LUCCHESI
12412 POWERSCOURT DRIVE SUITE 200
ST. LOUIS MO 63131-3615

JUN 04 2007

In re Application of:
BEEK, AUGUST VAN DER et al
Serial No. 10/538,699
Filed: Jun. 10, 2005
Docket: METS 9295US

Title: METHOD AND ARRANGEMENT
 FOR MONITORING THE
 OPERATING CONDITION OF
 PRESSES, PARTICULARLY
 PACKING PRESSES : DECISION ON PETITION

This is a decision on the petition filed Jan. 9, 2007 requesting to accept a duplicate copy of preliminary amendment and issue a new Office action.

The petition is **Dismissed as moot**.

The examiner was instructed to construe the petition as a request for reconsideration and accept the duplicate copy of the preliminary amendment. In finding petitioner's points of argument persuasive, the requested relief is granted. In view of the examiner's action, decision on the petition is moot and is dismissed.

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

PETITION DISMISSED AS MOOT.

for Karen M. Young
Frederick R. Schmidt, Director
Technology Center 3700



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THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

Mail Date: 04/28/2010

Applicant	: Remo Meister	: DECISION ON REQUEST FOR
Patent Number	: 7665321	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/538,700	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/10/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **901** 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 MAR 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
EXCHANGE PLACE
BOSTON MA 02109-2881

In re Application of	:	
SEEDS et al.	:	
Serial No.: 10/538,713	:	DECISION ON
PCT No.: PCT/GB03/05428	:	
Int. Filing Date: 12 December 2003	:	SUBMISSION
Priority Date: 13 December 2002	:	
Attorney's Docket No.: KLB-002	:	
For: AN OPTICAL COMMUNICATION	:	
SYSTEM FOR WIRELESS RADIO SIGNALS	:	

This is a decision on applicants' submission under 35 U.S.C. 371, filed on 10 June 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 10 June 2005, within the thirty month period, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371 with, *inter alia*, the requisite basic national fee. Applicant also filed six separate declarations pursuant to PCT Rule 4.17. Each declaration identified a single inventor and was executed by that inventor, rather than identifying all inventors listed in the published International application.

DISCUSSION

The declarations submitted on 10 June 2005 utilize the Form PCT/RO/101 declaration sheets (iv) pursuant to PCT Rule 4.17. The declarations do not identify all the inventors listed on the published International application. Rather each declaration names an individual inventor and is signed by that inventor only. For compliance with 37 CFR 1.495 and 1.497(a), the declaration must identify all the inventors.

Since each declaration does not identify all the inventors, it does meet the requirements of 37 CFR 1.497(a) and (b) and is unacceptable.

CONCLUSION

For the reasons set forth above, the declarations submitted on 10 June 2005 are unacceptable because they do not identify all inventors and therefore, it do not meet the requirements of 37 CFR 1.497(a) and (b).

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

further processing including issuance of the Notification of Missing Requirements indicating that a new oath or declaration, in compliance with 37 CFR 1.497(a) and (b), is required.

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



Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571)272-3286

Facsimile: (571)273-0459



31 AUG 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
EXCHANGE PLACE
BOSTON MA 02109-2881

In re Application of	:	
SEEDS et al.	:	
Serial No.: 10/538,713	:	DECISION ON
PCT No.: PCT/GB03/05428	:	
Int. Filing Date: 12 December 2003	:	SUBMISSION
Priority Date: 13 December 2002	:	
Attorney's Docket No.: KLB-002	:	
For: AN OPTICAL COMMUNICATION	:	
SYSTEM FOR WIRELESS RADIO SIGNALS	:	

This is a decision on applicants' submission under 35 U.S.C. 371, filed on 06 June 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 10 June 2005, within the thirty month period, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371 with, *inter alia*, the requisite basic national fee. Applicant also filed six separate declarations, pursuant to PCT Rule 4.17. Each declaration identified a single inventor and was executed by that inventor, rather than identifying all inventors listed in the published International application.

On 27 March 2006, a decision on the declarations was mailed indicating that the declarations did not identify all the inventors, were unacceptable and thus, did not meet the requirements of 37 CFR 1.497(a) and (b). A newly executed declaration was required.

On 05 April 2006, a Notification of Missing Requirements was mailed to applicant relying on the decision mailed on 27 March 2006.

On 06 June 2006, applicant submitted newly executed declarations along with the \$130 surcharge for filing the declarations after the thirty month period.

DISCUSSION

The declaration submitted on 06 June 2006 is comprised of four pages, containing Page 1 and Page 2, and three duplicate Page 3 signature pages, two duplicate Page 4 signature pages. Each Page 3 and Page 4 is executed by a different inventor. The declaration 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. The declaration is unacceptable as filed and thus, the requirements of 37 CFR 1.497 (a) and (b) have not been met.

CONCLUSION

For the reasons set forth above, the declaration submitted on 06 June 2006 is unacceptable as filed. What is required is one declaration where all inventors have signed or separate complete declarations in compliance with 37 CFR 1.497(a) and (b) .

Applicant is required to correct the above-noted defects including the furnishing of an oath/declaration in compliance with 1.497(a) and (b) within ONE (1) MONTH from the mail date of this Decision or the time remaining under the 05 April 2006 Notification of Missing Requirements, whichever is longer. No extension of this time limit may be granted under 37 CFR 1.136 but the period for response set forth in the Notification of Missing Requirements may be extended under 37 CFR 1.136(a).

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


Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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



14 JUN 2007

GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
EXCHANGE PLACE
BOSTON MA 02109-2881

In re Application of	:	
SEEDS et al.	:	
Serial No.: 10/538,713	:	DECISION ON
PCT No.: PCT/GB03/05428	:	
Int. Filing Date: 12 December 2003	:	PETITION TO
Priority Date: 13 December 2002	:	
Attorney's Docket No.: KLB-002	:	WITHDRAW HOLDING OF
For: AN OPTICAL COMMUNICATION	:	
SYSTEM FOR WIRELESS RADIO SIGNALS	:	ABANDONMENT

This is a decision on applicants' "Petition to Withdraw Holding of Abandonment under 37 CFR 1.181, filed on 22 January 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 10 June 2005, within the thirty month period, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371 with, *inter alia*, the requisite basic national fee. Applicant also filed six separate declarations, pursuant to PCT Rule 4.17. Each declaration identified a single inventor and was executed by that inventor, rather than identifying all inventors listed in the published International application.

On 27 March 2006, a decision on the declarations was mailed indicating that the declarations did not identify all the inventors, were unacceptable and thus, did not meet the requirements of 37 CFR 1.497(a) and (b). A newly executed declaration was required.

On 05 April 2006, a Notification of Missing Requirements was mailed to applicant relying on the decision mailed on 27 March 2006.

On 06 June 2006, applicant submitted newly executed declarations along with the \$130 surcharge for filing the declarations after the thirty month period. On 31 August 2006, a Decision on Submission regarding the declarations was mailed to applicant. Applicant was given two months from the mail date of the decision within which to respond.

On 08 January 2007, a Notification of Abandonment was mailed to applicant indicating that "applicant had failed to properly respond to Decision on Submission" dated 31 August 2006.

On 22 January 2007, applicant filed the instant petition to withdraw the holding of abandonment under 37 CFR 1.181.

DISCUSSION

In order to establish that papers were not received, a petition under 37 CFR 1.181 with a proper showing is required. As set forth in the Official Gazette at 1156 OG 53, the petition must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket records must also be referenced in practitioner's statement). No petition fee is required.

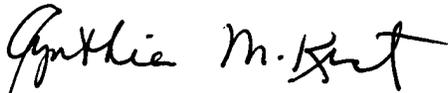
Applicant has satisfied Items (1), (2) and (3) above with the statement that the Decision on Submission dated 31 August 2006 was not received, that a review of the file jacket and docket record book was completed and submission of a copy of the docket record where the non-received Office action would have been entered had it been received (that is, the docket record for 30 September 2006). Counsel has provided his docket record and explanation, showing all responses docketed for the USPTO mail date of 30 September 2006 showing that there was no record of a USPTO mailing for the present application. Thus, applicant has provided the proper showing necessary to withdraw the holding of abandonment and the petition may be properly granted at this time.

A review of the executed declarations submitted on 22 January 2007 indicates that they are in compliance with 37 CFR 1.497(a) and (b) and are acceptable. It is noted that the declaration executed by inventor Matthew Webster does not identify the city and either the state or foreign country of residence of the inventor and is required. The inventor's residence information may be provided on either an Application Data Sheet or a supplemental oath or declaration.

CONCLUSION

Applicant's petition under 37 CFR 1.181 to request to withdraw holding of abandonment 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 22 January 2007.



Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090513

DATE : May 12, 2009

TO SPE OF : ART UNIT 2419

SUBJECT : Request for Certificate of Correction on Patent No.: 7453909

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:

/Chirag G Shah/
Supervisory Patent Examiner, Art Unit 2419



UNITED STATES PATENT AND TRADEMARK OFFICE

DEC 17 2007

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

GARY R. TANIGAWA
NIXON AND VANDERHYE, P.C.
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203-1808

In re Application of :
BRANCACCIO : Decision on Petition
Serial No.: 10/538,736 :
Filed : 11 August 2005 :
Attorney Docket No.: 4636-25 :

This letter is in response to the Petition under 37 C.F.R. 1.144 and 1.181 filed on 28 June 2007 requesting review of a lack of unity determination. The delay in acting upon this petition is regretted.

BACKGROUND

This application was filed as a national stage application under 35 USC 371 of PCT/IT02/00807 and as such, is eligible for unity of invention practice.

On 11 January 2006, the examiner divided claims 1-37 into thirteen groups and reasoned that unity was lacking among these groups.

On 10 March 2006, Applicants elected Group I with traverse.

On 3 May 2006, the examiner considered the traversal and found it persuasive in part. Groups I, IV and II were rejoined and claims 1-25 were examined together on the merits. Claims 26-39 were not treated on the merits.

Claims 1-25 were rejected under 35 USC 112, 1st, for scope of enablement.
Claims 18, 19 and 23 were rejected under 35 USC 101, and 35 USC 112, 2nd for being indefinite "use" claims.

On 27 July 2006, applicants cancelled claims 26-39, directed to the non-elected inventions and added new claims 40-42.

On 23 October 2006, the application was transferred to a second examiner and a second lack of unity determination was prepared. The claims 1-25 which had already been examined together were divided into six groups and further subject to species election requirements.

On 18 December 2006, Applicants elected Group II with traverse and also elected various species, as required.

On 27 March 2007, the examiner considered the lack of unity requirement and made it final. Claims 1-9, 11-18, 24-25 and 40-42 were rejected. Claims 10 and 19-23, which had been rejected in the first action on the merits, were withdrawn from consideration.

On 27 June 2007, applicants filed a response to the Office action. On 28 June 2007, applicants filed this petition.

DISCUSSION

The file history and Applicants' petition filed 28 June 2007 have been considered carefully. Per 35 USC 121, restriction is discretionary, not mandatory. The first examiner was within their rights to examine together inventions which another examiner may wish to divide apart. The issue as to whether the second lack of unity determination was made correctly is of secondary concern here. The issue that needs to be addressed in this decision: the second unity of invention determination no longer permits applicants to resolve rejections made on claims which had been examined and now are withdrawn from examination.

The second lack of unity determination resulting in the withdrawal of claims 10, 19-23 following rejections made by the Office has denied applicant the opportunity to resolve the rejections of record made on claims 10 and 19-23 during the prosecution of this application. For this reason, the second lack of unity determination is withdrawn.

DECISION

Accordingly, the petition filed under 37 CFR 1.144 and 1.181 on 28 June 2007 is **GRANTED**. The lack of unity determination set forth on 13 July 2006 has been withdrawn.

The application will be forwarded to the examiner to consider the papers filed 27 June 2007 and to prepare an Office action consistent with this petition decision.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-272-8300.



Christopher Low
(Acting) Group Director, Technology Center 1600



VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

COPY MAILED
AUG 31 2009
OFFICE OF PETITIONS

In re Application of :
Giovanola et al. : DECISION ON APPLICATION
Application No. 10/538,743 : FOR PATENT TERM ADJUSTMENT
Filed: June 14, 2005 :
Atty Docket No. 82652-243259 :

This is in response to the "Request for Recalculation of Patent Term Adjustment" filed May 12, 2009. Applicant request the initial determination of patent term adjustment be corrected from five hundred sixty-eight (568) days to six hundred sixty-four (664) days.

The application for patent term adjustment is **granted**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is 664 days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On February 13, 2009, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants were advised of a patent term adjustment to date of 568 days. In response, applicants timely filed this application for patent term adjustment with payment of the issue fee on May 12, 2009. Although applicants have not stated a terminal disclaimer has not been filed, the record supports a conclusion that the patent issuing from this application is not subject to a terminal disclaimer.

Applicants do not disclose any specific reasons they believe the patent term adjustment is incorrect. Nonetheless, a review of the record reveals that the determination of patent term adjustment of 568 days is incorrect.

Pursuant to 37 CFR 1.703(a)(1), the period of adjustment of patent term due to examination delay includes:

The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first.

The application fulfilled the requirements of 35 U.S.C. 371 on June 14, 2005. The Office mailed an Office action under 35 U.S.C. 132 on May 21, 2008. Unfortunately, due to Office error, the Office action was mailed to an incorrect address. The Office action was mailed a second time on July 8, 2008, and the period for reply was restarted. The Office's delay pursuant to 37 CFR 1.703(a)(1) should have been calculated based on a mailing date of July 8, 2008, for an Office action under 35 U.S.C. 132. In other words, the period of Office delay is 694 days, the number of days beginning on the day after the date that is 14 months after the application fulfilled the requirements of 35 U.S.C. 371, June 14, 2005, and ending on the date the Office properly mailed an Office action under 35 U.S.C. 132, July 8, 2008.

Office PALM records have been corrected to show an adjustment to patent term of 694 days, instead of 646 days, for Office delay under 37 CFR 1.703(a)(1).

Under the circumstances, the patent term adjustment should not have been reduced under 37 CFR 1.704(b) by 78 days for applicants' delay in filing a reply to an Office action. The Office based the calculation of 78 days on the fact a reply was filed on a date three months and 78 days after the Office mailed an Office action on May 21, 2008. However, as previously stated, the May 21, 2008 Office action was sent to an incorrect address as a result of an Office error. Therefore, the calculation of delay under 37 CFR 1.704(b) should have been based on the Office mailing an Office action on July 8, 2008. In other words, the period of applicant delay under 37 CFR 1.704(b) is 30 days, the number of days beginning on the date that is three months after the Office properly mailed an Office action, July 8, 2008, and ending on the date applicants filed a reply, November 7, 2008.

Office PALM records have been corrected to show a reduction in patent term of 30 days, not 78 days, for applicant delay under 37 CFR 1.704(b).

In view of the previous discussion, the correct patent term adjustment at the time of mailing of the notice of allowance is 664 days, 694 days of Office delay reduced by 30 days of applicant delay.

Applicant's request states, "It is not believed that any fee is required." However, applicants have failed to provide any reason to conclude a fee is not required for the request. 37 CFR 1.705(b) states a "request for reconsideration of the patent term adjustment indicated in the notice of allowance ... must be accompanied by ... [t]he fee set forth in [37 CFR] § 1.18(e)." The fee set forth in 37 CFR 1.18(e) is \$200. Therefore, \$200 has been charged to deposit account 22-0261 listed on the request.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

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

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

A handwritten signature in black ink, appearing to read "Nancy Johnson". The signature is fluid and cursive, with a large initial "N" and "J".

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

PALM INTRANET

PTA Calculations for Application: 10/538743

Application Filing Date:	06/14/2005	PTO Delay (PTO):	646
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	78
Post-Issue Petitions:	0	Total PTA (days):	664
PTO Delay Adjustment:	96		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
57	08/28/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	694		
56	08/28/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		646	
55	08/28/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		30	
54	08/28/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	78		
47	02/13/2009	MAIL NOTICE OF ALLOWANCE			
46	02/12/2009	ISSUE REVISION COMPLETED			
42	02/11/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
41	02/11/2009	DOCUMENT VERIFICATION			
40	02/11/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
39	02/11/2009	CASE DOCKETED TO EXAMINER IN GAU			
38	02/11/2009	NOTICE OF ALLOWABILITY			
37	12/10/2008	DATE FORWARDED TO EXAMINER			
36	11/07/2008	RESPONSE AFTER NON-FINAL ACTION		78	29
35	11/07/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
34	07/08/2008	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
33	07/03/2008	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
32	06/30/2008	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
31	06/26/2008	CORRESPONDENCE ADDRESS CHANGE			
30	06/26/2008	CORRESPONDENCE ADDRESS CHANGE			
29	05/21/2008	MAIL NON-FINAL REJECTION	646		-1
28	05/20/2008	NON-FINAL REJECTION			
		INFORMATION DISCLOSURE STATEMENT			

27	06/14/2005	CONSIDERED			
26	11/02/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
22	02/25/2008	CASE DOCKETED TO EXAMINER IN GAU			
21	10/05/2007	CASE DOCKETED TO EXAMINER IN GAU			
20	08/23/2007	CASE DOCKETED TO EXAMINER IN GAU			
19	03/05/2007	CASE DOCKETED TO EXAMINER IN GAU			
18	10/30/2006	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
17	09/01/2006	CASE DOCKETED TO EXAMINER IN GAU			
16	08/08/2006	TRANSFER INQUIRY TO GAU			
15	06/08/2006	CASE DOCKETED TO EXAMINER IN GAU			
14	05/04/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	06/14/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
12	06/14/2005	REFERENCE CAPTURE ON IDS			
11.7	06/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	06/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	06/14/2005	PRELIMINARY AMENDMENT			
9	05/04/2006	CASE DOCKETED TO EXAMINER IN GAU			
8.7	11/02/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	11/02/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	12/20/2005	CLEARED BY OIPE CSR			
6	12/07/2005	CLEARED BY OIPE CSR			
5	06/14/2005	371 COMPLETION DATE			
4	11/04/2005	APPLICATION DISPATCHED FROM OIPE			
3	11/04/2005	NOTICE OF DO/EO ACCEPTANCE MAILED			
2	07/12/2005	PCT CLASSIFICATION			
1	06/14/2005	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION



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VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

Mail Date: 04/21/2010

Applicant : Lucia Giovanola : DECISION ON REQUEST FOR
Patent Number : 7595004 : RECALCULATION of PATENT
Issue Date : 09/29/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/538,743 : OF WYETH AND NOTICE OF INTENT TO
Filed : 06/14/2005 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **1184** 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 APR 2006

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Salvatore J. Abbruzzese, Esq.
HOFFMAN & BARON, LLP
6900 Jericho Turnpike
Syosset, NY 11791

In re Application of : DECISION ON
Goossens :
Application No.: 10/538,751 :
PCT No.: PCT/NL2003/000843 :
Int. Filing Date: 28 November 2003 : PETITION UNDER
Priority Date: 02 December 2002 :
Attorney's Docket No.: 903-138 PCT/ISUS :
For: ROULETTE DEVICE WITH PROGRESSIVE :
JACKPOT : 37 CFR 1.137(b)

This decision is in response to applicant's "Petition For Revival Of An International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 10 June 2005.

BACKGROUND

On 28 November 2003, this international application was filed, claiming an earliest priority date of 19 July 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 02 June 2005. This international application became abandoned with respect to the United States at midnight on 02 June 2005 for failure to pay the required basic national fee.

On 10 June 2005, applicant filed in the United States Patent and Trademark Office (PTO) a transmittal letter for entry into the national stage in the U.S. under 35 U.S.C. 371, which was accompanied by, *inter alia*, the copy of the international application, and a petition under 37 CFR 1.137(b). However, the no executed declaration or oath was provided at such time.

DISCUSSION

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

terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

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

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

DECISION

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

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



Rafael Bacarés

PCT Legal Examiner

PCT Legal Office

Telephone: (571) 272-3276

Facsimile: (571) 272-0459



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

Mail Date: 04/20/2010

Applicant : Martin Sohn : DECISION ON REQUEST FOR
Patent Number : 7584629 : RECALCULATION of PATENT
Issue Date : 09/08/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/538,759 : OF WYETH AND NOTICE OF INTENT TO
Filed : 06/10/2005 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **905** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



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MAR 31 2006

OFFICE OF PETITIONS

In re Application of :
Ruchet, Bernard :
Application No. 10/538,768 : **ON PETITION**
Filed: June 10, 2005 :
Attorney Docket No. AP1012USN :

This is a decision on the petition under 37 CFR §1.102(d), filed June 10, 2005 and resubmitted on January 25, 2006, to make the above-identified application special. The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section II: Infringement.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

- (A) That there is an infringing device or product actually on the market or method in use;
- (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
- (C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3662 for expedited prosecution.


David Bacci
Petitions Examiner
Office of Petitions



23 AUG 2006

Bruce H. Bernstein
Greenblum & Bernstein, P.L.C.
1950 Roland Clark Place
Reston, VA 20191

In re Application of	:	
MIYAWAKI, et al.	:	
Application No.: 10/538,772	:	
PCT No.: PCT/JP03/15790	:	DECISION ON REQUEST
Int. Filing Date: 10 December 2003	:	
Priority Date: 10 December 2002	:	
Attorney Docket No.: P28025	:	
For: FLUORESCENT INDICATOR USING FRET	:	

This decision is issued in response to applicants' "Response to Notification of Defective Response" filed 19 July 2006 notifying the Office that the correct spelling of the second inventor's name is TAKEHARU Nagai as indicated on the declaration rather than Kenji Nagai as indicated on the published international application. Applicants' request has been treated under 37 CFR 1.181. No petition fee is due.

Petitioner states that the discrepancy between the name of the second inventor indicated in the international application during the international phase and the name of the second inventor as it appears in the declaration is the result of a transliteration error. As indicated in Section 201.03 of the Manual of Patent Examining Procedure, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition under 37 CFR 1.48(a) is not required. Accordingly, applicants' explanation of the difference in the spelling of the second inventor's name is accepted and noted for the record.

For the reasons above, the request is GRANTED.

This application is being forwarded to United States Designated/Elected Office for further processing and for review of the national stage papers submitted on 10 June 2005 and 07 April 2006.

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



15 FEB 2006

Joerg-Uwe Szipl
Griffin & Szipl, P.C.
2300 Ninth Street South, Suite PH-1
Arlington, VA 22204

In re Application of :
HATA et al. :
Application No.: 10/538,776 :
PCT No.: PCT/JP04/00055 :
Int. Filing Date: 08 January 2004 :
Priority Date: 09 January 2003 :
Attorney Docket No.: ASAIN0164 :
For: GRADIENT STRUCTURE MATERIAL :
AND FUNCTIONAL ELEMENT USING :
THE SAME :

DECISION ON
PAPERS UNDER 37 CFR 1.42

This decision is issued in response to the declaration filed 10 June 2005 which is being treated as a request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 08 January 2004, applicants filed the above-identified international application which claimed a priority date of 09 January 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, 09 July 2005.

On 10 June 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; an English translation of the international application; and a declaration executed by Tomonobu Hata, Kimihiro Sasaki and the legal representative on behalf of deceased inventor Shinichi Morita.

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 10 June 2005 is executed by Tomonobu Hata, Kimihiro Sasaki and what appears to be "Kimiko Morita" as the "legal representative" of the

deceased inventor, Shinichi Morita. 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 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 name, residence, citizenship, and post office address for the legal representative. In this case, the declaration filed on 10 June 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
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459



28 JUL 2006

Joerg-Uwe Szipl
Griffin & Szipl, P.C.
2300 Ninth Street South, Suite PH-1
Arlington, VA 22204

In re Application of :
HATA et al. :
Application No.: 10/538,776 :
PCT No.: PCT/JP04/00055 :
Int. Filing Date: 08 January 2004 :
Priority Date: 09 January 2003 :
Attorney Docket No.: ASAIN0164 :
For: GRADIENT STRUCTURE MATERIAL :
AND FUNCTIONAL ELEMENT USING :
THE SAME :

DECISION ON
PAPERS UNDER 37 CFR 1.42

This decision is issued in response to the declaration filed 17 April 2006 which is being treated as a request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 08 January 2004, applicants filed the above-identified international application which claimed a priority date of 09 January 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, 09 July 2005.

On 10 June 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; an English translation of the international application; and a declaration executed by Tomonobu Hata, Kimihiro Sasaki and the legal representative on behalf of deceased inventor Shinichi Morita. In a decision dated 15 February 2006, the petition under 37 CFR 1.42 was refused.

On 17 April 2006, applicants filed the present renewed request 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 submitted on 17 April 2006 is executed by Kimiko Morita as the "legal representative" of the deceased inventor, Shinichi Morita. The declaration provides the residence, post office address, and country of citizenship for the legal representative and the citizenship of the deceased inventor. Therefore, 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 08 January 2004, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **17 April 2006**.

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


Anthony Smith
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Fax: (571) 273-0459



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,778	06/10/2005	Paula Belinky	29585	6857
7590 06/27/2008				
Martin Moynihan		EXAMINER		
Anthony Castorina		SRIVASTAVA, KAILASH C		
2001 Jefferson Davis Highway		ART UNIT		
Sutie 207		PAPER NUMBER		
Arlington, VA 22202		1657		
		MAIL DATE		
		DELIVERY MODE		
		06/27/2008		
		PAPER		

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

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Application of: Paula BELINKY et al :
Serial Number: 10/538778 :
Filed: June 10, 2005 :
Attorney Docket: 29585 : DECISION ON PETITION
For: Methods of Producing Lignin :
Peroxidase And Its Use In Skin :
And Hair Lightening :

This is in response to applicant's petition to accept color drawings/photographs filed on May 19, 2008.

All requirements under 37 CFR 1.84(a)(2) are met. Accordingly, petition is Granted.

Petition GRANTED.

/Cecilia J.Tsang/
Supervisory Patent Examiner, Art nit 1654



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

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SEP 12 2007

OFFICE OF PETITIONS

Applicant: Xavier, et al.
Appl. No.: 10/538,782
International Filing Date: December 12, 2003
Title: NON-TRANSFER COSMETIC COMPOSITION COMPRISING A DISPERSION OF A GRAFTED ETHYLENE POLYMER
Attorney Docket No.: 05725.1478
Pub. No.: US 2006/0134034 A1
Pub. Date: June 22, 2006

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on August 22, 2006, for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains the material errors as follows:

- On page 7, paragraph [0147], "R₁₁" should read "R'₁".
- On page 7, paragraph [0148], "R₁₂" should read "R'₂".
- On page 18, claim 53, "R₁₁" should read "R'₁".
- On page 18, claim 53, "R₁₂" should read "R'₂".

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.¹

The errors noted by requestor wherein read "R'₁" is misprinted as "R₁₁" and "R'₂" is misprinted as "R₁₂" are Office errors but the mistakes are not material errors under 37 CFR 1.221(b). The errors are typographical errors, which are clearly understandable to one of ordinary skill in the

¹Changes 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).

art in reading the specification or claim, formula is directly above the typographical errors. The mistake is a minor typographical, which does not affect the understanding of the specification and dependent claim. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

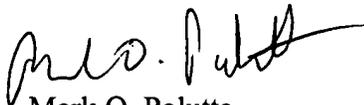
The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the 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.



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



18 NOV 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

#2

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Al AuYeung
SCHWABE, WILLIAMSON & WYATT, P.C.
1211 SW Fifth Avenue, Suites 1600-1900
Portland, Oregon 97204-3795

In re Application of:	:	
CRASWELL, Ronald, J., et al.	:	DECISION ON PETITION FOR
U.S. Application No.: 10/538,7944	:	REVIVAL OF ABANDONED
PCT No.: PCT/US2003/032284	:	APPLICATION UNDER
International Filing Date: 10 October 2003	:	37 CFR 1.137(b)
Priority Date: 10 October 2002	:	
Attorney's Docket No.: 109927-134542	:	
For: METHOD AND APPARATUS FOR	:	
REMOTE CONTROL AND UPDATING	:	
OF WIRELESS MOBILE DEVICES	:	

The petition for revival under 37 CFR 1.137(b) filed 13 June 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 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 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 13 June 2005.

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



01 DEC 2005

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

#4

SCHWABE, WILLIAMSON & WYATT, P.C.
1211 SW FIFTH AVENUE, SUITE 1600-1900
PORTLAND, OR 97204

In re Application of CRASWELL
Application No.: 10/538,795
PCT No.: PCT/US03/32295
Int. Filing: 10 October 2003
Priority Date: 10 October 2002
Attorney Docket No.: 109927-134542
For: BACKING UP A WIRELESS
COMPUTING DEVICE

DECISION ON
PETITION UNDER
37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 13 June 2005 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that the basic national fee of \$300 has been provided. The required petition fee of \$1500 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing including issuance of a Notification of Missing Requirements indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), and the surcharge for filing the oath or declaration after the thirty month period, is required.

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

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



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OFFICE OF PETITIONS

HAHN LOESER & PARKS, LLP
One GOJO Plaza
Suite 300
AKRON OH 44311-1076

In re Application of	:	
Aaron Weinberg	:	
Application No. 10/538,811	:	
Filed: March 9, 2006	:	ON APPLICATION FOR
Attorney Docket No.	:	PATENT TERM ADJUSTMENT
200512.00033	:	
Title: Defensin-Inducing Agents	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(d)" filed August 27, 2009. This petition is properly treated under 37 C.F.R. §1.705(b). Applicant submits that the correct patent term adjustment to be indicated on the patent is five hundred twenty-six (526) days, not three hundred eighty-two (382) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

such, the Office 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 fee¹.

The \$200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed from deposit account no. 15-0450. No additional fees are required.

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.

/Kery A. Fries/

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



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HAHN LOESER & PARKS, LLP
One GOJO Plaza
Suite 300
AKRON, OH 44311-1076

Mail Date: 04/20/2010

Applicant : Aaron Weinberg : DECISION ON REQUEST FOR
Patent Number : 7655242 : RECALCULATION of PATENT
Issue Date : 02/02/2010 : TERM ADJUSTMENT IN VIEW
Application No : 10/538,811 : OF WYETH AND NOTICE OF INTENT TO
Filed : 03/09/2006 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **967** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



11 AUG 2006

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MACMILLAN SOBANSKI & TODD, LLC
ONE MARITIME PLAZA, FOURTH FLOOR
720 WATER STREET
TOLEDO, OHIO 43604-1619

In re Application of:	:	
BIGHAM, Ian, B., et al.	:	DECISION ON PETITION UNDER
U.S. Application No.: 10/538,814	:	37 CFR 1.47(a)
PCT No.: PCT/IB2003/006496	:	
International Filing Date: 12 December 2003	:	
Priority Date: 13 December 2002	:	
Attorney's Docket No.: 1-24194	:	
For: DEVICE FOR THE PRODUCTION OF	:	
COMB HONEY	:	

This decision is issued in response to applicants' "Petition Under 37 CFR 1.47(a) and 37 CFR 1.47(b) For Acceptance Of Declaration Under Circumstances Where One Joint Inventor Refuses To Sign A Substitute Declaration" filed 16 June 2006, treated herein as a petition under 37 CFR 1.47(a).¹ Applicants have paid the required petition fee.

BACKGROUND

On 12 December 2003, applicants filed international application PCT/IB2003/006496. The international application claimed a priority date of 13 December 2002, and it designated the United States. On 01 July 2004, the International Bureau 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 June 2005.

On 13 June 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 an executed declaration.

On 14 February 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirement (Form PCT/DO/EO/905) indicating that an executed declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date were required. The Notification stated that the declaration filed 13 June 2005 was not acceptable because it was not legible and because it did not identify the specification to which it was directed.

¹ The petition references both 37 CFR 1.47(a) and 1.47(b); however, because one of the co-inventors has executed the declaration herein, the applicable regulation is 37 CFR 1.47(a).

On 16 June 2006, applicants filed a response to the Notification Of Missing Requirements (with required two month extension fee). The submission includes the required surcharge payment, a revised declaration executed by co-inventor Andreas SPERLICH, and the petition under 37 CFR 1.47(a) considered herein. The petition seeks acceptance of the application without the signature of co-inventor Ian B. BIGHAM, whom applicants assert has refused to execute the revised declaration.

DISCUSSION

1. The Declaration Filed 13 June 2005:

Initially, it must be determined if the declaration filed 13 June 2005 can be accepted under 37 CFR 1.497, because if this fully-executed declaration is acceptable, the petition under 37 CFR 1.47(a) is moot.

The Notification Of Missing Requirements stated that the declaration filed 13 June 2005 was defective for failure to properly identify the specification to which it was directed. In the present petition, applicants assert that a copy of the present specification accompanied the declaration filed 13 June 2005 when it was executed, evidencing the inventors' intent to execute the present application. Applicants also note that the declaration bears the docket number used on all other paper work filed with respect to the present national stage application.

MPEP § 602(VI) sets forth the minimum information required for a declaration to adequately identify the application to which it is directed:

The following combination of information supplied in an oath or declaration filed on the application filing date with a specification are acceptable as minimums for identifying a specification and compliance with any one of the items below will be accepted as complying with the identification requirement of 37 CFR 1.63:

(A) name of inventor(s), and reference to an attached specification which is both attached to the oath or declaration at the time of execution and submitted with the oath or declaration on filing;

(B) name of inventor(s), and attorney docket number which was on the specification as filed; or

(C) name of inventor(s), and title of the invention which was on the specification as filed.

The declaration filed 13 June 2005 does not satisfy any of these options. With respect to option (A), while the declaration does refer to an attached specification; no such specification was "submitted with the oath or declaration on filing," as required. With respect to option (B), a specification bearing the docket number set forth on the declaration was not filed with the

declaration, as required. Finally, with respect to option (C), the declaration does not bear the title of the invention.

Because the declaration filed 13 June 2005 does not satisfy the minimum requirements for identifying the application to which it was directed, as set forth in the MPEP, the declaration can not be accepted under 37 CFR 1.497. Consideration of the partially executed declaration filed 16 June 2006, and the accompanying petition under 37 CFR 1.47(a), is therefore required.

2. **Petition Under 37 CFR 1.47(a):**

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 executed 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.

Applicants here have submitted the required petition fee. Item (1) is therefore satisfied.

The petition does not include an express statement of the last known address of the non-signing inventor. Item (2) is therefore not satisfied.

Regarding item (3), section 409.03(a) of the Manual of Patent Examining Practice (MPEP) states that:

An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, the petition includes a revised declaration that is legible, clearly identifies the application to which it is directed, is executed by co-inventor Andreas SPERLICH, and includes an unsigned signature block for the non-signing inventor. This declaration may be treated as having been executed by the signing inventor on his own behalf and on behalf of the non-signing inventor. Accordingly, item (3) is satisfied.

Regarding item (4), the present record is insufficient to support the conclusion that the inventor has refused to sign the revised declaration. Pursuant to MPEP section 409.03(d), before it can be concluded that an applicant refuses to sign the application papers, firsthand evidence must be provided confirming that a copy of the complete application (including specification drawings and claims) has been sent to the last known address of the inventor. The present petition includes a statement from co-inventor Andreas SPERLICH providing firsthand evidence regarding Mr. SPERLICH's unsuccessful attempts to deliver the application documents to the non-signing inventor for signature. The statement also refers to the required mailing of a request for signature, accompanied by a copy of the complete application papers, to the last known address of the non-signing inventor (via DHL courier). However, it was apparently Ted C. GILLESPIE, not Mr. SPERLICH, who carried out this required mailing. Accordingly, a

statement from Mr. GILLESPIE is required to provide firsthand confirmation of this mailing and the inventor's failure to respond thereto; such statement should be accompanied by available documentary evidence, such as the DHL delivery confirmation. Until such additional materials are provided, item (4) is not considered satisfied.

Based on the above, applicants have failed to satisfy all the requirements for a grantable petition under 37 CFR 1.47(a).

CONCLUSION

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

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)" and must include the materials required to satisfy items (2) and (4) of a grantable petition, as discussed above. No additional petition fee is required.

Failure to file a proper response will result in abandonment of the application. Extensions of time are available under 37 CFR 1.136(a)

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, P.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



27 NOV 2006

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MACMILLAN SOBANSKI & TODD, LLC
ONE MARITIME PLAZA, FOURTH FLOOR
720 WATER STREET
TOLEDO, OHIO 43604-1619

In re Application of:	:	
BIGHAM, Ian, B., et al.	:	DECISION ON RENEWED
U.S. Application No.: 10/538,814	:	PETITION UNDER
PCT No.: PCT/IB2003/006496	:	37 CFR 1.47(a)
International Filing Date: 12 December 2003	:	
Priority Date: 13 December 2002	:	
Attorney's Docket No.: 1-24194	:	
For: - DEVICE FOR THE PRODUCTION OF	:	
COMB HONEY	:	

In a decision mailed by this Office on 11 August 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 an express statement of the last known address of the non-signing inventor or an acceptable showing that the inventor had been provided with a request for signature, accompanied by a copy of the complete application, and had refused to sign the declaration.

On 16 October 2006, applicants filed the renewed petition considered herein. The renewed petition includes an express statement of the non-signing inventor's last known address, as required.

In addition, the renewed petition includes a statement from Ted C. Gillespie, with accompanying documents, which provides the required firsthand evidence that a copy of the complete application was delivered to the inventor at his last known address, and that he has not provided the executed declaration, as requested. These materials satisfy the outstanding 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 non-signing inventor Ian B. BIGHAM.

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 16 June 2006.



Richard M. Ross
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Telephone: (571) 272-3296
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16 JAN 2009



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61214
FOX ROTHSCHILD, LLP
Elan Pharma International Limited
2000 Market Street
Philadelphia, PA 19103

In re Application of :
LE ROY *et al* :
U.S. Application No.: 10/583,845 :
PCT No.: PCT/FR2004/003104 :
Int. Filing Date: 02 December 2004 :
Priority Date: 13 December 2003 :
Attorney Docket No.: PF030187 :
For: IMAGE DISPLAY SCREEN AND :
METHOD FOR ADDRESSING SAID :
SCREEN :

DECISION

This decision is in response to applicants' petition under 37 CFR 1.47 filed 10 November 2008.

BACKGROUND

On 11 June 2008, 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 10 November 2008, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a \$200.00 petition fee; a two-month extension fee; a \$130.00 surcharge fee; a declaration signed by two of the three named inventors; required fees; a declaration of Florence Pac; and other documentary evidence (with accompanying English translations when required) in support of the petition.

DISCUSSION

Applicants claim that joint inventor Fabian Ammardji refuses to cooperate in the above-captioned application and filed the subject petition in response to the Form PCT/DO/EO/905 mailed 11 June 2008.

It is first noted that a three-month extension of time is required since the petition was not filed until 10 November 2008. The three-month extension fee of \$1,110 has been charged to Deposit Account No. 07-0832 as authorized. The two-month extension fee of \$490.00 has been credited back to counsel's Deposit Account.

10/583,845

A petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the missing joint inventor cannot be located or refuses to cooperate; (3) a statement of the last known address of the nonsigning joint inventor; (4) and an oath or declaration executed by the signing joint inventor on their behalf and on behalf of the nonsigning joint inventor. Item (2) is not yet complete.

Regarding item (2), the 37 CFR 1.47(a) applicants' burden in showing that an inventor refuses to cooperate is explained in section 409.03(d) of the MPEP, *II. Refusal to Join*. Several pertinent segments are listed below:

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 non-signing inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney . . .

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made . . .

Petitioners provided a copy of an email from the nonsigning inventor dated 03 July 2008 requesting compensation for his signature on patent documents. This may constitute a written refusal to cooperate. However, in order for the refusal to be accepted, petitioners must show that Mr. Ammardji was provided (or an attempt was made to provide) a complete copy of the subject application.

Here, the 37 CFR 1.47(a) applicants have not demonstrated that a complete copy of the application including specification, claims and drawings were sent to Mr. Ammardji. The declaration by Ms. Pac and accompanying exhibits show only that a declaration was provided to Mr. Ammardji. Petitioners must show that at a minimum, an attempt was made to present the application papers to the nonsigning inventor for a refusal to be accepted.

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

CONCLUSION

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

10/583,845

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. No additional petition fee is required.

Any further correspondence with respect to this matter may be filed electronically via the USPTO EFS-Web 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.



James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/24/07

Paper No.: _____

TO SPE OF : ART UNIT 1793

SUBJECT : Request for Certificate of Correction on Patent No.: 6957760

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:


JONATHAN JOHNSON
SUPERVISORY PATENT EXAMINER

SPE

1793

Art Unit



#5

08 DEC 2005

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

Henry D. Coleman
Coleman Sudol Sapone, P.C.
714 Colorado Avenue
Bridgeport, CT 06605-1601

In re Application of	:	
Obeidat et al.	:	
Serial No.: 10/538,859	:	DECISION ON
PCT No.: PCT/US03/37744	:	PETITION
Int. Filing Date: 24 November 2003	:	UNDER 37 CFR 1.137(b)
Priority Date: 27 November 2002	:	
Attorney's Docket No.: G25-079US	:	
For: MICROSPHRERES AND RELATED	:	
PROCESSES AND PHARMACEUTICAL	:	
COMPOSITIONS	:	

This decision is responsive to the "PETITION FOR REVIVAL UNDER 37 C.F.R. § 1.137(b) OF PATENT APPLICATION DESIGNATION THE U.S. ABANDONED UNINTENTIONALLY" filed 14 June 2005.

BACKGROUND

On 24 November 2003, applicants filed international application PCT/US03/37744, which claimed priority of an earlier U.S. provisional application filed 27 November 2002. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 27 May 2004.

On 14 June 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, a check for the fee for the petition to revive, a signed declaration and a check for the basic national fee. These papers were assigned Application No. 10/538,859.

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

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

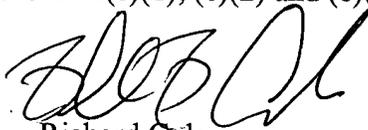
Applicants have provided the required statement, a proper reply and the petition fee. Therefore, the petition to revive is GRANTED. The requirements under 35 U.S.C. 371(c) have been satisfied.

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 further processing in accordance with this decision. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **14 June 2005**.

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



03 NOV 2006

22852

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

In re Application of	:	
OLIVETTI <i>et al</i>	:	
U.S. Application No.: 10/538,875	:	
PCT No.: PCT/EP02/14482	:	DECISION ON PETITION
Int. Filing Date: 18 December 2002	:	
Priority Date:	:	TO WITHDRAW HOLDING
Attorney Docket No.: 05788.0372	:	
For: MODULAR APPARATUS AND	:	OF ABANDONMENT
METHOD FOR DATA	:	
COMMUNICATION BETWEEN A	:	
DISTRIBUTION NETWORK AND A	:	
RESIDENTIAL NETWORK	:	

This decision is in response to the "Petition to Withdraw Holding of Abandonment Under M.P.E.P. 711.03(c)(I)(B)" filed on 08 September 2006.

BACKGROUND

On 23 November 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b), additional claim fees of \$100.00, and a \$130.00 surcharge fee pursuant to 37 CFR 1.492(h) was required. A two-month time limit in which to respond was set with extensions of time available.

On 23 January 2006, applicants filed a response which contained, *inter alia*, an executed declaration, a response to the additional claim fee charge, the \$130.00 surcharge fee, and authorization to charge the additional claim fee to Deposit Account No. 06-0916 if required.

On 03 August 2006, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) stating that the above-captioned application was abandoned because applicants failed to respond to the Form PCT/DO/EO/905 mailed 23 November 2005.

On 10 February 2004, applicants filed the instant petition to withdraw the holding of abandonment which was accompanied by, *inter alia*, copies of the documents filed 23 January 2003 and a stamped postcard receipt for those documents.

DISCUSSION

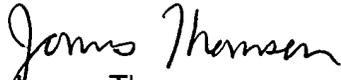
A review of the application shows that a response to the Form PCT/DO/EO/905 mailed 23 November 2005 was filed and received in the Office on 23 January 2006. This response included a declaration in compliance with 37 CFR 1.497(a) and (b) and the \$130.00 surcharge fee

Accordingly, the Form PCT/DO/EO/909 mailed 03 August 2006 was sent in error and is hereby **VACATED**.

DECISION

For the reasons above, applicants' petition to withdraw the holding of abandonment is dismissed as **MOOT**.

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



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

MAILED

JUN 18 2010

OFFICE OF PETITIONS

In re Application of :
Montanari, et al. : DECISION ON PETITION
Application No. 10/538,886 :
Filed: March 24, 2006 :
Docket No.: 273332US0XPCT . :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed April 28, 2010.

The Notice of Abandonment mailed March 4, 2010 indicates that the application is abandoned for failure to timely submit a proper reply to the non-final Office action mailed August 27, 2009.

Petitioner asserts that a reply, including three month extension of time, was timely filed March 1, 2010.

The reply (Notice of Appeal), including extension of time, filed March 1, 2010, has been located in the official application file.

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

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

Petitioner is advised that the due date for submission of the appeal brief (and required fee) is TWO MONTHS from the mail date of the instant decision indicated above.

The application file is being forwarded to Technology Center 1797 for further processing.

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA, VA 22182-3817

Mail Date: 04/21/2010

Applicant	: Praveen Chaudhari	: DECISION ON REQUEST FOR
Patent Number	: 7615776	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/538,935	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/13/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1055** 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
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Alexandria, Virginia 22313-1450
www.uspto.gov

MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: Inigo Op't Roodt	: DECISION ON REQUEST FOR
Patent Number	: 7581280	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/538,948	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1109** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



29 NOV 2006

JONES DAY
222 EAST 41ST STREET
NEW YORK NY 10017-6702

In re Application of	:	
AEBI, Max et al.	:	
Application No.: 10/538,950	:	DECISION ON
PCT No.: PCT/CH02/00707	:	
Int. Filing Date: 17 December 2002	:	PETITION
Priority Date: None	:	
Attorney Docket No.: LUS-16100	:	UNDER 37 CFR 1.47(a)
For: INTERVERTEBRAL IMPLANT	:	

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 19 September 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 17 December 2002, applicants filed international application PCT/CH2002/000707. A copy of the international application was communicated from the International Bureau to the USPTO on 01 July 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 17 June 2005.

On 14 June 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 16 March 2006 and 22 March 2006, the Office mailed Notices of Acceptance (Form PCT/DO/EO/903) indicating that the application had complied with 35 U.S.C 371(c)(1), (c)(2) and (c)(4) on 14 June 2005.

On 14 September 2006, applicants filed this petition under 37 CFR 1.47(a), accompanied by a declaration of inventors.

DISCUSSION

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

Items (1) has been satisfied.

Item (2) has not been satisfied. Applicants allege that Mr. Aebi has refused to sign the declaration of inventorship, but have not established that the inventor was presented with a complete copy of the application papers including the specification, claims and drawings. Ordinarily, this is done by sending a complete copy of the papers to inventor's last known residence by return receipt mail.

Copies of documentary evidence supporting a presentation with a complete copy of the application papers should be provided. MPEP 409.03(d). The email delivery receipt confirms delivery of the email, not receipt. A refusal to sign in the absence of presentation with a complete copy of the application papers is not ordinarily sufficient.

Mr. Tuma states that Mr. Aebi was refusing to sign any papers related to the above-identified patent application as of 10 August 2005. As earlier indicated, refusal to sign in the absence of presentation with a complete copy of the application papers is not normally sufficient. Additionally, it is not clear that the author of the 10 August 2005 letter to Mr. Spaw has firsthand knowledge of the alleged refusal. Further, transfer of ownership rights is not required for Mr. Aebi to sign the declaration of inventorship.

Item (3) has not been satisfied. The last known address of a non-signing inventor is ordinarily the last known residence of the non-signing inventor. MPEP 409.03(e). The address provided for Mr. Aebi is a business address.

Item (4) has not been satisfied. The declaration includes the non-translated foreign language text "bitte leer lassen" handwritten on the declaration. Non-translated foreign language text is not acceptable. See 37 CFR 1.69.

CONCLUSION

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

The Notices of Acceptance (Form PCT/DO/EO/903) mailed 16 March 2006 and 22 March 2006 are **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.



Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

Application No.: 10/538,950

2

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



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

B. Defective Declaration (filed 01 March 2007)

The 01 March 2007 submission included an executed declaration. However, this declaration is not in compliance with 37 CFR 1.497. Specifically, there is an issue as to whether the declaration has been properly executed. The declaration filed with the petition includes duplicate sheets of page 2. It is unclear if the inventors were presented with only Page "2", in which case the execution would be improper, or if they were presented with a complete declaration for signing, but counsel subsequently compiled the declaration into the single document, which is improper. (See MPEP 201.03(B): "Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration"). Copy of the complete declaration executed by each of the inventors is required before the declarations can be accepted under 37 CFR 1.497(d).

Additionally, petitioner has not provided an executed declaration(s) in compliance with 37 CFR 1.497 by the fifth inventor (Robert Mathys Jr.) and sixth inventor (Paul Pavlov).

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.47(a) is **DISMISSED** as MOOT.

A proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). A proper response must include an oath/declaration in compliance with 37 CFR 1.497(a)-(b).

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



Anthony Smith
Attorney-Advisor
Office PCT Legal Administration
Tel.: 571-272-3298
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B. Name Change/Correction

Petitioner states in the "Notification Regarding Typographical Error in Spelling of the Inventor's Name" that the correct name of the third, fourth, fifth and sixth inventor is Dominique Burkard; Beat Lechmann; Paul Pavlov; and Robert Mathys Jr. as indicated on the published international application rather than Dominique Dominique Burkard; Beat Beat Lechmann, Paul Paul Pavlov and Robert Robert Mathys Jr. as indicated on the declaration.

As indicated in Section 201.03 of the Manual of Patent Examining Procedure, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition under 37 CFR 1.48 is not required. Accordingly, applicants' explanation of the difference in the third, fourth, fifth and sixth inventor's name is accepted and noted for the record.

Therefore, the declarations filed on 15 June 2007 are in compliance with 37 CFR 1.497. A review of the application papers reveal that applicants have completed all the requirements of 35 U.S.C. 371 for entry into the national stage.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is **DISMISSED** as **MOOT**.

The declaration filed on 15 June 2007 is in compliance with 37 CFR 1.497.

The application has an international filing date of 17 December 2002 under 35 U.S.C. 363 and a date of **15 June 2007** under 35 U.S.C. 371(c)(1),(c)(2) and (c)(4).

The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application.



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

11 SEP 2006



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Charles N.J. Ruggiero
Ohlandt, Greeley, Ruggiero & Perle, LLP
One Landmark Square, 10th Floor
Stamford, CT 06901-2682

In re Application of :
FAIGLE, et al. :
Application No.: 10/538,957 : DECISION ON PETITION
PCT No.: PCT/EP03/13664 :
Int. Filing Date: 04 December 2003 : UNDER 37 CFR 1.181
Priority Date: 14 December 2002 :
Attorney Docket No.: WW033USU :
For: METHOD AND DEVICE FOR REDUCING :
PRESSURE FLUCTUATIONS IN A SUCTION :
PIPE OF A WATER TURBINE OR WATER :
PUMP OR WATER-PUMP TURBINE :

This decision is in response to applicant's facsimile communication filed 31 August 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 04 December 2003, applicant filed the international application, which claimed a priority date of 14 December 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 01 July 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, 14 June 2005.

On 14 June 2005, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee.

On 03 November 2005, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an 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 17 November 2005, applicant filed a response including an executed combined declaration and power of attorney of the inventors.

On 24 July 2006, applicant was again 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 31 August 2006, applicant filed the present correspondence including a copy of the filed declaration.

DISCUSSION

Although applicant has not provided a copy of a return receipt postcard for the 17 November 2005 filing, a review of the application file finds the subject filing contained therein. It is stamped with a USPTO date stamp of "OIPE IAP75 Patent & Trademark Office NOV 17 2005." Thus, it is clear that the combined declaration and power of attorney was filed with the office on 17 November 2005 and there is no need to consider applicant's petition under 37 CFR 1.181.

CONCLUSION

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

The application has an international filing date of 04 December 2003 under 35 U.S.C. 363 and will be accorded a date of 17 November 2005 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) mailed 24 July 2006 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 an official filing receipt indicating the 371 date as detailed above.



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



**CUSTOMER# 43214
EMPK & SHILOH, LLP
116 JOHN ST.
SUITE 1201
NEW YORK, NY 10038**

COPY MAILED

MAY 12 2008

In re Application of :

DAVID, Ofer et al. :

Application No. 10/538,963 :

Filed: August 04, 2005 :

Attorney Docket No. **ELG-P-5522-US** :

**DECISION ON PETITION
TO WITHDRAW
FROM RECORD**

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 29, 2007 and resubmitted August 06, 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 to withdraw less than all attorneys appointed by customer number 43214 cannot be approved. The addition and/or deletion of a practitioner from the list of practitioners associated with a Customer Number should be made by submitting a "Request for Customer Number Data Change" (PTO/SB/124) which will result in the addition or deletion of such practitioner from the list of persons authorized to represent any applicant or assignee of the entire interest who appointed all of the practitioners associated with such Customer Number. See MPEP 403 Section I. Customer Number Practice.

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

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

Michelle R. Eason
Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **CUSTOMER# 56639
EMPK & SHILOH, LLP
116 JOHN ST,
SUITE 1201
NEW YORK, NY 10038**



WARE FRESSOL VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P. O. BOX 224
MONROE, CT 06468

COPY MAILED

SEP 02 2008

In re Application of :
Tapani Levola :
Application No. 10/538,972 :
Filed: June 14, 2005 :
Attorney Docket No. 915-005.168 :

ON PETITION

This is a decision on the petition, filed August 27, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

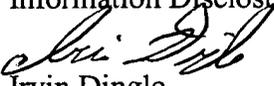
The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 18, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

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

This matter is being referred to Technology Center AU 2874 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.


Irvin Dingle
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Oct. 22, 2008

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/538977 /7426394

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

**Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580**

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes **do not** apply.

Denied

State the reasons for denial below.

Comments: _____



14 SEP 2006

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

Adjustment date: 09/15/2006 SKASHEIR
06/21/2005 LLANDGRA 00000045 080219 10538991
04 FC:1462 400.00 CR

In re Application of: SMITH, et al :
Application No.: 10/538,991 :
PCT Application No.: PCT/US03/41392 : DECISION
Int. Filing Date: 22 December 2003 :
Priority Date Claimed: 20 December 2002 :
Attorney Docket No.: 112981.126US1 :
For: HIGH PRESSURE COMPACTION for :
PHARMACEUTICAL FORMULATIONS :

This decision is a response to Applicants' submission filed on 15 June 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 22 December 2003, Applicants filed international application PCT/US03/41392, which designated the U.S. and claimed a priority date of 20 December 2002. A copy of the international application was communicated to the USPTO from the Bureau on 15 July 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 20 June 2005.

On 15 June 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, an assertion of small entity status, an Application Data Sheet, and the instant "PETITION TO CORRECT PRIORITY UNDER 37 C.F.R. 1.182".

DISCUSSION

The petition indicates that provisional application serial number 60/435,448 was incorrectly listed as serial number 60/435,488 in international application number PCT/US03/41392. The petition also indicates that Applicant has included the correct priority number to provisional application serial number 60/435,448 in the

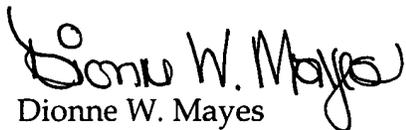
accompanying Application Data Sheet. The instant petition under 37 CFR 1.182 was filed to correct this priority claim.

A petition under 37 CFR 1.182 is not necessary in the instant situation. Either Applicant complies with 37 CFR 1.78(a)(5) or Applicant does not. If Applicant complies, no petition is necessary. If Applicant fails to comply, a petition under 37 CFR 1.78(a)(6) is required. The petition fee will be credited to Deposit Account 08-0219.

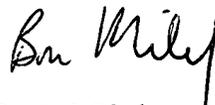
In the instant situation, Applicant has complied with 37 CFR 1.78(a)(5). The Application Data Sheet contains the correct priority claim, and such sheet was filed within four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f).

CONCLUSION

For the reasons set forth above, the instant petition under 37 CFR 1.182 is **DISMISSED as MOOT.**



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



Boris Milef
Legal Examiner
Office of PCT Legal Administration



UNITED STATES PATENT AND TRADEMARK OFFICE

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

David W. Hight, VP & Chief IP Counsel
Becton, Dickinson and Company
(Roylance Abrams Berdo & Goodman)
1 Becton Drive, MC 110
Franklin Lakes NJ 07417-1880

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JUN 30 2008

OFFICE OF PETITIONS

In re Application of :
Dansaert, et al. :
Application No. 10/539,002 :
Filed: June 15, 2005 :
Attorney Docket No. P-5894/1 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 20, 2008, to revive the above-identified application.

This application became abandoned for failure to timely submit corrected drawings within three (3) months of the mailing of the Notice of Allowability, mailed October 1, 2007. Accordingly, this application became abandoned on January 2, 2008. A Notice of Abandonment was mailed on January 25, 2008.

Applicants have submitted a proper reply in the form of corrected drawings, an acceptable statement of the unintentional nature of the delay in responding to the October 1, 2007 Notice of Allowability, and the petition fee.

The petition is **granted**.

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions



**CLARIANT CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
4000 MONROE ROAD
CHARLOTTE NC 28205**

COPY MAILED

JUL 1 5 2008

OFFICE OF PETITIONS

In re Application of :
Brychcy et al. :
Application No. 10/539,033 :
Filed: June 10, 2005 :
Attorney Docket No. 2002DE143 :

ON PETITION

This is a decision on the petition filed June 25, 2008, requesting that the above-identified application be accorded a filing date of June 10, 2005, rather than the presently accorded date of June 11, 2005. The petition is properly treated as a petition under 37 CFR 1.10(d).

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U. S. Postal Service (USPS) as Express Mail on June 10, 2005 pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. ED 795273289 US, showing an incorrect handwritten "date-in" of "06-11-05." The Express Mail label number appears on the Certificate of Mailing by "Express Mail" and includes a statement of express mailing dated June 10, 2005 on the cover page for the application papers. Applicant has submitted a copy of a postal service sales receipt, which shows the above Express Mail label number, as having a receipt date of June 10, 2005.

Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on June 10, 2005. Accordingly, the instant application is entitled to a filing date of June 10, 2005 and has been so accorded.

The petition is **GRANTED**.

A petition under 37 CFR 1.10(d) does not require a petition fee. Accordingly, the \$130.00 submitted with the instant petition will be refunded to petitioner's deposit account as authorized.

This matter is being referred to the Office of Initial Patent Examination Division for further **processing with a filing date of June 10, 2005, along with a corrected filing receipt.** Thereafter, the matter will be referred to Technology Center 1793 for examination in due course.

Telephone inquiries concerning this matter may be directed the undersigned at (571) 272-3206.


Liana Walsh
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CLARIANT CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
4000 MONROE ROAD
CHARLOTTE NC 28205

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FEB 22 2007

OFFICE OF PETITIONS

In re Application of :
Brychcy et al. :
Application No. 10/539,034 : **ON PETITION**
Filed: June 10, 2005 :
Attorney Docket No. 2002DE144 :

This is a decision on the petition filed September 15, 2006, requesting that the above-identified application be accorded a filing date of June 10, 2005, rather than the presently accorded date of June 11, 2005. The petition is properly treated as a petition under 37 CFR 1.10(d).

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U. S. Postal Service (USPS) as Express Mail on June 10, 2005, pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. ED 795273292 US, showing a handwritten "date-in" of "06-11-05." The Express Mail label number appears on the Certificate of Mailing by "Express Mail" and includes a statement of express mailing dated June 10, 2005, on the cover page for the application papers. Additionally, applicant has submitted a copy of a postal service sales receipt, which shows Express Mail label No. ED 795273292 US as having a receipt date of June 10, 2005.

To further substantiate applicant's allegation that the application papers for this file were deposited on the requested filing date, an independent search was made of the USPS Express Mail Track and Confirm records which resulted in a finding that the package in question was in fact accepted on June 10, 2005, at 4:42 p.m. at the Charlotte, NC USPS.

Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on June 10, 2005. Accordingly, the instant application is entitled to a filing date of June 10, 2005, and has been so accorded.

The petition is **GRANTED**.

A petition under 37 CFR 1.10(d) does not require a petition fee and none has been collected.

This matter is being referred to the Office of Initial Patent Examination Division for further **processing with a filing date of June 10, 2005, along with a corrected filing receipt.**

Telephone inquiries concerning this matter may be directed Petitions Examiner Liana Walsh at (571) 272-3206.

Frances Hicks
Petitions Examiner
Office of Petitions



02 APR 2007

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

Stephen G. Adrian
Westerman, Hattori, Daniels & Adrian, LLP
1250 Connecticut Avenue, NW
Suite 700
Washington, DC 20036

In re Application of :
NAKADAI, et al. : DECISION ON PETITION
U.S. Application No.: 10/539,047 :
PCT No.: PCT/JP03/01434 : UNDER 37 CFR 1.181
Int. Filing Date: 12 February 2003 :
Priority Date: 17 December 2002 :
Atty Docket No.: 052696 :
For: ROBOTICS VISUAL AND AUDITORY :
SYSTEM :

This decision is in response to applicant's petition under 37 CFR 1.181 to withdraw the holding of abandonment filed 15 March 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 12 February 2003, applicant filed international application PCT/JP03/01434, which claimed priority of an earlier application filed 17 December 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 17 June 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, 17 June 2005.

On 15 June 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 as filed; an executed declaration of the inventors; an Information Disclosure Statement; an assignment document and a preliminary amendment.

On 22 November 2006, applicant was mailed a "NOTICE OF INSUFFICIENT BASIC NATIONAL FEE REQUIRED AND/OR MISSING COPY OF INTERNATIONAL APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495" (Form PCT/DO/EO/912) informing applicant of the need to provide a copy of the international application prior to the expiration of thirty months from the priority date. In addition, the notice indicated that the International Search Report had not been supplied and that the Search Fee had been adjusted to reflect the omission.

On 30 November 2006, applicant filed a response indicating that the Search Fee had already been paid.

On 09 March 2007, applicant was mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) informing applicant that applicant had failed to respond to the Form PCT/DO/EO/912 mailed 22 November 2006 within the time period set therein and that above-identified application was abandoned as to the United States.

On 19 December 2006, applicant filed the present petition.

DISCUSSION

A review of the fee record for the present application finds that applicant provided payment of all fees prior to the expiration of thirty months from the priority date; including the maximum search fee of \$500.00. In addition, applicant has presently provided a copy of Form PCT/IB/308 dated 17 June 2004 indicating that the International Bureau communicated a copy of the international application to the United States on that date and that the notice "acts as conclusive evidence that the communication of the international application has duly taken place...and no copy of the international application is required to be furnished by the applicant." As such, both of the items listed in the Form PCT/DO/EO/912 were provided prior to the expiration of thirty months from the claimed priority date and it is proper to grant applicant's petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is GRANTED.

The Form PCT/DO/EO/912 mailed 22 November 2006 and the Form PCT/DO/EO/909 mailed 09 March 2007 are hereby VACATED.

This application is being returned to the DO/EO/US for processing in accordance with this decision.



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



UNITED STATES PATENT AND TRADEMARK OFFICE

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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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 07/16/2010

Applicant : George Victor Rissik : DECISION ON REQUEST FOR
Patent Number : 7654582 : RECALCULATION of PATENT
Issue Date : 02/02/2010 : TERM ADJUSTMENT IN VIEW
Application No : 10/539,059 : OF WYETH AND NOTICE OF INTENT TO
Filed : 01/30/2006 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Olivia Tolan
British American Tobacco
R & D Centre
Patents Department
Regents Park Road, Mailbrook
Southampton, SO15-8TL

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SEP 26 2006
OFFICE OF PETITIONS

In re Application of :
Aastrup, et al. :
Application No. 10/539,065 : **DECISION ON PETITION**
Filed: June 15, 2005 : **TO WITHDRAW**
Attorney Docket No. 69501-79362 : **FROM RECORD**

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 29, 2006.

The request is **NOT APPROVED**.

A review of the request indicates that Olivia Tolan is no longer associated with Customer Number 26288. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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


David Bucci
Petitions Examiner
Office of Petitions

cc: **Albihns Stockholm AB**
Box 5581, Linnegatan 2
SE-114 85 Stockholm; SWEDEN
Stockholm, Sweden



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

MAILED

MAY 15 2009

In re Application of :
Waho Oh :
Application No. 10/539,073 :
Filed: June 15, 2005 :
Attorney Docket No. 1907-0224PUS1 :

OFFICE OF PETITIONS
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 May 14, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 24, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

This application is being referred to Technology Center AU 2617 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.*

Office of Petitions



3

13 JAN 2006

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

In re Application of SKOP et al :
U.S. Application No.: 10/539,098 :
PCT Application No.: PCT/US03/20459 :
Int. Filing Date: 27 June 2003 :
Priority Date Claimed: 28 June 2002 :
Attorney Docket No.: 1114-5 PCT/US :
For: PURIFIED AMYLASE INHIBITOR AND :
NOVEL PROCESS FOR OBTAINING THE :
SAME. :

DECISION

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 15 June 2005.

BACKGROUND

On 27 June 2003, applicant filed international application PCT/US03/20459, which claimed priority of an earlier United States application filed 28 June 2002. The thirty-month period for paying the basic national fee in the United States expired on 28 December 2004.

International application PCT/US03/20459 became abandoned as to the United States for failure to timely pay the basic national fee.

On 15 June 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 27 June 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 15 June 2005.

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



Bryan Tung
PCT Legal Examiner
PCT Legal Office

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



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.
Values: 10/539,130, 06/19/2006, Tarun Kant Sharma, RLL-317US, 2716

7590 02/14/2008
RANBAXY INC.
600 COLLEGE ROAD EAST
SUITE 2100
PRINCETON, NJ 08540

EXAMINER

HABTE, KAHSAI

ART UNIT PAPER NUMBER

1624

MAIL DATE DELIVERY MODE

02/14/2008

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. [X] 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.

Handwritten signature of a representative from the Patent Publication Branch.

Patent Publication Branch
Office of Data Management



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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	: Ulrich Berens	: DECISION ON REQUEST FOR
Patent Number	: 7645886	: RECALCULATION OF PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/539,151	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **23** 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.



#4

13 DEC 2005

SYNNESTVEDT LECHNER & WOODBRIDGE LLP
P O BOX 592
PRINCETON, NJ 08542-0592

In re Application of DETIG et al	:	
U.S. Application No.: 10/539,158	:	
PCT Application No.: PCT/US01/48253	:	
Int. Filing Date: 14 December 2001	:	DECISION
Priority Date Claimed: 15 December 2000	:	
Attorney Docket No.: 2349-104US/29,129-A-USA	:	
For: PROCESS FOR THE MANUFACTURE OF	:	
NOVEL, INEXPENSIVE RADIO	:	
FREQUENCY IDENTIFICATION DEVICES	:	

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 14 June 2005.

BACKGROUND

On 14 December 2001, applicant filed international application PCT/US01/48253, which claimed priority of an earlier United States application filed 15 December 2000. The thirty-month period for paying the basic national fee in the United States expired on 15 June 2003.

International application PCT/US01/48253 became abandoned as to the United States for failure to timely pay the basic national fee.

On 14 June 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 14 December 2001, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 14 June 2005.

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



Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

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



23 DEC 2005

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NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30309-3915

In re Application of FLANIGAN et al :
U.S. Application No.: 10/539,178 :
PCT Application No.: PCT/US03/40278 :
Int. Filing Date: 17 December 2003 : DECISION
Priority Date Claimed: 17 December 2002 :
Attorney Docket No.: 21101.0047U2 :
For: RAPID DIRECT SEQUENCE ANALYSIS :
OF MULTI-EXON GENES :

This is in response to applicant's "Petition to Correct Filing Date Under 37 CFR 1.10(c)" filed 25 August 2005, which is being treated under 37 CFR 1.10(d). No petition fee is due.

BACKGROUND

On 17 December 2003, applicant filed international application PCT/US03/40278, which claimed priority of an earlier United States application filed 17 December 2002. The thirty-month period for paying the basic national fee in the United States expired on 17 June 2005.

On 16 June 2005, 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"). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 25 August 2005, applicant filed the present petition under 37 CFR 1.10(d).

DISCUSSION

MPEP 1805 states in part, "[T]he 'Express Mail' provisions of 37 CFR 1.10 apply to the filing of all applications and papers filed in the U.S. Patent and Trademark Office, including PCT international applications and related papers and fees."

37 CFR 1.10(d) states,

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

mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

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

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

With regard to item (1) above, the petition was filed promptly after applicant became aware of the accorded International Filing Date.

With regard to item (2) above, a review of the transmittal letter and the copy of the Express Mail label reveals that the Express Mail mailing label number was placed on the correspondence prior to the original mailing by Express Mail.

With regard to item (3), applicant has made a sufficient showing that the correspondence was deposited in Express Mail on 16 June 2005. Specifically, the copy of the Express Mail label bears a USPS date stamp of 16 June 2005.

CONCLUSION

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

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed.



Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

Telephone: 571-272-3303

Facsimile: 571-273-0459

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

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

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

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

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

PATTERSON & SHERIDAN LLP
3040 Post Oak Blvd. Suite 1500
Houston, TX 77056-6582

HR



**PAUL, HASTINGS, JANOFSKY &
WALKER LLP
875 15TH STREET, NW
WASHINGTON DC 20005**

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MAR 18 2008

OFFICE OF PETITIONS

In re Application of :
SHOKAT, Kevan M. et al. :
Application No. 10/539,217 :
Filed: May 02, 2006 :
Attorney Docket No. **18062G-005410US** :

**DECISION ON PETITION
TO WITHDRAW
FROM RECORD**

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


Tredelle D. Jackson
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**



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Paper No.

ASTRAZENECA R&D BOSTON
35 GATEHOUSE DRIVE
WALTHAM MA 02451-1215

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MAR 16 2009

In re Application of :
Heron et al. :
Application No. 10/539,220 : ON APPLICATION FOR
Filed: June 17, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. 100938-1P US :

OFFICE OF PETITIONS

This is in response to the PETITION TO REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT INDICATED IN THE NOTICE OF ALLOWANCE UNDER 35 USC 154(b) AND 37 CFR 1.705 filed February 12, 2009. Applicants submit that the patent term adjustment should be increased from six hundred twenty (620) to nine hundred sixty-three (963) days. Referring to Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008), applicants request this correction on the basis that the Office will take in excess of three years to issue this patent¹.

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

¹ Applicants assert this calculation assuming that the patent issues June 2, 2009.

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.

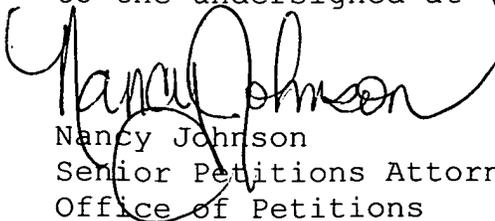
Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). 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.

Receipt of the request for correction of inventorship filed February 12, 2009. This request has been forwarded to the primary examiner for consideration.

Thereafter, 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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WALTHAM MA 02451-1215

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MAR 10 2010

OFFICE OF PETITIONS

In re Patent No. 7,528,121 :
Heron et al. : DECISION ON REQUEST FOR
Issue Date: May 5, 2009 : RECONSIDERATION OF
Application No. 10/539,220 : PATENT TERM ADJUSTMENT
Filed: June 17, 2005 : AND NOTICE OF INTENT
Attorney Docket No. 100938-1P : TO ISSUE CERTIFICATE OF
US : CORRECTION
:

This is a decision on the petition filed on July 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 nine hundred forty-two (942) 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 **nine hundred thirty-five (935)** days.

The instant application is a national stage application, which was submitted under 35 U.S.C. 371 on June 17, 2005. However, June 17, 2005 is not the date used in the calculation of the patent term adjustment. The calculation of delay pursuant to 37 CFR 1.702(b) 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 December 24, 2002. As the requirements for early commencement were not met, the national stage commenced in this application on June 24, 2005. Thus, "B" delay

is 315 days, not 322 days, counting the number of days beginning on June 25, 2008 and ending on May 5, 2009, the date of issuance. See 1.703(b). Therefore, the patent term adjustment is 935 days, not 942 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e) on February 12, 2009. No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred thirty-five (935) 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 : 7,528,121 B2

DATED : **May 5, 2009**

DRAFT

INVENTOR(S) : Heron 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 620 days

Delete the phrase "by 620 days" and insert – by 935 days--



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OFFICE OF PETITIONS

NOVARTIS VACCINES AND DIAGNOSTICS, INC.
CORPORATE INTELLECTUAL PROPERTY
P.O. BOX 8097
EMERYVILLE, CA 94662-8097

In re Application of :
David W. Morris, et al. :
Application No. 10/539,228 :
Filed: October 28, 2005 :
Attorney Docket No. PP23370.0003/20366-036US1 :

ON PETITION

This is a decision in response to the petition, filed April 29, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed April 9, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on July 9, 2008. A Notice of Abandonment was mailed on October 30, 2008. In response, on April 29, 2009, the present petition was filed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of David A. Gay 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. While a courtesy copy of this decision is being mailed Mr. Gay, all future correspondence will be directed solely to the address of record.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of \$1,620; and (3) an adequate statement of unintentional delay¹.

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.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$1,110 extension of time fee submitted with the petition on May 2, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application is being referred to Technology Center AU 1643 for appropriate action by the Examiner in the normal course of business on the reply received April 29, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.



Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: DAVID A. GAY
4370 LA JOLLA VILLAGE DRIVE, SUITE 700
SAN DIEGO, CA 92122



26 FEB 2007

Mueiting, Raasch & Gebhardt, P.A.
P.O. Box 581415
Minneapolis, MN 55458

In re Application of
GUO et al.
Application No. 10/539,241
PCT No.: PCT/US03/39950
Int. Filing Date: 16 December 2003
Priority Date: 16 December 2002
Attorney Docket No.: 290.0004 0130
For: pRNA CHIMERA

DECISION ON PETITION
UNDER 37 CFR 1.181

This decision is issued in response to applicant's "Petition to Withdraw Holding of Abandonment" under 37 CFR 1.181 filed in the United States Patent and Trademark Office (PTO) on 25 August 2006. No petition fee is required.

BACKGROUND

On 16 December 2003, applicant filed international application no. PCT/US03/39950 which claimed a priority date of 16 December 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 16 June 2005.

On 16 June 2005, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the basic national fee; a copy of the international application; and a preliminary amendment.

On 19 December 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that 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 August 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment indicating that the application was abandoned for failure to respond to the Notification of Missing Requirements mailed 19 December 2005.

On 25 August 2006, applicants filed the petition considered herein. The petition requests withdrawal of the holding of abandonment, stating that a response to the Notification Of Missing Requirements was timely filed via facsimile on 13 February 2006.

DISCUSSION

Applicant states in their present petition that an oath/declaration was received at the United States Patent and Trademark Office on 13 February 2006. A review of the application file reveals that the declaration originally filed 13 February 2006 is located therein, therefore, the Notification of Abandonment (PCT/EO/909) was mailed in error.

However, the declaration submitted on 13 February 2006 is not in an acceptable form. Specifically, there is an issue as to whether the declaration has been properly executed. The declaration filed with petition includes duplicate sheets of page 3 of 4. It is unclear if the inventors were presented with only page 3 of 4, in which case the execution would be improper, or if they were presented with a complete declaration for signing, but counsel subsequently compiled the declaration into the single document, which is improper. (See MPEP 201.03(B) on how to correct this matter.)

CONCLUSION

Applicant's petition to withdraw the holding of abandonment is GRANTED. In view of the receipt of the declaration and power of attorney filed 13 February 2006, the Notification of Abandonment dated 19 December 2005 was mailed in error and is hereby VACATED.

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 Defective Response (Form PCT/DO/EO/916) indicating that an oath or declaration is required. No extension of time will be allowed under 37 CFR 1.136.

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
Fax: 571-273-0459



UNITED STATES PATENT AND TRADEMARK OFFICE

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MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581336
MINNEAPOLIS MN 55458-1336

Applicant: Guo et al.
Appl. No.: 10/539,241
International Filing Date: December 16, 2003
Title: PRNA CHIMERA
Attorney Docket No.: 290.0004 0130
Pub. No.: 2008/0064647 A1
Pub. Date: March 13, 2008

COPY MAILED

JAN 16 2009

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on April 11, 2008, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors on the front page of the publication wherein the benefit claim data is erroneously printed.

37 CFR 1.221 (b) is applicable “only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable.” A material mistake must affect the public’s ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.¹

The error in the benefit claim on the front page of the publication is an Office mistake, but it is not a material mistake as required by 37 CFR 1.221(b). The error in the priority data is not a material mistake because it 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 specification and claims were accurately published, thus one can read and understand the content of the application. Additionally, the correct information is found in the first paragraph of the specification.

¹Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

The applicant is advised that a “request for republication of an application previously published” may be filed under 37 CFR 1.221(a). Such a request for republication “must include a copy of the application compliance with the Office’s electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i).” If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

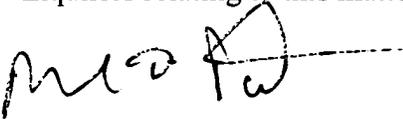
Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a “Pre-Grant Publication” and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

A guide for filing a request for a Pre-Grant Publication may be found on the link below:

<http://www.uspto.gov/ebc/portal/tutorials.htm>

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



Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Potomac Patent Group PLLC
P.O. Box 270
Fredericksburg, VA 22404

Mail Date: 06/25/2010

Applicant	: Andrea Casoni	: DECISION ON REQUEST FOR
Patent Number	: 7634914	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/539,271	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/24/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **819** 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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M/S41-SJ
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SAN JOSE CA 95131

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OFFICE OF PETITIONS

In re Application of :
Viet NGUYEN HOANG et al. :
Application No. 10/539,280 : **DECISION ON PETITION**
Filed: June 15, 2005 :
Attorney Docket No. **BE02 0045 US1** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 15, 2008, to revive the above-identified application.

The petition is **GRANTED**.

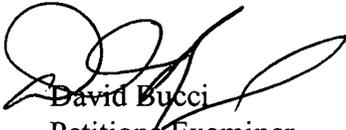
This application became abandoned for failure to timely pay the issue and publication fees on or before January 11, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed October 11, 2007. Accordingly, the date of abandonment of this application is January 12, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$1440 and the publication fee of \$300, (2) the petition fee of \$1540; and (3) a proper statement of unintentional delay. Accordingly, the Issue Fee and the Publication Fee payment is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

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



David Bucci
Petitions Examiner
Office of Petitions



INTERNATIONAL BUSINESS MACHINES
CORPORATION DEPT. 18G
BLDG. 300-482
2070 ROUTE 52
HOPEWELL JUNCTION NY 12533

COPY MAILED
JUN 27 2008
OFFICE OF PETITIONS

In re Application of :
Geetha Arthanari et al :
Application No. 10/539,334 : DECISION GRANTING PETITION
Filed: June 15, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. BUR920020005US1 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 24, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

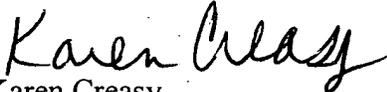
The petition is **GRANTED**.

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 May 8, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

This application is being referred to Technology Center AU 2825 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.


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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GLAXOSMITHKLINE
CORPORATE INTELLECTUAL PROPERTY, MAI B482
FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK, NC 27709-3398

MAILED

JUL 10 2009

OFFICE OF PETITIONS

In re Application of :
Mark J. BAMFORD, et al. :
Application No. 10/539,385 : DECISION GRANTING PETITION
Filed: June 16, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **P33159USW** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 10, 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 June 2, 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

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, the signature of Mr. Duke M. Fitch appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party on whose behalf she acts in accordance with 37 CFR 1.34(a).

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

This application is being referred to Technology Center AU 1624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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



George Kapsalas
224 Redmead Lane
Richmond, VA 23236-4627

COPY MAILED

AUG 10 2006

OFFICE OF PETITIONS

In re Application of	:	
Martin Jakubowski et al.	:	
Application No. 10/539,403	:	DECISION ON PETITION
Filed: June 17, 2005	:	TO WITHDRAW
Attorney Docket No. A74US	:	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 13, 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 George Kapsalas, the sole attorney of record.

George Kapsalas has been withdrawn as attorney or agent of record.

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

All future correspondence will be directed to the first named inventor George Kapsalas at the address indicated below.

There is no outstanding Office action at this time.

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



David Bucci
Petitions Examiner
Office of Petitions

cc: Mr. Martin Jakubowski
Patenbuero Paul Rosenich
BGZ FL-9497
Triesenberg, Liechtenstein
Germany


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 NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/539,403	06/17/2005	Martin Jakubowski	A74US

42038
 GEORGE KAPSALAS
 224 REDMEAD LANE
 RICHMOND, VA 23236-4627

CONFIRMATION NO. 4538
 OC000000019843376
 OC000000019843376

Date Mailed: 08/01/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/13/2006.

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

TERRI S WILLIAMS
 OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY



15 FEB 2006

STITES & HARBISON
1199 North Fairfax Street, Suite 900
Alexandria, VA 22314-1437

In re Application of: POOLE, Antony, G.	:	
U.S. Application No.: 10/539,404	:	DECISION ON PETITION FOR
PCT No.: PCT/GB2003/003833	:	REVIVAL OF ABANDONED
International Filing Date: 03 September 2003	:	APPLICATION UNDER
Priority Date: 03 September 2002	:	37 CFR 1.137(b)
Attorney's Docket No.: P08631US00/BAS	:	
For: TREATMENT OF PIPES	:	

The petition for revival under 37 CFR 1.137(b) filed 17 June 2005 in the above-captioned application is hereby **GRANTED** as follows:¹

Applicant's statement that "the entire delay in the 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)" satisfies 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.

The petition was accompanied by an executed declaration in compliance with 37 CFR 1.497. Deposit Account No. 12-0555 will be charged the \$65 small entity 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 June 2005.

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

¹ The original petition for revival is not present in the petition file. However, on 14 February 2006 applicant resubmitted via facsimile a copy of the previously filed petition, accompanied by a return postcard that itemizes the petition and bears a USPTO receipt stamp dated 17 June 2005. Based on applicant's statements and the return postcard, the petition for revival submitted by facsimile on 14 February 2006 is treated as having been originally filed on 17 June 2005.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,406	11/23/2005	Christelle Pragnon	021305-00214	2881
4372	7590	09/08/2008	EXAMINER	
ARENT FOX LLP 1050 CONNECTICUT AVENUE, N.W. SUITE 400 WASHINGTON, DC 20036			MARTIN, PAUL C	
			ART UNIT	PAPER NUMBER
			1657	
			NOTIFICATION DATE	DELIVERY MODE
			09/08/2008	ELECTRONIC

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

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

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

DCIPDocket@arentfox.com
IPMatters@arentfox.com
Patent_Mail@arentfox.com



SEP 05 2008

ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

In re Application of: :
Christelle et al. :
Serial No.: 10/539,406 : PETITION DECISION
Filed: November 23, 2005 :
Attorney Docket No.: 021305-00214 :

This is in response to the petition filed July 14, 2008 under 37 CFR § 1.181, requesting that the finding of non-responsiveness by the examiner as communicated in the letters of March 14, 2008 and June 19, 2008 be overturned in favor of applicants and that the Request for Continued Examination filed on January 8, 2008 along with the arguments presented therein be fully considered by the Examiner.

BACKGROUND

More recently, the examiner mailed a final Office action August 8, 2007. In this Office action, *inter alia*, the examiner instituted a rejection of claims 6-13 under 35 U.S.C. § 112, first paragraph, for lacking written description and further maintained the rejection of claims 8-11 under 35 U.S.C. § 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention and maintained the rejection of claims 1-3 and 5-8 under 35 U.S.C. 103§ (a).

On November 8, 2007, in reply to the final Office action of August 8, 2007, applicants submitted remarks and arguments after final Office action under 37 C.F.R. § 1.116.

On December 4, 2007 the examiner mailed an Advisory Action which indicated that applicants' arguments submitted with the remarks of November 8, 2008 were not sufficient to overcome the outstanding rejections.

On January 8, 2008 Applicants filed a proper Request for Continued Examination (RCE) under 37 C.F.R. § 1.114 with the appropriate fees.

On March 14, 2008, the examiner mailed a Non-Responsive letter to applicants. In this letter, the examiner explained that while the receipt of the RCE and fee for RCE submission was acknowledged, the RCE was "...not fully responsive to the prior Office action because the Remarks and Amendments do not address the 35 U.S.C. § 112 1st paragraph rejection of Claims 6-13 as failing to comply with the written description requirement with regard to New Matter or the rejection of Claims 8-11 under 35 U.S.C. § 112, 2nd paragraph for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention..."

On June 19, 2008 the examiner issued an additional Non-Responsive letter to applicants, essentially reiterating the reasons for non-responsiveness set forth in the Non-Responsive letter of March 14, 2008.

In response thereto, applicants filed this petition on July 14, 2008 under 37 CFR § 1.181, requesting that the finding of non-responsiveness by the Examiner as communicated in the letter of March 14, 2008 be overturned in favor of Applicants and that the Request for Continued Examination filed on January 8, 2008 along with the arguments presented therein be fully considered by the Examiner.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition filed on July 14, 2008, applicants argue that the amendment of January 8, 2008 was improperly denied entry (p. 1, Petition). However, it is pointed out that the amendment of January 8, 2008 which was filed with the RCE of January 8, 2008 has been entered into the case because the RCE filed by applicants was a proper RCE accompanied by the appropriate fees for filing said RCE. The Non-Responsive letters mailed by the examiner indicated that the response filed with the RCE of January 8, 2008 was non-responsive, but did not indicate that the RCE or the papers filed therewith would not be entered.

Applicants argue that they request relief from the examiner's refusal to resume prosecution of this case. Presumably, it is taken that applicants traverse the Non-responsive letters of March 13, 2008 and June 19, 2008 mailed by the examiner which indicated that the response filed with the RCE of January 8, 2008 was not sufficient to respond to the outstanding rejections made under 35 U.S.C § 112, first and second paragraphs, as set forth in the final Office action mailed by the examiner on August 8, 2007.

Applicants specifically point out that the amendment submitted with the RCE of January 8, 2008 contained a reference to applicants' previous remarks set forth in the remarks filed by applicants on November 8, 2007 and May 17, 2007:

On January 8, 2008, Applicants submitted a further response to the August 8, 2007 Office Action along with an RCE and a Petition for Extension of Time. This Amendment Submitted with RCE was not a required submission. It was merely a supplemental amendment filed to make further claim amendments to enhance the value of the previously-submitted arguments in response to the prior art rejections. Applicants incorporated by reference the comments set forth in their fully-responsive November 8, 2007 Amendment

After Final Rejection. Applicants expected that because the November 8, 2007 response to the August 8, 2007 Office Action was entered, the supplemental response filed on January 8, 2008 would also be entered, as evidenced by the statement found on the first page of the Amendment Submitted with RCE, "Further to the Amendment After Final Rejection filed on November 8, 2007, please amend the application as shown on the following pages," and the statement found in the Remarks section, "*Applicants refer the Examiner to the remarks contained in the Amendments filed on May 17, 2007 and November 8, 2007.*" In the Notice dated March 14, 2008, the Amendment filed on January 8, 2008 was considered non-responsive for failing to address the rejection of claims 6-13 under 35 U.S.C. § 112, first paragraph, for alleged lack of written description, and the rejection of claims 8-11 under 35 U.S.C. § 112, second paragraph, for alleged indefiniteness. This March 14, 2008 Notice was clearly issued in error, as the Amendment Submitted with RCE under 37 C.F.R. § 1.114 that was filed on January 8, 2008 was not the first or only submission in response to the Office Action dated August 8, 2007. Rather, the January 8, 2008 Amendment was supplemental to the Amendment After Final Rejection under 37 C.F.R. § 1.116 that was submitted on November 8, 2007, which was entered and considered by the Examiner. As noted above, it incorporated by reference all of Applicants' previous comments in response to those rejections. (pp. 2-5, Petition)

The specific statement in the remarks filed with the RCE of January 8, 2008 recites:

Applicants respectfully request that the outstanding rejections under 35 U.S.C. § 112 and 103 be withdrawn in view of the amendments and remarks submitted to date in this application. Applicants refer the Examiner to the remarks contained in the Amendments filed on May 17, 2007 and November 8, 2007. (p. 5, Remarks of January 8, 2008)

37 C.F.R. 1.111 (b) states:

In order to be entitled to reconsideration or further examination, the applicant or patent owner must reply to the Office action. The reply by the applicant or patent owner must be reduced to a writing which distinctly and specifically points out the supposed errors in the examiner's action and must reply to every ground of objection and rejection in the prior Office action. The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. If the reply is with respect to an application, a request may be made that objections or requirements as to form not necessary to further consideration of the claims be held in abeyance until allowable subject matter is indicated. The applicant's or patent owner's reply must appear throughout to be a bona fide attempt to advance the application or the reexamination proceeding to final action. A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section.

Applicants' statement made in the remarks filed with the RCE of January 8, 2008 as reiterated above, merely incorporates their remarks made on May 17, 2007 and November 8, 2007 into the remarks filed with the RCE on January 8, 2008. Applicants' response of May 17, 2007 includes, *inter alia*, a traversal of the examiner's rejection of claims 6-12 under 35 U.S.C. § 112, second paragraph, as well as a traversal of the examiner's rejection of claims 1-8 and 12 under 35 U.S.C. § 103(a). Applicants' response of November 8, 2007 includes a traversal of all of the rejections instituted by the examiner in the final Office action mailed on August 8, 2007 including a traversal of the examiner's rejection of claims 6-13 under 35 U.S.C. § 112 First paragraph (see pages 4-5 of the remarks of November 11, 2007), a traversal of the examiner's rejection of claims 8-11 under 35 U.S.C. § 112, second paragraph (see pages 5-6 of the remarks of November 8, 2007), as well as a traversal of the examiner's rejection of claims 1-3 and 5-8 under 35 U.S.C.

§ 103(a) (see pages 6-12 of the remarks of November 8, 2007). Hence, applicants' statement made in the response filed with the RCE which specifically refers the examiner to the remarks contained in the amendments of May 17, 2007 and November 8, 2007 is sufficient to respond to the outstanding rejections made in the final Office action mailed by the examiner on August 8, 2007 because the responses by applicants on May 17, 2007 and November 8, 2007, together, specifically respond to every outstanding rejection instituted by the examiner in the final Office action of August 8, 2007.

Applicants are required to fully respond to the outstanding rejections of record per the requirements set forth under 37 C.F.R. 1.114. It is decided that Applicants' response filed with the RCE of January 8, 2008 is fully responsive because the response satisfies the provisions of 37 C.F.R. 1.114 by specifically responding to each individual rejection set forth by the examiner in the final Office action mailed on August 8, 2007. It is noted that applicants are not precluded from submitting arguments in traversal of rejections whereby those arguments were already previously submitted by applicants and subsequently considered by the examiner.

Considering that applicants' response as filed with the RCE of January 8, 2008 was responsive to the final Office action of August 8, 2007, the Non-responsive letters mailed by the examiner on March 14, 2008 and June 19, 2008 are hereby vacated.

DECISION

The petition is **GRANTED**.

This application will be forwarded to the examiner to act on the RCE filed on January 8, 2008 and to consider applicants' arguments presented therein, whether the arguments are presented specifically in the remarks filed with the RCE, or presented therein by incorporation.

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.



Irem Yucel
Director, Technology Center 1600



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

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APR 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Derrick D. ROBERTSON, et al.	:	
Application No. 10/539,413	:	DECISION GRANTING PETITION
Filed: June 17, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 36-1909	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 16, 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 March 27, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

This application is being referred to Technology Center AU 2618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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



27 OCT 2005

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3

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Peter N. Lalos
STEVENS DAVIS MILLER MOSHER LLP
1615 L Street NW
Suite 850
Washington DC 20036

In re Application of	:	
ODENDALL, Bodo	:	
Application No.: 10/539,420	:	DECISION
PCT No.: PCT/EP03/09845	:	
Int. Filing Date: 05 September 2003	:	ON PETITION UNDER
Priority Date: 07 September 2002	:	
Docket No.: PNL 21451	:	37 CFR 1.137(b)
For: METHOD FOR OPERATING ...	:	
MOTOR VEHICLE	:	

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 17 June 2005 is **GRANTED**.

Applicant indicates that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, as required by 37 CFR 1.137(b)(3). The appropriate 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.

Applicant supplied a declaration in compliance with 37 CFR 1.497(a)-(b) during the international phase.

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 17 June 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



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15TH FLOOR
NEW YORK, NY 10016

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AUG 19 2009

OFFICE OF PETITIONS

In re Application of
Marko Ramisch, et al.
Application No. 10/539,428
Filed: January 30, 2006
Attorney Docket No.: P/4712-4

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed June 16, 2009.

The petition is GRANTED.

This application became abandoned for failure to timely pay the issue and publication fees on or before June 15, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed March 13, 2009. On June 16, 2009, the present petition was filed. A Notice of Abandonment was subsequently mailed on June 18, 2009.

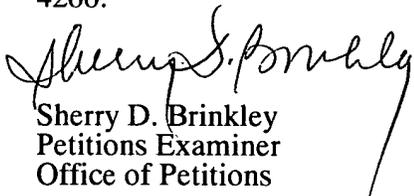
There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. However, in accordance with 37 CFR 1.34(a), the signature of Brian E. Hennessey appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. . If Mr. Hennessey desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Hennessey, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$1,510 and publication fee of \$300, (2) the petition fee of \$1,620; and (3) an adequate statement of unintentional delay¹.

The application is being referred to the Office of Data Management to be processed into a patent.

¹ 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.



Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: BRIAN E. HENNESSEY
WOLFF & SAMSON PC
ONE BOLAND DRIVE
WEST ORANGE, NJ 07052



Browdy and Neimark, P.L.L.C.
624 Ninth Street, NW
Suite 300
Washington, DC 20001-5303

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SEP 15 2008

In re Application of	:	
Anders Nykiaer et al.	:	
Application No. 10/539,443	:	DECISION ON PETITION
Filed: June 20, 2005	:	TO WITHDRAW
Attorney Docket No. NYKJAER1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 4, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the acts noted in the above-identified certifications have been performed. Refer to Form No. PTO/SB/83 (Updated 4/2008).

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.


Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Dale C. Hunt
Sonnenschein, Nath & Rosenthal, LLP
525 Market Street
26th Floor
San Francisco, CA 94105



27 APR 2007

Thomas F. Bergert
Williams Mullen, PC
8270 Greensboro Drive
Suite 700
McLean, VA 22102

In re Application of	:	
GUEST et al.	:	
U.S. Application No.: 10/539,461	:	
PCT No.: PCT/IB03/05665	:	DECISION ON PETITION
Int. Filing Date: 22 December 2003	:	UNDER 37 CFR 1.47(b)
Priority Date: 20 December 2002	:	
Attorney Docket No.: 033327.0024	:	
For: PAYMENT SYSTEM	:	

This decision is issued in response to applicant's Petition under 37 CFR 1.47(b) filed 30 May 2006 to accept the application without the signature of the joint-inventors, John Guest and Brian Tagg. The \$200 petition fee has been submitted.

BACKGROUND

On 22 December 2003, applicant filed international application PCT/IB03/05665 which claimed a priority date of 20 December 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 June 2005.

On 20 June 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and a preliminary amendment.

On 31 October 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that 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 30 May 2006, applicant filed the present petition under 37 CFR 1.47(b) and five-month extension of time.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17; (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the nonsigning inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. The 37 CFR 1.47(b) applicant has satisfied the requirements of items (1); (3); (4); and (6). However, items (2) and (5) have not been satisfied.

Regarding item (2) above, petitioner states that John Guest and Brian Tagg 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, an affidavit or declaration of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.

The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47. Such a petition will be dismissed as inappropriate.

The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted.

Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

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

a. Inventor John Guest

A review of the present petition reveals that applicant has not provided an acceptable showing that a diligent effort was made to reach the non-signing inventor, John

Guest. Denise Taliaferro states that John Guest cannot be found after diligent effort. However, no documentary evidence has been presented that indicates John Guest cannot be found or located. Further, the single mailing of the papers to the nonsigning inventor's last known address does not constitute a "diligent" effort to locate the inventor. Applicant must show that alternative means were employed, such as a search of telephone and/or Internet directories, in an attempt to locate John Guest. As stated above, copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration.

b. Inventor Brian Tagg

A review of the present petition reveals that applicant has not provided an acceptable showing that a diligent effort was made to reach the non-signing inventors, Brian Tagg. Denise Taliaferro states that Brian Tagg cannot be found after diligent effort. Petitioner has provided a copy of a cover letter and an "UPS Authorization Form" which indicates that "the consignee moved from address, therefore, shipment (is) undeliverable." However, petitioner fails to include evidence of any other attempts made to locate the nonsigning inventor. The single mailing of the papers to the nonsigning inventor's last known address does not constitute a "diligent" effort to locate the inventor. Applicant must show that alternative means were employed, such as a search of telephone and/or Internet directories, in an attempt to locate Brian Tagg. As stated above, copies of documentary evidence such as a certified mail return receipt, cover letter of instruction, telegrams, etc., should be supplied by a person having firsthand knowledge of the facts.

Concerning item (5), the 37 CFR 1.47(b) applicant must prove that, as of the date the application is deposited in the Patent and Trademark Office, (1) the invention has been assigned to the applicant, or (2) the inventor has agreed in writing to assign the invention to the applicant, or (3) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application. MPEP 409.03(f).

Under 37 CFR 3.73(b)(1), ownership of the application may be established by: (i) submitting documentary evidence of a chain of title from the original owner to the assignee; or (ii) specifying by reel and frame number where such evidence is recorded in the USPTO.

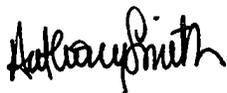
The present petition states that the inventors John Guest and Brian Tagg assigned the invention to Inca Payments Ltd. ("Inca") and that Inca subsequently assigned the invention to GTECH Global Services Corporation Ltd. ("GTECH"). Petitioner has provided an "IP Assignment Agreement" executed by John Guest and Brian Tagg but it is unclear whether the assignment is directed to the instant application or solely to United Kingdom application no. 0229765.3. Further, petitioner has not provided documentary evidence of a "chain of title" from Inca to GTECH.

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.

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



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27 NOV 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Suite 700
McLean, VA 22102

In re Application of	:	
GUEST et al.	:	
U.S. Application No.: 10/539,461	:	
PCT No.: PCT/IB03/05665	:	
Int. Filing Date: 22 December 2003	:	DECISION ON PETITION
Priority Date: 20 December 2002	:	UNDER 37 CFR 1.47(a)
Attorney Docket No.: 033327.0024	:	
For: PAYMENT SYSTEM	:	

This decision is issued in response to applicant's "Response to Dismissal of Petition under 37 CFR 1.47(b) and Renewed Petition under 37 CFR 1.47(a)" filed 26 September 2007.

Applicant's petition under 37 CFR 1.47(b) filed on 30 May 2006 was dismissed because the petitioner did not provide sufficient proof that the inventors could not be located and did not provide sufficient evidence of proprietary interest of the invention. Since the filing of the petition under 37 CFR 1.47(b), a joint inventor (Brian Tagg) has signed the declaration and the response to the Decision submitted 26 September 2007 will be treated as a petition under 37 CFR 1.47(a).

BACKGROUND

On 22 December 2003, applicant filed international application PCT/IB03/05665 which claimed a priority date of 20 December 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 June 2005.

On 20 June 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and a preliminary amendment.

On 31 October 2005, the United States Designated/Elected Office mailed a

Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that 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 30 May 2006, applicant filed a petition under 37 CFR 1.47(b). In a decision dated 27 April 2007, applicant's petition was dismissed without prejudice.

Since the filing of the petition under 37 CFR 1.47(b), a joint inventor has signed the declaration and the "Response to Dismissal of Petition under 37 CFR 1.47(b) and Renewed Petition under 37 CFR 1.47(a)" filed 26 September 2007 will be treated as 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, (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 John Guest 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, drawings, and oath/declaration) to John Guest. Marie LoPrestia states that inventor Guest has refused to take Applicant's telephone call; respond to applicant's email; and not allowed to have direct communication by Mr. Guest's co-workers. However, Ms. LoPrestia has failed to include evidence to demonstrate that the application papers were actually received by John Guest. Further, it appears that the application were mailed to Mr. Guest's corporate address. In this situation, the application papers should be submitted to the inventor at his last known residence address to insure receipt. Under these circumstances, 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, in order to meet the requirements of 37 CFR 1.47(a) and Section 409.03(d) of the MPEP, a statement of facts is needed from a person having first hand knowledge of the facts that a complete copy of the application papers were sent to John Guest and when such papers were sent and that John Guest has subsequently refused to execute the application.

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(b)." No additional petition fee is required.

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



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3 0 JAN 2008

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McLean, VA 22102

In re Application of
GUEST et al. :
U.S. Application No.: 10/539,461 :
PCT No.: PCT/IB03/05665 :
Int. Filing Date: 22 December 2003 : DECISION ON PETITION
Priority Date: 20 December 2002 : UNDER 37 CFR 1.47(a)
Attorney Docket No.: 033327.0024 :
For: PAYMENT SYSTEM :
:

This decision is issued in response to applicants' "Renewed Petition under 37 CFR 1.47(a)" filed 28 January 2008.

BACKGROUND

The procedural background for this application was set forth in detail in the decisions mailed herein on 27 November 2007. In the decision dated 27 November 2007, applicants' petition under 37 CFR 1.47(a) to accept the application without the signature of joint inventor, John Guest, was dismissed without prejudice.

On 28 January 2008, applicants filed the materials considered herein as a renewed petition.

DISCUSSION

The petition for status under 37 CFR 1.47(a) is moot since the declaration filed 28 January 2008 with the present communication was executed by the named inventors, the previous non-signing inventor, John Guest. The declaration filed 28 January 2008 is acceptable under 37 CFR 1.497.

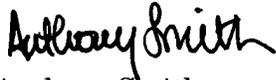
CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.47(a) is **DISMISSED** as MOOT.

The declaration filed on 28 January 2008 is in compliance with 37 CFR 1.497.

The application has an international filing date of 22 December 2003 under 35 U.S.C. 363 and a date of 28 January 2008 under 35 U.S.C. 371(c)(1),(c)(2) and (c)(4).

The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application.



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21 DEC 2006

G. Thomas Williams
McGARRY BAIR
171 Monroe Avenue NW, Suite 600
Grand Rapids, MI 49503

In re Application of :
DEGHAN *et al* :
U.S. Application No.: 10/539,475 :
PCT No.: PCT/GB03/05589 :
Int. Filing Date: 18 December 2003 :
Priority Date: 18 December 2002 :
Docket No.: 71522-0016 :
For: COMMUNICATION NETWORK AND :
METHOD FOR SIMULATING OR :
DESIGNING :

DECISION

This decision is in response to the petition filed on 15 August 2006 which is treated under 37 CFR 1.8(b). No fee is required.

BACKGROUND

On 16 November 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a declaration in compliance with 37 CFR 1.497(a) and (b) and a \$65.00 surcharge fee must be provided. A two-month time period for response was set with extensions of time available pursuant to 37 CFR 1.136(a).

On 30 November 2005, applicants purportedly filed via facsimile a reply to the Form PCT/DO/EO/905 which was accompanied by, *inter alia*, an executed declaration and authorization to charge the required fees to Deposit Account No. 50-2003.

On 10 August 2006, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) stating that the above-captioned application was abandoned because applicants failed to respond to the Form PCT/DO/EO/905 mailed 16 November 2005 within the time period set.

On 15 August 2006, applicants filed the subject petition which was accompanied by, *inter alia*, copies of the documents purportedly filed via facsimile on 30 November 2005 and a copy of facsimile receipt dated 30 November 2005.

On 29 November 2006, the DO/EO/US mailed a Withdrawal of previously Sent Notice and a Notification of Acceptance of Application Under 35 U.S.C. 371 and 1.495

(Form PCT/DO/EO/903).

DISCUSSION

Applicants claim that a response to the Form PCT/DO/EO/905 was filed via facsimile on 30 November 2005. This response included an executed declaration and authorization to charge the required surcharge fee. However, the declaration was not located in the file and USPTO financial records show that the surcharge fee was not charged in the subject application.

37 CFR 1.8 *Certificate of mailing or transmission*, states in part:

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

In the subject petition, applicants request to withdraw the holding of abandonment and have provided a copy of the documents purportedly filed 30 November 2005. Applicants included a copy of the law firm's Communication Journal receipt dated 30 November 2005. A review of the evidence shows that a facsimile transmission of nine pages was successfully received at telephone number "17033053230." This is an authorized number for receiving national stage responses. The communication was listed as successful. A copy of the nine-page submission was provided.

This evidence meets the requirements of 37 CFR 1.8(b) and is sufficient for a

grantable petition.

CONCLUSION

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

The Form PCT/DO/EO/909 mailed 10 August 2006 is hereby VACATED.

However, the declaration originally filed 30 November 2005 is not in compliance with 37 CFR 1.497(a) and (b). The first inventor has made a noninitialed change in ink on the declaration. Any changes made in ink should be initialed and dated by the applicants prior to execution of the declaration. The Office will not consider whether noninitialed and/or nondated 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).

For this reason, the Notification of Acceptance of Application Under 35 U.S.C. 371 and 1.495 (Form PCT/DO/EO/903) mailed 29 November 2006 is VACATED.

Applicants have **TWO (2) MONTHS** from the mail date of this decision to submit a declaration in compliance with 37 CFR 1.497(a) and (b). Extensions of time under 37 CFR 1.136(a) are authorized.

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



James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302



09 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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44992
ASTROZENECA R&D BOSTON
35 Gatehouse Drive
Waltham, MA 02451-1215

In re Application of :
GRAVESTOCK *et al* :
U.S. Application No.: 10/539,485 :
PCT No.: PCT/GB03/05457 :
Int. Filing Date: 15 December 2003 :
Priority Date: 19 December 2002 :
Attorney Docket No.: 100858-1P US :
For: OXAZOLIDINONE DERIVATIVES AS :
ANTIBACTERIAL :

DECISION

Applicants' "Request for Corrected Filing Receipt" filed on 21 November 2005 is treated as a petition under 37 CFR 1.181 and hereby **GRANTED** as follows:

The filing receipt mailed 16 November 2005 incorrectly listed the address for an applicant. The correct address fo Paul Turner is Macclesfield, United Kingdom.

Accordingly, the filing receipt mailed 16 November 2005 contains erroneous information and is **VACATED**.

A corrected filing receipt will be mailed with this decision.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

14 JUN 2006

45



UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

C. Michael Gegenheimer
Battelle Memorial Institute
505 King Avenue
Columbus, OH 43201-2693

In re Application of	:	
DAVIES, et al.	:	
PCT No.: PCT/GB03/05556	:	DECISION ON PETITION
Application No.: 10/539,487	:	
Int. Filing Date: 18 December 2003	:	UNDER 37 CFR 1.47(a)
Priority Date: 18 December 2002	:	
Atty. Docket No.: 13871US	:	
For: AROMA DISPENSING DEVICE	:	

This decision is in response to applicant's "Petition on Behalf of Joint Inventor Who Refuses to Sign or Cannot be Reached (Rule 1.47)" filed 14 April 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 18 December 2003, applicant filed international application PCT/GB03/05556 which claimed priority to an earlier application filed 18 December 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 01 July 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 18 June 2005.

On 17 June 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 preliminary amendment.

On 14 December 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 14 April 2006, applicant filed the present petition under 37 CFR 1.47(a) to accept the filed declaration without the signature of joint inventor Alastair Bruce Pirrie accompanied by a petition for a two-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.

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).

CONCLUSION

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

The application has an international filing date of 18 December 2003 under 35 U.S.C. 363, and will be given a date of **14 April 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 inventor at his last known address of record. A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the DO/EO/US for processing in accordance with this decision.



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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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www.uspto.gov

BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN, NC 28562

Mail Date: 04/26/2010

Applicant : Roland Ertle : DECISION ON REQUEST FOR
Patent Number : 7597110 : RECALCULATION of PATENT
Issue Date : 10/06/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/539,499 : OF WYETH AND NOTICE OF INTENT TO
Filed : 06/17/2005 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **975** 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.

03 MAR 2008



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KRAMER & AMADO, P.C.
1725 DUKE STREET
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ALEXANDRIA VA 22314

In re Application of	:	
MANIQUE RODRIGUEZ, Manuel et al.	:	
Application No. 10/539,520	:	
PCT No.: PCT/ES2003/000632	:	DECISION
Int. Filing Date: 15 December 2003	:	
Priority Date: 18 December 2002	:	ON PETITION UNDER
Attorney Docket No.: ABG 3003	:	
For: ELECTRODE-BEARING GUIDE,	:	37 CFR 1.181
COCHLEAR IMPLANT COMPRISING	:	
SAID GUIDE AND PRODUCTION	:	
METHOD THEREOF	:	

This is a decision on applicants' "Petition to Correct Notification of Missing Requirements," filed on 13 December 2007.

BACKGROUND

On 15 December 2003, applicants filed international application no. PCT/ES2003/000632, claiming a priority date of 18 December 2002. A copy of the international application was transmitted to the Office by the International Bureau on 01 July 2004. The deadline for payment of the basic national fee in the United States was 18 June 2005.

On 17 June 2005, applicants submitted a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee.

On 29 July 2005, applicants submitted a preliminary amendment and the fee for late filing of the search fee, examination fee or oath or declaration.

On 27 November 2007, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that oath or declaration and the surcharge for late filing of the search fee, the examination fee or the oath or declaration were required.

On 13 December 2007, applicants filed this petition indicating that applicants had timely responded to the Notification of Missing Requirements via facsimile on 29 July 2005, enclosing a copy of the alleged 29 July 2005 response.

DISCUSSION

Applicants claim to have supplied a declaration of the inventors on 29 July 2005, but the declaration is not present in the file, though the remainder of the alleged transmission is. Further, the certificate of transmission under 37 CFR 1.8 is not signed in either the copy in the file or on the pages of the alleged facsimile transmission.

However, it is a moot point as acceptance of the declaration under 37 CFR 1.8(b) only provides the document with date of actual receipt. The date of actual receipt is 13 December 2007, which is also a timely response to the Notification of Missing Requirements.

The declaration has a receipt date of 13 December 2007.

However, as the Office was in receipt of the surcharge for late filing of the search fee, examination fee or oath or declaration, the Notification should not have listed it as outstanding. To the extent that the Notification of Missing Requirements (Form PCT/DO/EO/905) listed the surcharge, it is vacated.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.181 to withdraw the Notification of Missing Requirements (Form PCT/DO/EO/905) is **GRANTED in part**, as noted above, and **DISMISSED in part**.

This application is being forwarded to the National Stage Processing Branch of the Office of Patent Application Processing 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 13 December 2007.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

2 5 JUN 2008



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KRAMER & AMADO, P.C.
1725 DUKE STREET
SUITE 240
ALEXANDRIA VA 22314

In re Application of	:	
MANIQUE RODRIGUEZ, Manuel et al.	:	
Application No. 10/539,520	:	
PCT No.: PCT/ES2003/000632	:	DECISION
Int. Filing Date: 15 December 2003	:	
Priority Date: 18 December 2002	:	ON PETITION UNDER
Attorney Docket No.: ABG 3003	:	
For: ELECTRODE-BEARING GUIDE,	:	37 CFR 1.181
COCHLEAR IMPLANT COMPRISING	:	
SAID GUIDE AND PRODUCTION	:	
METHOD THEREOF	:	

This is a decision on applicants' "Petition to Correct Notification of Missing Requirements," filed on 13 December 2007.

BACKGROUND

On 03 March 2008, the Office mailed Decision On Petition Under 37 CFR 1.181, granting applicant's petition in part and dismissing it in part.

On 04 March 2008, the Office mailed Notification of Acceptance (Form PCT/DO/EO/903), indicating that the application has a 35 USC 371 (c)(1), (c)(2) and (c)(4) date of 13 December 2007.

On 21 April 2008, applicant filed this renewed petition.

DISCUSSION

Applicants claim to have supplied a declaration of the inventors on 29 July 2005, but the declaration is not present in the file, though the remainder of the alleged transmission is. A petition to accept a copy of what applicant claims was earlier submitted must be accompanied by a copy of the submission and proof of the earlier submission.

Here, applicants claim to have submitted the declaration of the inventors on 29 July 2005 and to have had it returned to them. Applicants have now provided the copy they claim was returned to them that bears the receipt stamp of the Office. The stamp indicates that it was received by the USPTO on 29 July 2005 at 4:17:09 PM. This is adequate evidence of actual receipt by the Office.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.181 to vacate the Notification of Missing Requirements (Form PCT/DO/EO/905) and to accord an earlier date of 29 July 2005 under 35 USC 371(c)(1), (c)(2) and (c)(4) is **GRANTED**.

Application No. 10/539,520

-2-

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 27 November 2007 is **VACATED**.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed 04 March 2008 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of Patent Application Processing for further processing consistent with this decision, including mailing of a corrected Notification of Acceptance. The application has a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 29 July 2005.

/Erin P. Thomson/

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,527	07/10/2006	Jean-Philippe Girard	CNRS.001APC	2903
20995	7590	03/05/2009	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP			SHIN, DANA H	
2040 MAIN STREET			ART UNIT	PAPER NUMBER
FOURTEENTH FLOOR			1635	
IRVINE, CA 92614			NOTIFICATION DATE	DELIVERY MODE
			03/05/2009	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):

jcarter@kmob.com
eOAPilot@kmob.com



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MAR 05 2009

Jerry L. Hefner
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Application of :
GIRRARD et al. :Decision on Petition
Serial No.: 10/539,527 :
Filed : 10 July 2006 :
Attorney Docket No.: CNRS.001APC :

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on 28 October 2008 requesting reconsideration of the lack of unity requirement mailed 6 September 2007. The delay in acting upon this petition is regretted.

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 6 September 2007, the examiner set forth a lack of unity requirement which divided the claims into 16 groups and required applicants to elect a single polypeptide for examination.

On 26 December 2007, applicants elected Group I, claims 23-26, 28-32 and 127 with traverse. Applicants elected SEQ ID No 4.

On 29 April 2008, the examiner considered the traversal, stated that the arguments were persuasive but then went on to make the lack of unity determination FINAL.

Claims 33-37, 58-71, 125 and 128 were withdrawn from examination as being directed to non-elected inventions. Claims 23-26, 28-32 and 127 were examined on the merits, as follows:

Claim 31 was rejected under 35 USC 112, 2nd paragraph for indefiniteness.

Claims 23-26, 28-32 and 127 were rejected under 35 USC 112, 1st paragraph for scope of enablement.

Claims 23-26, 28-32 and 127 were rejected under 35 USC 112, 1st paragraph for lack of written description.

Claim 23-25 and 28-31 were rejected under 35 USC 102(b) as being anticipated by Ruben et al.

Claim 23-25 and 28-31 were rejected under 35 USC 102(b) as being anticipated by Jiang et al.

Claim 23-25, 28-31 and 127 were rejected under 35 USC 102(e) as being anticipated by Woolf et al.

Claim 23-25, 28-31 and 127 were rejected under 35 USC 103(a) as being patentable over Kasuya in view of Orr.

On 28 October 2008, applicants filed a response to the Office action and this petition.

DISCUSSION

The file history and petition have been considered carefully. Applicants requests that the restriction requirement between Group I and Group IV be withdrawn. This request will be assessed in relation to the claims as currently pending.

The Groups were set forth in the lack of unity determination as follows:

Groups 1-3. Claims 23-26, 28-32, 127, drawn to a method of ameliorating symptoms of a condition associated with inflammation, said method comprising modulating in a subject the level or activity of the NF-HEV polypeptide or a biologically active fragment thereof, by administering an antisense nucleic acid and altering the expression of a nucleic acid encoding said NF-HEV polypeptide or a biologically active fragment thereof.

Groups 4-6. Claims 33-37, 128, drawn to a method of ameliorating symptoms of a condition associated with inflammation, said method comprising modulating the level of transcription of at least one promoter responsive to an NF-HEV polypeptide or a biologically active fragment thereof wherein the level of a pro-inflammatory cytokine is reduced.

At the onset, it is noted that the lack of unity determination is not fully clear how the Groups I-VI are divided. For purposes of this petition decision, Groups I and III are considered as directed to the method of modulating the level or activity of SEQ ID No 4, while Groups II and V are directed to the method of modulating the level or activity of SEQ ID No 5 and while Groups III and VI are directed to the method of modulating the level or activity of SEQ ID No 6.

Additionally, the lack of unity determination also contained the following text:

NOTE: Should any one of the Groups from 1-2 be elected, Applicants are required to select one polypeptide of specific amino acid sequence as set forth in SEQ ID NO:4-6. Once one polypeptide is selected all other will be withdrawn from consideration.

Applicants must choose a single polypeptide sequence for examination. This is not a species election, but an election of a single invention.

As shown below, currently pending independent claim 23 and independent claim 33 are not limited to the three SEQ ID Nos that the examiner is relying for support of dividing Claim 23 and claim 33 each into three groups:

23. (Currently amended) A method of ameliorating symptoms of a condition associated with inflammation, said method comprising:

identifying a subject having symptoms of a condition associated with chronic inflammation; and

modulating reducing in said subject the level or activity of the NF-HEV polypeptide or a biologically active fragment thereof, thereby ameliorating symptoms of a condition associated with inflammation.

33. (Withdrawn) A method of ameliorating the symptoms of a condition associated with inflammation, said method comprising modulating the level of transcription of at least one promoter responsive to an NF-HEV polypeptide or biologically active fragment thereof.

Because the sum of the scope of the groupings is less than the scope of the independent claims, the lack of unity determination within independent claim 23 and within independent claim 33 is incorrect for at least this reason.

Turning now to the merits of the petition, PCT Rule 13.2 states that:

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

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

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

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

Applicants correctly argue that the subject application is a National Phase filing of a PCT, filed in compliance with 35 USC 371, and thus questions of unity must be resolved using the criteria of PCT Rule 13.

Referring to PCT Rule 13.2 and 37 CFR 1.475, applicants urge that Groups I and IV are drawn to methods of ameliorating symptoms of a condition associated with inflammation.

The examiner used the following reasoning to make the lack of unity determination FINAL:

Since the instant application contains multiple processes (e.g., methods of ameliorating symptoms of a condition and methods of identifying a candidate inhibitor of an NF-HEV polypeptide) it is concluded that the present application lacks unity of invention.

Because Groups I and IV are directed to a method of ameliorating symptoms of a condition, the examiner has provided no basis for maintaining a lack of unity determination amongst Groups I-VI. Group I and IV are directed method claims. Typically, the special technical feature in method claims is found in the active steps, not in the preamble. This petition decision now sets forth reasons why Groups I and IV lack unity of invention.

While both Groups I and IV are drawn to methods of ameliorating symptoms of a condition associated with inflammation, Group I requires the special technical feature of reducing the level or activity of the NF-HEV polypeptide which is not required for Group IV. Group IV requires the special technical feature of modulating the level of transcription of at least one promoter to an NF-NEV polypeptide which is not required for Group I. It is noted that the modulation of Group IV encompasses up-regulation of transcription which may result in increased levels of NF-NEV polypeptide which is not encompassed by Group I. Moreover the reduction in polypeptide activity of Group I may be accomplished by post-translational intervention, which is not encompassed by Group IV.

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

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

DECISION

The petition filed under 37 CFR 1.144 on 09 June 2008 is **GRANTED-IN-PART**.

The lack of unity determination set forth on 6 September 2007 among the Groups I-III is hereby withdrawn.

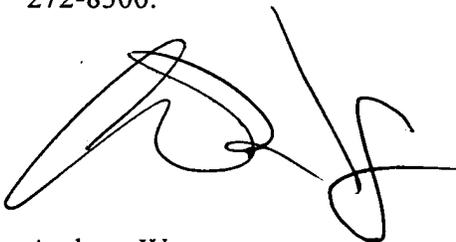
The lack of unity determination set forth on 6 September 2007 among the Groups IV-VI is hereby withdrawn.

The election of SEQ ID No 4 will be treated as an election of species requirement. Should the elected species be found allowable and/or should any generic claim encompasses elected and non-elected species become allowable, the examiner will follow the rejoinder guidance in MPEP 1893.05(d) and 821.04.

The application will be forwarded to the examiner to consider the papers filed on 28 October 2008 and to prepare an non-final Office action consistent with this petition decision which addresses claims 23-26, 28-32 and 127.

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

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-272-8300.

A handwritten signature in black ink, appearing to read 'Andrew Wang', is written over a horizontal line.

Andrew Wang
(Acting) Director, Technology Center 1600



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CARRIER BLACKMAN AND ASSOCIATES
24101 NOVI ROAD, SUITE 100
NOVI, MI 48375

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OCT 08 2008

OFFICE OF PETITIONS

In re Application of	:	
TSUTSUI, Osamu	:	
Application No. 10/539,533	:	DECISION GRANTING PETITION
Filed: March 17, 2006	:	UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. KNI-206-A	:	

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

The petition is GRANTED.

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

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

Monica A. Graves
Petitions Examiner
Office of Petitions



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INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN, NC 28562

Mail Date: 04/20/2010

Applicant : Erich Bott : DECISION ON REQUEST FOR
Patent Number : 7644471 : RECALCULATION of PATENT
Issue Date : 01/12/2010 : TERM ADJUSTMENT IN VIEW
Application No : 10/539,536 : 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 **850** 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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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 05/24/2010

Applicant : Alan Theobald : DECISION ON REQUEST FOR
Patent Number : 7658149 : RECALCULATION of PATENT
Issue Date : 02/09/2010 : TERM ADJUSTMENT IN VIEW
Application No : 10/539,538 : OF WYETH AND NOTICE OF INTENT TO
Filed : 02/05/2007 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **410** 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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100 BOSCH BOULEVARD
NEW BERN, NC 28562

Mail Date: 04/20/2010

Applicant : Peter Bauer : DECISION ON REQUEST FOR
Patent Number : 7651181 : RECALCULATION of PATENT
Issue Date : 01/26/2010 : TERM ADJUSTMENT IN VIEW
Application No : 10/539,541 : OF WYETH AND NOTICE OF INTENT TO
Filed : 11/14/2005 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **125** 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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1800 CONCORD PIKE
WILMINGTON, DE 19850-5437

Mail Date: 04/21/2010

Applicant	: Stefan Berg	: DECISION ON REQUEST FOR
Patent Number	: 7585853	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/539,543	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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WILMINGTON, DE 19850-5437

Mail Date: 04/21/2010

Applicant : Stefan Berg : DECISION ON REQUEST FOR
Patent Number : 7595321 : RECALCULATION of PATENT
Issue Date : 09/29/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/539,545 : OF WYETH AND NOTICE OF INTENT TO
Filed : 06/16/2005 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **949** 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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WILMINGTON, DE 19850-5437

Mail Date: 04/21/2010

Applicant	: Stefan Berg	: DECISION ON REQUEST FOR
Patent Number	: 7595319	: RECALCULATION OF PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/539,546	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **949** 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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JUL 21 2008

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

In re Application of :
Petrus Hubertus Cornelis Magnee et al :
Application No. 10/539,549 : ON PETITION
Filed: June 16, 2005 :
Attorney Docket No. BE02 0044 US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 25, 2008, to revive the above-identified application.

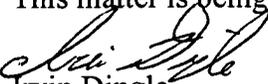
The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 26, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 27, 2007.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

This matter is being referred to Technology Center AU 1792 for further processing.


Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Crawford Maunu PLLC
1270 Northland Drive, Suite 390
St. Paul, MN 55120



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M/S41-SJ
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SAN JOSE CA 95131

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JUL 21 2009

OFFICE OF PETITIONS

In re Application of :
Petrus Hubertus Magnee et al. :
Application No. 10/539,549 : DECISION ON PETITION
Filed: June 16, 2005 :
Attorney Docket No. BE020044 US1 :

This is a decision on the petition, filed May 28, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Office action mailed on July 21 2008. A Notice of Abandonment was mailed on March 18, 2009.

Petitioner contends that the Notice of Abandonment was mailed in error since a decision was mailed on July 21, 2008, indicating that a petition to revive filed February 25, 2008 was Granted. Petitioner also states that they were awaiting the review of the amendment submitted concurrently with the petition to revive on February 25, 2008. A review of the application record indicates that a decision granting the revival of the instant application was mailed on July 25, 2008. The decision was forwarded to Technology Center GAU 1792. However, the amendment filed concurrently with the petition on February 28, 2008, was not acted upon.

In view of the above, the Notice of Abandonment is hereby **VACATED** and the holding of abandonment **WITHDRAWN**.

Telephone inquires concerning this decision should be directed to JoAnne Burke at 571-272-4584.

This application is being referred to Technology Center AU 1792 for appropriate action in the normal course of business on the reply received February 25, 2008.


Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

07 JUN 2006



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

Santangelo Law Offices, P.C.
125 South Howes, 3rd Floor
Fort Collins, CO 80521

In re Application of
BUCHANAN et al. :
U.S. Application No.: 10/539,562 :
PCT No.: PCT/US03/40880 : DECISION ON PETITION
Int. Filing Date: 22 December 2003 :
Priority Date: 20 December 2002 :
Attorney Docket No.: P139US01 :
For: SYSTEMS AND METHODS OF SAMPLE :
PROCESSING AND TEMPERATURE :
CONTROL :

The above-captioned application is before the Office of PCT Legal Administration for issues arising under 35 U.S.C. 371. Additionally, this decision is issued in response to applicants' facsimile communication dated 23 May 2006, which is being treated as a Request to Correct Filing Receipt. No petition fee is due.

BACKGROUND

On 22 December 2003, applicants filed international application PCT/US03/40880 which claimed a priority date of 20 December 2002. The international application named: Kristopher Buchanan; Marc Key; John Favuzzi; Rosanne Welcher, Benno Guggenheimer; Robert Clark; Michael Barber and Bob Lothrop 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, 20 June 2005.

On 17 June 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; an information disclosure statement; an application data sheet; a declaration executed by Kristopher Buchanan; Marc Key; John Favuzzi; Rosanne Welcher, Benno Guggenheimer; Robert Clark; and Bob Lothrop.

On 04 May 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) which set forth a 35 U.S.C. 371 completion date of 17 June 2005.

On 23 May 2006, applicant filed a request for corrected filing receipt.

DISCUSSION

A review of the application file and other Patent and Trademark Office records reveals that the requirements of 35 U.S.C. 371(c) for entry into the national stage in the United States of America have not been completed as indicated in the Notification of Acceptance mailed by the DO/EO/US on 04 May 2006. Specifically, the oath or declaration requirement under 35 U.S.C. 371(c)(4) for entry into the national stage in the United States of America has not been executed by inventor, Michael Barber. As such, the 04 May 2006 Notification of Acceptance of Application was erroneously mailed by the DO/EO/US and must be vacated.

Inventors John Favuzzi; Rosanne Welcher, Benno Guggenheimer; Robert Clark; Michael Barber and Bob Lothrop have been added to the above identified application and will appear on the Official Filing Receipt.

CONCLUSION

Applicants' request under 37 CFR 1.181 for issuance of a corrected Official Filing Receipt is **DISMISSED** without prejudice. However, inventors John Favuzzi; Rosanne Welcher, Benno Guggenheimer; Robert Clark; Michael Barber and Bob Lothrop have been added to the record.

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 04 May 2006 is hereby **VACATED**.

This application is being returned to the DO/EO/US for processing in accordance with this decision, that is, for issuance of a new Notification of Missing Requirements (Form PCT/DO/EO/905), to inform applicants that an oath or declaration of the inventors in compliance with 37 CFR 1.497 must be submitted in order to avoid abandonment of the application.



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



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OFFICE OF PETITIONS

**MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN VA 22102**

In re Application of

BOTTCHER, Martin et al.
Application No. 10/539,576
Filed: June 07, 2005
Attorney Docket No. 449122081600

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:
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:

**DECISION ON PETITION
TO WITHDRAW
FROM RECORD**

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

The request is **APPROVED**.

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

The request was signed by Deborah S. Gladstein on behalf of all attorneys of record who are associated with customer No. 25227. All attorneys/agents associated 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.

The application became abandoned for failure to timely reply to the office action mailed December 28, 2006.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **MARTIN BOTTCHER
EOSANDERSTR. 10
BERLIN, 10587
GERMANY**

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


UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
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 Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/539,576	06/17/2005	Martin Bottcher	449122081600

CONFIRMATION NO. 4513

25227
 MORRISON & FOERSTER LLP
 1650 TYSONS BOULEVARD
 SUITE 400
 MCLEAN, VA 22102



Date Mailed: 08/06/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/28/2007.

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

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY



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JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON, DC 20004

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SEP 13 2006
OFFICE OF PETITIONS

In re Application of :
Trevor Ian McIntosh :
Application No. 10/539,588 : ON PETITION
Filed: June 17, 2005 :
Attorney Docket Number: :
P70661US0 :

This is a decision on the Petition to Revive an Abandoned Application Under 37 CFR 1.137(b), filed June 20, 2006.

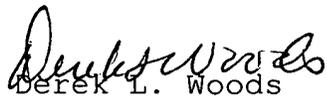
The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed February 16, 2006. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on May 17, 2006. A Notice of Abandonment was mailed June 28, 2006.

With the instant petition Applicant has submitted the issue fee.

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

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


Derek L. Woods

Attorney
Office of Petitions



MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN VA 22102

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JUL 09 2007

OFFICE OF PETITIONS

In re Application of

BEUGEANT, Christophe et al.

Application No. 10/539,617

Filed: June 17, 2005

Attorney Docket No. **449122082200**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

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

The request is **APPROVED**.

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

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

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **CHRISTOPHE BEUGEANT**
ZIEGLERSTR. 44
MUNCHEN, GERMANY 81735

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



01 DEC 2006

LOWE HAUPTMAN GILMAN & BERNER, LLP
1700 DIAGNOSTIC ROAD, SUITE 300
ALEXANDRIA VA 22314

In re Application of WERNHAM et al.	:
Application No.: 10/539,623	: DECISION ON PETITION
PCT No.: PCT/EP03/51068	:
Int. Filing: 18 December 2003	: UNDER 37 CFR 1.47(a)
Priority Date: 19 December 2002	:
Attorney Docket No.: 4590-418	:
For: AN OPTICAL FILTER	:

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 14 September 2006, to accept the application without the signature of joint inventor, Denny Wernham. This decision is also responsive to applicant's status inquiry filed 18 November 2006.

BACKGROUND

On 17 June 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 14 February 2006, 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 14 September 2006, applicant filed the instant petition along with a declaration, executed by the joint inventors on behalf of the nonsigning inventor. The petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4) requested the acceptance of the application without the signature of inventor, Denny Wernham alleging that Mr. Wernham refuses to sign the application.

DISCUSSION

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

by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

The petition included the requisite petition fee, satisfying Item (1). Item (3) is satisfied because the last known address of non-signing inventor, Denny Wernham was provided. With regard to item (4), the declaration executed by the available joint inventors on their behalf and on behalf of the non-signing inventor was submitted and satisfies the requirements of 37 CFR 1.47(a).

With respect to Item (2) above, Petitioner provided the declaration of Pascale Brochard, in support of the petition under 37 CFR 1.47(a). Mr. Brochard states that Mr. Wernham refuses to sign the request and that despite efforts to explain to Mr. Wernham the reasons that the invention is the property of the company, which employed him, he was unable to obtain his signature. Copies of the email correspondence accompanied the petition. However, no explanation of the emails correspondence was provided. The email copies were illegible due to highlighting or redaction.

There is no evidence that a complete copy of the application papers, including *specification, claims and drawings* and declaration, were provided to Mr. Wernham. The statement does not indicate that a complete copy of the application, claims and declaration were sent to the inventor for his signature. What is required is that Mr. Wernham be presented with a copy of all of the national stage application papers (oath and declaration, specification, including claims and drawings) for this application.

Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP), Proof of Unavailability or Refusal, states, 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)

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.

(Emphasis added.)

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 10/539,623 (specification, including claims, drawings, and declaration)* to the nonsigning inventor for his signature and (2) Mr. Wernham's refusal to sign, either in writing or by telephone, these documents.

For the reasons set forth above, the evidence submitted does not support a finding that the nonsigning inventor refuses to sign the application at this time. Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

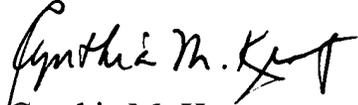
CONCLUSION

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



14 JUN 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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LOWE HAUPTMAN GILMAN & BERNER, LLP
1700 DIAGNOSTIC ROAD, SUITE 300
ALEXANDRIA VA 22314

In re Application of WERNHAM et al. :
Application No.: 10/539,623 : DECISION ON PETITION
PCT No.: PCT/EP03/51068 :
Int. Filing: 18 December 2003 : UNDER 37 CFR 1.47(a)
Priority Date: 19 December 2002 :
Attorney Docket No.: 4590-418 :
For: AN OPTICAL FILTER :

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 18 January 2007, to accept the application without the signature of joint inventor, Denny Wernham.

BACKGROUND

On 14 February 2006, 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 14 September 2006, applicant filed a petition along with a declaration, executed by the joint inventors on behalf of the nonsigning inventor. The petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4) requested the acceptance of the application without the signature of inventor, Denny Wernham alleging that Mr. Wernham refuses to sign the application.

On 01 December 2006, a decision dismissing the petition was mailed indicating that Petitioner had failed to demonstrated that the non-signing inventor refused to sign the application papers.

On 18 January 2007, a renewed petition under 37 CFR 1.47(a) was filed with the USPTO.

DISCUSSION

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

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

With respect to Item (2)¹ above, Petitioner provided a copy of a letter sent on 21 September 2005 to the nonsigning inventor Wernham from Ian D. Morgan, Contracts Manager for Thales Optics Limited. The letter indicates that a specification, claims, drawings, abstract and declaration/power of attorney were enclosed. However, this letter does not make reference to the US patent application 10/539,623, the application at issue. The email correspondence between the nonsigning inventor and Mr. Morgan does not identify US patent application 10/539,623 at issue. It is unclear from the evidence presented that it is this application 10/539,623 which inventor Wernham is refusing to sign. Mr. Morgan's first hand statement regarding this correspondence has not been submitted and is required. See MPEP §409.03(d) in footnote 1.

The declaration of Pascale Brochard, previously provided in support of the petition under 37 CFR 1.47(a), indicates that Mr. Wernham refuses to sign the "Request" relating to PCT/EP03/51068. It does not state that Mr. Wernham refuses to sign US patent application

¹ Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP), Proof of Unavailability or Refusal, states, 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)

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.

(Emphasis added.)

10/539,623.

At this time, there is no evidence that a complete copy of US application 10/539,623 (including specification, claims and drawings and declaration) were provided to Mr. Wernham. Petitioner has not provided a first hand statement indicating that a complete copy of the application US 10/539,623 was sent to the inventor for his signature and that Mr. Wernham refuses to it. What is required is that Mr. Wernham be presented with a copy of all of the national stage application papers (oath and declaration, specification, including claims and drawings) *for this application.*

In sum, 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 10/539,623 (specification, including claims, drawings, and declaration) to the nonsigning inventor for his signature and (2) Mr. Wernham's refusal to sign, either in writing or by telephone, these documents.

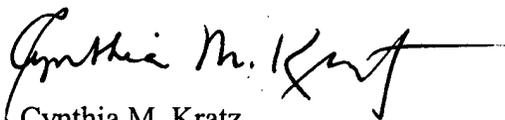
For the reasons set forth above, the evidence submitted does not support a finding that the nonsigning inventor refuses to sign the application at this time. Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

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

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

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



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15 OCT 2007

LOWE HAUPTMAN GILMAN & BERNER, LLP
1700 DIAGNOSTIC ROAD, SUITE 300
ALEXANDRIA VA 22314

In re Application of WERNHAM et al.	:	
Application No.: 10/539,623	:	DECISION ON PETITION
PCT No.: PCT/EP03/51068	:	
Int. Filing: 18 December 2003	:	UNDER 37 CFR 1.47(a)
Priority Date: 19 December 2002	:	
Attorney Docket No.: 4590-418	:	
For: AN OPTICAL FILTER	:	

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 24 August 2007, to accept the application without the signature of joint inventor, Denny Wernham.

BACKGROUND

On 14 February 2006, 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 14 September 2006, applicant filed a petition along with a declaration, executed by the joint inventors on behalf of the non-signing inventor. The petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4) requested the acceptance of the application without the signature of inventor, Denny Wernham alleging that Mr. Wernham refuses to sign the application. On 01 December 2006, a decision dismissing the petition was mailed indicating that Petitioner had failed to demonstrated that the non-signing inventor refused to sign the application papers.

On 18 January 2007, a renewed petition under 37 CFR 1.47(a) was filed with the USPTO. On 14 June 2007, a decision dismissing the renewed petition was mailed indicating that applicant had not yet demonstrated that the non-signing inventor refused to sign the application papers.

On 14 August 2007, a renewed petition under 37 CFR 1.47(a) was filed with the USPTO.

DISCUSSION

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

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

With respect to Item (2) above, Petitioner provided a copy of a letter sent on 27 July 2007 to the nonsigning inventor Wernham from David Fleming, Legal & Compliance Director. The letter indicates that a specification, claims, drawings, abstract and declaration/power of attorney were enclosed, making reference to the US patent application 10/539,623, the application at issue. The email correspondence between the nonsigning inventor and Mr. Fleming indicates that Mr. Wernham refuses to sign.

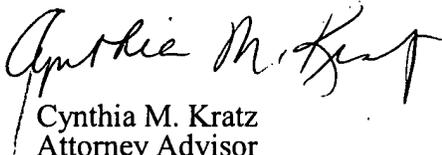
In sum, Petitioner has satisfied Items (1) - (4) above. For the reasons set forth above, the evidence submitted supports a finding that the nonsigning inventor refuses to sign the application at this time. Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a) 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 14 September 2007. The application has an international filing date of 18 December 2003 under 35 U.S.C. 363, and a date of 04 September 2003 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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



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08 FEB 2008

LOWE HAUPTMAN GILMAN & BERNER, LLP
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ALEXANDRIA VA 22314

In re Application of WERNHAM et al.	:
Application No.: 10/539,623	: DECISION ON PETITION
PCT No.: PCT/EP03/51068	:
Int. Filing: 18 December 2003	: UNDER 37 CFR 1.47(a)
Priority Date: 19 December 2002	:
Attorney Docket No.: 4590-418	:
For: AN OPTICAL FILTER	:

This is a correction to a decision on applicant's renewed petition under 37 CFR 1.47(a), which was mailed to applicant on 15 October 2007. The decision is hereby vacated.

A closer review of the declaration indicates that the citizenship of the nonsigning inventor Denny Wernham is not identified. Pursuant to 35 U.S.C. 371(c) and 115, applicant shall make an oath or declaration...and shall state of what country he is a citizen. The declaration at issue does not state the citizenship of the nonsigning inventor Wernham. Thus, it is unacceptable.

A new declaration is required, which meets the requirements of 35 U.S.C. 371(c), identifying each inventor and the country of citizenship of each inventor and be in compliance with 37 CFR 1.497(a) and (b). The decision mailed on 15 October 2007 is hereby **VACATED**.

As stated above, applicant is required to submit a new declaration executed by the joint inventors on behalf of the nonsigning inventor, or a declaration executed by the nonsigning inventor. Applicant has **TWO (2) MONTHS** from the mail date of this decision within which to reply. 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.


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ALEXANDRIA VA 22314

In re Application of WERNHAM et al. :
Application No.: 10/539,623 : DECISION ON PETITION
PCT No.: PCT/EP03/51068 :
Int. Filing: 18 December 2003 : UNDER 37 CFR 1.47(a)
Priority Date: 19 December 2002 :
Attorney Docket No.: 4590-418 :
For: AN OPTICAL FILTER :

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 08 May 2008 to accept the application without the signature of joint inventor, Denny Wernham.

BACKGROUND

On 14 February 2006, 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 14 September 2006, applicant filed a petition along with a declaration, executed by the joint inventors on behalf of the nonsigning inventor. The petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4) requested the acceptance of the application without the signature of inventor, Denny Wernham alleging that Mr. Wernham refuses to sign the application. On 01 December 2006, a decision dismissing the petition was mailed indicating that Petitioner had failed to demonstrated that the non-signing inventor refused to sign the application papers.

On 18 January 2007, a renewed petition under 37 CFR 1.47(a) was filed with the USPTO. On 14 June 2007, a decision dismissing the renewed petition was mailed indicating that applicant had not yet demonstrated that the non-signing inventor refused to sign the application papers.

On 14 August 2007, a renewed petition under 37 CFR 1.47(a) was filed with the USPTO. On 8 February 2008, applicant was advised that the declaration did not identify the citizenship of the non-signing inventor and thus, was defective.

On 08 May 2008, applicant submitted a newly executed declaration.

DISCUSSION

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

signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

Petitioner previously satisfied Items (1), (2) and (3).

With respect to Item (4) above, the declaration submitted on 08 May 2008 appears to be in both the French and English languages. As stated in 37 CFR 1.69(b), unless the text of any oath or declaration in a language other than English is in the form provided by the Patent and Trademark Office..., it must be accompanied by an English translation together with a statement that the translation is accurate. See also MPEP 602.06. It is suggested that applicant employ USPTO Form PTO/SB/105 or that the newly executed declaration be accompanied by a statement of counsel that the translation is accurate.

CONCLUSION

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

Applicant has **TWO (2) MONTHS** from the mail date of this decision within which to reply. 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.



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25 SEP 2008

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In re Application of WERNHAM et al. :
Application No.: 10/539,623 : DECISION ON PETITION
PCT No.: PCT/EP03/51068 :
Int. Filing: 18 December 2003 : UNDER 37 CFR 1.47(a)
Priority Date: 19 December 2002 :
Attorney Docket No.: 4590-418 :
For: AN OPTICAL FILTER :

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 29 July 2008 to accept the application without the signature of joint inventor, Denny Wernham.

BACKGROUND

The long procedural history of this application is not repeated herein. The decision mailed on 19 June 2008 references it and is hereby incorporated by reference. On 29 July 2008, in response to that decision, applicant filed a renewed petition under 37 CFR 1.47(a) along with a newly executed declaration.

DISCUSSION

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

Petitioner previously satisfied Items (1), (2) and (3).

With respect to Item (4) above, the declaration submitted on 29 July 2008 appears to be in both the French and English languages. The declaration was accompanied by an English translation together with a statement that the translation is accurate. See 37 CFR 1.69(b). The declaration is acceptable and is in compliance with 37 CFR 1.497(a) and (b). Item (4) is satisfied.

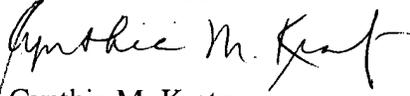
Petitioner has satisfied the requirements of 37 CFR 1.47(a). Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

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

The U.S. Designated/Elected Office has accepted the application as a 37 CFR 1.47(a) application using the declaration filed 29 July 2008. The application has an international filing date of 18 December 2003 under 35 U.S.C. 363, and a date of 29 July 2008 under 35 U.S.C. 371(c).

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



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25 SEP 2008

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DENNY WERNHAM
EUROPEAN SPACE AND TECHNOLOGY CENTER
KEPLERLANN 1-POSTBUS 299
2200 AG NOORDWIJK,
THE NETHERLANDS

In re Application of WERNHAM et al.
Application No.: 10/539,623
PCT No.: PCT/EP03/51068
Int. Filing: 18 December 2003
Priority Date: 19 December 2002
Attorney Docket No.: 4590-418
For: AN OPTICAL FILTER

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

Dear Mr. Wernham:

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

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

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JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON DC 20004

MAILED

OCT 14 2009

OFFICE OF PETITIONS

Applicant: Knut Adermann, et al.

Appl. No.: 10/539,627

International Filing Date: December 19, 2003

Title: PEPTIDES AND THEIR USE FOR THE TREATMENT OF HIV INFECTIONS

Attorney Docket No.: P70650US0

Pub. No.: US 2007/0072805 A1

Pub. Date: March 29, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on April 27, 2009, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors on the front page of the publication wherein the name of the first inventor Knut Adermann was printed incorrectly as Knut Andermann.

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 April 27, 2009, was not timely filed under 37 CFR 1.221(b).

Moreover, the error on the front page of the publication wherein the spelling of the first named inventor is incorrect may be Office error, but is not a material Office error under 37 CFR 1.221. The misprinting of the inventor’s name does not affect the understanding of the application. The mistake does not affect the public’s ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine

¹Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The applicant is advised that a “request for republication of an application previously published” may be filed under 37 CFR 1.221(a). Such a request for republication “must include a copy of the application compliance with the Office’s electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i).” If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

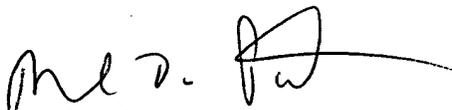
A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

<http://www.uspto.gov/ebc/portal/tutorials.htm>

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 Mark Polutta at (571) 272-7709.



Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON, DC 20004

Mail Date: 05/13/2010

Applicant : Knut Adermann : DECISION ON REQUEST FOR
Patent Number : 7655629 : RECALCULATION of PATENT
Issue Date : 02/02/2010 : TERM ADJUSTMENT IN VIEW
Application No : 10/539,627 : 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 **450** 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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Brinks Hofer Gilson & Lione/Ann Arbor
524 South Main Street
Suite 200
Ann Arbor, MI 48104

Mail Date: 04/21/2010

Applicant	: Hans-Jurgen Klischat	: DECISION ON REQUEST FOR
Patent Number	: 7632770	: RECALCULATION OF PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/539,647	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/08/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **224** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



13 NOV 2008

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INTELLECTUAL PROPERTY LAW OFFICE OF JOEL VOELZKE
24772 SADDLE PEAK ROAD
MALIBU CA 90265

In re Application of :
SINCLAIR et al : DECISION ON
Application No.: 10/539,655 :
PCT No.: PCT/AU03/01691 : PETITION
Int. Filing Date: 18 December 2003 :
Priority Date: 18 December 2002 : UNDER 37 CFR 1.47(a)
Attorney's Docket No.: 123-003 :
For: AN ELONGATE ELECTRICAL CONDUCTOR :
THAT IS ADAPTED FOR ELECTRICALLY :
CONNECTING WITH AN ELECTRICAL CONTACT :

This is in response to the petition under 37 CFR 1.47(a), filed 14 July 2008, to permit the applicant to file the above-captioned application on behalf of the non-signing inventor John Sinclair. The petition under 37 CFR 1.47(a) is DISMISSED.

BACKGROUND

On 18 December 2003, applicant filed international application PCT/AU03/01691, which claimed priority of an earlier Australian patent application, filed 18 December 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 01 July 2004. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 20 June 2005 (18 June 2006 was a Saturday).

On 14 June 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); a copy of the international application; a preliminary amendment; and an unsigned declaration. The declaration under PCT Rule 4.17 accompanied the international application and was signed by three of the four inventors.

On 13 May 2007, the United States Designated/Elected Office mailed a Notice of Acceptance of Application under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) indicating that an oath or declaration had been filed on 14 June 2005.

On 14 July 2008 applicant filed the present petition accompanied by the required petition fee, a petition and fee for a three-month extension of time, the surcharge for submitting a late declaration, a declaration executed by Mr. Ward, a statement of Mr. Sinclair last know address.

DISCUSSION

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

The evidence submitted to show Mr. Sinclair has refused to sign is insufficient. The declaration by Matthew Ward fails to indicate that a complete copy of the application was sent to the applicant. Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature. Copies of documentary evidence such as a certified mail return receipt, cover letter of instructions, telegrams, etc., which support a finding that a complete copy of the application papers had been sent to the applicant should be made a part of the declaration or affidavit.

Furthermore, there e-mails correspondence between the non-signing inventor Mr. Sinclair and Matthew Ward fails to show a clear refusal to sign. It would appear that the e-mail of 9 July 2008 at 10:23 is not present and that the remaining e-mails do not clearly set forth a refusal.

CONCLUSION

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

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

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

Leonard E. Smith
PCT Legal Examiner
PCT Legal Affairs



Office of Patent Cooperation Treaty
Legal Administration Telephone:

(571) 272-3297



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,655	06/14/2005	John Ashton Sinclair	123-003	2921

47533 7590 12/05/2008
INTELLECTUAL PROPERTY LAW OFFICE OF JOEL VOELZKE
24772 SADDLE PEAK ROAD
MALIBU, CA 90265

EXAMINER

CHAMBERS, TRAVIS SLOAN

ART UNIT	PAPER NUMBER
2833	

MAIL DATE	DELIVERY MODE
12/05/2008	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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24772 SADDLE PEAK ROAD
MALIBU, CA 90265

In re Application of:
SINCLAIR, et al
Serial No.: 10/539655
Filed: June 14, 2005
Attorney Docket No.: **123-003**

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR § 1.313

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR § 1.313.

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed July 21, 2008, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor were indicated in the Petition Decision of November 13, 2008.

Upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund, or a credit to a Deposit Account.

Telephone inquires should be directed to Renee Luebke at (571) 272-2009.

The above-identified application is being forwarded to the examiner for prompt appropriate action.


John W Cabeca, Director, *Acting*
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components



30 JAN 2009

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

47533
INTELLECTUAL PROPERTY LAW OFFICE OF JOEL VOELZKE
24772 Saddle Peak Road
Malibu, CA 90265

In re Application of :
SINCLAIR *et al* :
U.S. Application No.: 10/539,655 :
PCT No.: PCT/AU2003/001691 :
Int. Filing Date: 18 December 2003 :
Priority Date: 18 December 2002 :
Attorney Docket No.: 123-003 :
For: ELONGATED ELECTRICAL :
CONDUCTOR THAT IS ADAPTED :
FOR ELECTRICALLY CONNECTING :
WITH AN ELECTRICAL CONTACT :

**DECISION ON
RENEWED PETITION
UNDER 37 CFR 1.47(a)**

This decision is in response to applicants' renewed petition under 37 CFR 1.47(a) filed 01 December 2008.

BACKGROUND

On 13 November 2008, a decision dismissing applicants' 37 CFR 1.47(a) petition was mailed. Applicants were given two months to respond.

On 01 December 2008, applicants filed a renewed petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration by Matthew Ward and other documentary evidence in support of the renewed petition.

On 15 December 2008, an Office Action was mailed indicating that applicant had only two months to provide an acceptable declaration and granted petition.

DISCUSSION

The original petition under 37 CFR 1.47(a) was dismissed for failing to show that a complete copy of the above-captioned application including specification, claims and drawings were presented to the nonsigning inventor. Moreover, the email correspondence was deemed not to show a clear refusal to cooperate.

In the renewed petition, the 37 CFR 1.47(a) applicants provided evidence that a complete copy of the Australian priority application was provided to the nonsigning inventor on 18 December 2002. **This is not sufficient.**

For a refusal to be accepted, petitioners must provide a complete copy of the

10/539,655

subject application, including specification, claims and drawings to the nonsigning inventor. Proof that a bona fide attempt was made to present a copy of the application papers, but the nonsigning inventor refused to accept delivery or expressly stated that the application papers should not be sent, may be sufficient. See § 409.03(d)(II) MPEP.

Accordingly, item (2) of 37 CFR 1.47(a) is not yet satisfied.

CONCLUSION

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

The Office Action mailed 15 December 2008 is **VACATED** to the extent that the time period to respond with a grantable petition under 37 CFR 1.47(a) or a declaration is two months with no extensions of time available.

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

Any further correspondence with respect to this matter 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.



James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302



19 MAY 2009

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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47533
INTELLECTUAL PROPERTY LAW OFFICE OF JOEL VOELZKE
24772 Saddle Peak Road
Malibu, CA 90265

In re Application of
SINCLAIR *et al*
U.S. Application No.: 10/539,655
PCT No.: PCT/AU2003/001691
Int. Filing Date: 18 December 2003
Priority Date: 18 December 2002
Attorney Docket No.: 123-003
For: ELONGATED ELECTRICAL
CONDUCTOR THAT IS ADAPTED
FOR ELECTRICALLY CONNECTING
WITH AN ELECTRICAL CONTACT

**DECISION ON SECOND
RENEWED PETITION
UNDER 37 CFR 1.47(a)**

This decision is in response to applicants' second renewed petition under 37 CFR 1.47(a) filed 19 March 2009.

BACKGROUND

On 30 January 2009, a decision dismissing applicants' 37 CFR 1.47(a) petition was mailed. Applicants were given two months to respond.

On 19 March 2009, applicants filed a renewed petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a supplemental declaration by Matthew Ward and other documentary evidence in support of the renewed petition.

DISCUSSION

The original petition under 37 CFR 1.47(a) filed 14 July 2008 was dismissed for failing to show that a complete copy of the above-captioned application including specification, claims and drawings were presented to the nonsigning inventor. Accordingly, a refusal to cooperate could not be demonstrated pursuant to section 409.03(d)(II) of the MPEP.

In the renewed petition filed 01 December 2008, the 37 CFR 1.47(a) applicants provided evidence that a copy of the Australian priority application was provided to the nonsigning inventor. However, this was not sufficient to satisfy the requirements of the MPEP. Petitioners were requested to provide a copy of the subject application to the nonsigning inventor for the refusal to cooperate claim to be considered.

In the second renewed petition, the 37 CFR 1.47(a) applicants provided

evidence that a complete copy of the subject application was sent to the nonsigning inventor on 10 February 2009 by email. The nonsigning inventor, Mr. Sinclair, responded on the same day via email. Mr. Sinclair states in his email response that he considers that the other named inventors are not true inventors and refuses to sign the declaration. This response is considered a written refusal to cooperate. Petitioners included copies of all relevant documents with the subject petition.

This evidence satisfies item (2) of 37 CFR 1.47(a). All the requirements of 37 CFR 1.47(a) are now complete.

CONCLUSION

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

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

This application is being forwarded to Art Unit 2833 for continued processing.



James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302



19 MAY 2009

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

John Ashton Sinclair
Lot 1731 Comboyne
Killback via Wingham, New South Wales 2429
Australia

In re Application of
SINCLAIR *et al*
U.S. Application No.: 10/539,655
PCT No.: PCT/AU2003/001691
Int. Filing Date: 18 December 2003
Priority Date: 18 December 2002
Attorney Docket No.: 123-003
For: ELONGATED ELECTRICAL
CONDUCTOR THAT IS ADAPTED
FOR ELECTRICALLY CONNECTING
WITH AN ELECTRICAL CONTACT

Mr. Sinclair:

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

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

U.S. Counsel: INTELLECTUAL PROPERTY LAW OFFICE OF JOEL VOELZKE
24772 Saddle Peak Road
Malibu, CA 90265



17 OCT 2006

JONES DAY
222 EAST 41ST STREET
NEW YORK NY 10017-6702

In re Application of	:	
AEBI et al.	:	
Application No.: 10/539,659	:	DECISION
PCT No.: PCT/CH2002/000704	:	
Int. Filing Date: 17 December 2002	:	
Priority Date: None	:	
Attorney Docket No.: LUS-16089	:	
For: INTERVERTEBRAL IMPLANT WITH	:	
JOINT PARTS MOUNTED ON ROLLER BODIES	:	

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 14 September 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 17 December 2002, applicants filed international application PCT/CH2002/000704, which designated the United States and did not claim a priority date. A copy of the international application was communicated from the International Bureau to the USPTO on 01 July 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 17 June 2005.

On 14 June 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, an English translation of the international application, 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.

On 14 February 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 14 September 2006, applicants filed the instant petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a petition/fee for a five month extension of time, a declaration of inventors, a declaration of facts by Carrie A. McPherson, a declaration of facts by Garry J. Tuma,

a copy of an e-mail dated 22 August 2006 from Carrie McPherson to non-signing inventor Max Aebi, a copy of a "Delivery Status Notification" for the e-mail; a copy of a letter dated 10 August 2005 from a "P. Kaiser" to a "Mr. Spaw", and a copy of a letter dated 16 August 2005 to Mr. Spaw from a person whose signature is not legible to the undersigned.

DISCUSSION

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

Items (1), (3), and (4) have been satisfied.

Item (2) has not been satisfied. MPEP § 409.03(d) states in part:

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. . . . It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956).

Here, it is not clear that a copy of the application papers including the specification, claims and drawings was sent to the last known mailing address of Mr. Aebi. Although an e-mail copy was sent to the last known e-mail address of Mr. Aebi, it is not clear whether Mr. Aebi received the e-mail. (The "Delivery Status Notification" only confirms delivery, not receipt.) "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).

Additionally the declaration of facts of Mr. Tuma states that Mr. Aebi was already refusing to sign any papers related to the above-identified patent application as of August 2005. Copies of letters to a Mr. Spaw are provided as support. However, it is not clear whether the statement in the letter of 10 August 2005 that Mr. Aebi "is not willing to sign" is based on an express refusal by Mr. Aebi or whether this statement is a conclusion based on Mr. Aebi's conduct. If the refusal was express, attention is directed to MPEP § 409.03(d) which states in part:

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.

If the refusal was not express but is based on Mr. Aebi's conduct, attention is directed to the following section 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. Statements by a party not present when an oral refusal is made will not be accepted.

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

CONCLUSION

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

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

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



Daniel Stemmer

Legal Examiner

PCT Legal Affairs

Office of Patent Cooperation Treaty

Legal Administration

Telephone: (571) 272-3301

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12 FEB 2007



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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JONES DAY
222 EAST 41ST STREET
NEW YORK NY 10017-6702

In re Application of :
AEBI et al. :
Application No.: 10/539,659 : DECISION
PCT No.: PCT/CH2002/000704 :
Int. Filing Date: 17 December 2002 :
Priority Date: None :
Attorney Docket No.: LUS-16089 :
For: INTERVERTEBRAL IMPLANT WITH :
JOINT PARTS MOUNTED ON ROLLER BODIES :

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed 17 January 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 17 December 2002, applicants filed international application PCT/CH2002/000704, which designated the United States and did not claim a priority date. A copy of the international application was communicated from the International Bureau to the USPTO on 01 July 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 17 June 2005.

On 14 June 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, an English translation of the international application, 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.

On 14 February 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 14 September 2006, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a petition/fee for a five month extension of time, a declaration of inventors, a declaration of facts by Carrie A. McPherson, a declaration of facts by Garry J. Tuma,

a copy of an e-mail dated 22 August 2006 from Carrie McPherson to non-signing inventor Max Aebi, a copy of a "Delivery Status Notification" for the e-mail; a copy of a letter dated 10 August 2005 from a "P. Kaiser" to a "Mr. Spaw", and a copy of a letter dated 16 August 2005 to Mr. Spaw from a person whose signature is not legible to the undersigned.

On 17 October 2006, a decision was mailed dismissing applicants' 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.

On 17 January 2007, applicants filed the instant renewed petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a petition/fee for a one-month extension of time and a declaration of inventors signed by previously non-signing joint inventor Max Aebi.

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 declarations of inventors filed 14 September 2006 and 17 January 2007 are 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
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PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
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22 NOV 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JONES DAY
222 EAST 41ST STREET
NEW YORK NY 10017-6702

In re Application of	:	
AEBI, Max et al.	:	
Application No.: 10/539,660	:	DECISION ON
PCT No.: PCT/CH02/00705	:	
Int. Filing Date: 17 December 2002	:	PETITION
Priority Date: None	:	
Attorney Docket No.: LUS-16090	:	UNDER 37 CFR 1.47(a)
For: INTERVERTEBRAL IMPLANT	:	
WITH TILTABLE JOINT PARTS	:	

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 14 September 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 17 December 2002, applicants filed international application PCT/CH2002/000705. A copy of the international application was communicated from the International Bureau to the USPTO on 01 July 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 17 June 2005.

On 14 June 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 14 February 2006, the Office mailed a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 14 September 2006, applicants filed the instant petition under 37 CFR 1.47(a), accompanied by the fee for a five month extension of time and a declaration of inventors.

DISCUSSION

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

Items (1) and (4) have been satisfied.

Item (2) has not been satisfied. Applicants allege that Mr. Aebi has refused to sign the declaration of inventorship, but have not established that the inventor was presented with a complete copy of the application papers including the specification, claims and drawings. Ordinarily, this is done by sending a complete copy of the papers to inventor's last known residence by return receipt mail. Copies of documentary evidence supporting a presentation with a complete copy of the application papers should be provided. MPEP 409.03(d). The email delivery receipt confirms delivery of the email, not receipt. A refusal to sign in the absence of presentation with a complete copy of the application papers is not ordinarily sufficient.

Mr. Tuma states that Mr. Aebi was refusing to sign any papers related to the above-identified patent application as of 10 August 2005. As earlier indicated, refusal to sign in the absence of presentation with a complete copy of the application papers is not normally sufficient. Additionally, it is not clear that the author of the 10 August 2005 letter to Mr. Spaw has firsthand knowledge of the alleged refusal. Further, transfer of ownership rights is not required for Mr. Aebi to sign the declaration of inventorship.

Item (3) has not been satisfied. The last known address of a non-signing inventor is ordinarily the last known residence of the non-signing inventor. MPEP 409.03(e). The address provided for Mr. Aebi is a business 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. Extensions of time may be obtained under 37 CFR 1.136(a).

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



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JONES DAY
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NEW YORK, NY 10017-6702

19 MAR 2007

In re Application of	:	
Aebi et al.	:	
Application No.: 10/539,660	:	DECISION
PCT No.: PCT/CH02/00705	:	
Int. Filing Date: 17 December 2002	:	ON
Priority Date: None	:	
Attorney Docket No.: LUS-16090	:	PETITION
For: Intervertebral Implants With Tilttable Joint Parts	:	

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 18 January 2007.

DISCUSSION

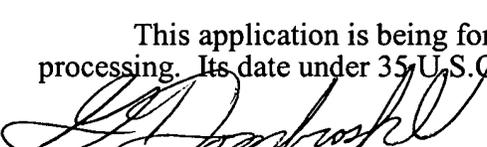
In a Decision mailed on 22 November 2006, the petition under 37 CFR 1.47(a) filed on 14 September 2006 was dismissed without prejudice because petitioner had not adequately demonstrated that Mr. Aebi had been presented with a complete copy of the application papers, and had not provided Mr. Aebi's last known address.

In response, petitioner has provided a declaration executed by Mr. Aebi. This declaration, taken with the declaration filed on 14 September 2006, is acceptable for purposes of 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 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 **18 January 2007**.


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



BELL BOYD & LLOYD LLC
P.O. Box 1135
Chicago, IL 60690-1135

23 FEB 2006

In re Application of :
PAN, Sheng-Gen :
U.S. Application No.: 10/539,665 :
PCT No.: PCT/DE2003/003821 :
Int. Filing Date: 18 November 2003 :
Priority Date: 12 December 2002 :
Attorney Docket No.: 112740-1086 :
For: ANTENNA STRUCTURE FOR TWO- :
OVERLAPPING FREQUENCY BANDS :

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

Applicant's "Petition for Revival of a Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed on 14 June 2005 is hereby **GRANTED** as follows:

The basic national fee, surcharge fee and petition fee have been paid. Applicant's 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.

A declaration in compliance with 37 CFR 1.497(a) and (b) was provided.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 18 November 2003, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 14 June 2005.

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302



**Intervet/Schering-Plough Animal Health
Patent Dept. K-6-1, 1990
2000 Galloping Hill Road
Kenilworth NJ 07033-0530**

**MAILED
MAR 31 2010
OFFICE OF PETITIONS**

In re Application of :
Thomas Gore et al. :
Application No. 10/539,670 : DECISION ON PETITION
Filed: January 5, 2005 :
Attorney Docket No. I-2002.025 US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 10, 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 January 21, 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 March 22, 2009. A Notice of Abandonment was mailed on December 7, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of \$1,620 and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the petition is being 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 petition.

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

This application is being referred to Technology Center AU 1648 for appropriate action by the Examiner in the normal course of business on the reply received December 10, 2009.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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GREGORY A. STOBBS
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SUITE 400
TROY MI 48098

COPY MAILED

AUG 12 2009

OFFICE OF PETITIONS

In re Patent No. 7,475,967 :
Nakagawa et al. :
Issue Date: January 13, 2009 : DECISION ON REQUEST FOR
Application No. 10/539,679 : RECONSIDERATION OF
Filed: June 16, 2005 : PATENT TERM ADJUSTMENT
Attorney Docket No. 5077-243/NP :

This is in response to the "PETITION UNDER RULE 1.705" filed February 16, 2009, which is properly treated under 37 CFR 1.705(d). Patentees request that the determination of patent term adjustment for the above-identified patent be corrected from three hundred forty-one (341) days to five hundred fifty-two (552) 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 341 days.

This application was filed on June 16, 2005. On January 13, 2009, the application matured into U.S. Patent No. 7,475,967, with a revised patent term adjustment of 341 days. The Office determined that the 211 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)^{1,2} overlaps with the 341

¹ Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides, in pertinent part, that:

Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application.

days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1)^{3,4} accorded prior to the issuance of the patent. As such, the Office allowed only entry of the adjustment of 341 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 0 days, the patent issued with a revised patent term adjustment of 341 (341 - 0) days.

On February 16, 2009, patentees timely submitted this request for reconsideration of patent term adjustment within two months of the issue date of the patent. See 37 CFR 1.705(d). Patentees aver that the correct number of days of patent term adjustment is 552 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q.2d 1538 (D.D.C. 2008). Specifically, patentee states that:

[p]ursuant to the ruling in Wyeth v. Dudas (DC Sept. 2008), Applicant hereby petitions under Rule 1.705 for a corrected Patent Term Adjustment of an additional 211 days since the present Patent did not issue within 36 months of the filing date (June 16, 2008). The corrected Patent Term Adjustment should now equal 552 days.

Petition under Rule 1.705, 02/16/2009, p.1

² The application was pending three years and 211 days.

³ 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

⁴ A first Office action was not mailed until July 23, 2007, fourteen months and 341 days after the date of completion of all 35 U.S.C. 371 requirements on June 16, 2005.

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)*⁵ and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay 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

⁵ Likewise, 37 CFR 1.703(f) provides that:

To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

§ 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 position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding 37 CFR 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office (not including any periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 341 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), 211 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(f).

All of the 211 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 341 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 211 days and the 341 days is neither permitted nor warranted. 341 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 341 days.

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

It is noted that the address as cited on the petition differs from the address of record. Although a courtesy copy of this decision is being mailed to the address cited on the petition, all future correspondence will be mailed solely to the address of record until appropriate written instructions to the contrary are received.

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

cc:
Harness, Dickey & Pierce, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303



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OFFICE OF PETITIONS

GREGORY A. STOBBS
5445 CORPORATE DRIVE
SUITE 400
TROY MI 48098

In re Patent No. 7,475,967 : DECISION ON REQUEST
Nakagawa, et al. : FOR
Issue Date: January 13, 2009 : RECONSIDERATION OF
Application No. 10/539,679 : PATENT TERM ADJUSTMENT
Filed: June 16, 2005 : and
Atty Docket No. 5077-243/NP : NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on September 10, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred and fifty-two (552) 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 fifty-two (552) days is **GRANTED**.

Deposit account 08-0750 will be charged \$200.00 for the fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

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 and fifty-two (552) 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 : 7,475,967 B2

DATED : Jan. 13, 2019

INVENTOR(S) : Nakagawa 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 (341) days

Delete the phrase "by 341 days" and insert – by 552 days--



17 OCT 2005
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BRIARCLIFF MANOR, NY 10510

In re Application of BARMENTLO et al :
U.S. Application No.: 10/539,699 :
PCT Application No.: PCT/IB03/0560205771 :
Int. Filing Date: 03 December 2003 : DECISION
Priority Date Claimed: 18 December 2002 :
Attorney Docket No.: US020549 :
For: PUMP SYSTEM FOR A PERSONAL CARE :
APPLIANCE :

This is in response to applicant's "Petition Under 37 CFR 1.182" filed 06 September 2005.

BACKGROUND

On 03 December 2003, applicant filed international application PCT/IB03/05602, which claimed priority of an earlier United States application filed 18 December 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 01 July 2004. The thirty-month period for paying the basic national fee in the United States expired on 18 June 2005.

On 16 June 2005, applicant filed two sets of purported national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1). The first set of national stage papers referenced international application number PCT/IB03/05602 and attorney docket number "US020549" and was assigned U.S. Application Number 10/539,699. The second set of national stage papers referenced international application number PCT/IB03/05602 and attorney docket number "US020548" and was assigned U.S. Application Number 10/539,896.

On 06 September 2005, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

The petition states that the Transmittal Letter for the present application should have referenced international application PCT/IB03/05771 instead of PCT/IB03/05602. A review of the application file reveals that the remainder of the papers filed on 16 June 2005 in the present application are consistent with international application PCT/IB03/05771. Applicant's explanation for the typographical error is accepted.

CONCLUSION

The petition under 37 CFR 1.182 is GRANTED.

Application 10/539,699 is being forwarded to the United States Designated/Elected Office (DO/EO/US) for processing as the U.S. national stage entry of international application PCT/IB03/05771. Application 10/539,896 is being forwarded to the DO/EO/US for processing as the U.S. national stage entry of international application PCT/IB03/05602.



Bryan Tung
PCT Legal Examiner
PCT Legal Office

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



**JESSICA M SINNOTT
E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT
4417 LANCASTER PIKE
WILMINGTON, DE 19805**

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OFFICE OF PETITIONS

In re Application of :
James Timothy **CRONIN**, et al. :
Application No. 10/539,718 :
Filed: July 20, 2005 :
Attorney Docket No. CH2883USPCT :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 6, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 24, 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 June 25, 2006.

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

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

The application file is being forwarded to Technology Center Art Unit 1754 for action on the merits commensurate with this decision.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions



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

Mail Date: 04/28/2010

Applicant : Tatu Utpal : DECISION ON REQUEST FOR
Patent Number : 7611853 : RECALCULATION of PATENT
Issue Date : 11/03/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/539,728 : OF WYETH AND NOTICE OF INTENT TO
Filed : 04/05/2006 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **825** 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 :
Mark L. Witten :
Application No: 10/539,734 :
Filed: December 21, 2005 :
Attorney Docket No. 12241-008-999 :

ON PETITION

This is a decision on the petition, filed November 5, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to reply to the non-final Office action mailed March 27, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on October 6, 2008. In response, on November 5, 2008, the present petition was filed wherein petitioner asserts that a reply was timely filed.

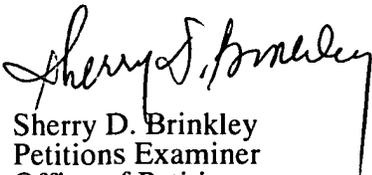
Petitioner is correct, in view of the filing of an appropriate request for extension of time and fee on September 29, 2008, the response period of June 27, 2008 was properly extended, as September 27, 2008 was Saturday. Since Monday, September 29, 2008 was the next business day, the response filed thereon is considered timely.

Consequently, the holding of abandonment for failure to timely file a response to the Office communication of March 27, 2008 is withdrawn and the application is restored to pending status.

The Notice of Abandonment mailed October 6, 2008 is hereby vacated.

This application is being referred to Technology Center AU 1654 for appropriate action in the normal course of business on the reply received September 29, 2008.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions



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CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

Mail Date: 06/25/2010

Applicant : Kjell Undheim : DECISION ON REQUEST FOR
Patent Number : 7608596 : RECALCULATION of PATENT
Issue Date : 10/27/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/539,759 : OF WYETH AND NOTICE OF INTENT TO
Filed : 03/10/2006 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **840** 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
Eberhard Zielke
Application No. 10/539,761
Filed: June 20, 2005
Attorney Docket No. 449122082000

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

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

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on August 20, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
April M. Wise
Petitions Examiner
Office of Petitions

cc: LERNER GREENBERG STEMER, LLP
PO BOX 2480
HOLLYWOOD, FL 33022-2480



19 DEC 2005

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Carl R. Wesolowski
Fleshner & Kim, LLP
P.O. Box 221200
Chantilly, VA 22151-1200

In re Application of	:	
CHOI, Eun-Jeong	:	
Application No.: 10/539,762	:	DECISION ON PETITION
PCT No.: PCT/KR03/02569	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 26 November 2003	:	
Priority Date: 26 November 2002	:	
Attorney Docket No.: HI-0189	:	
For: PARSING SYSTEM AND METHOD OF	:	
MULTI-DOCUMENT BASED ON	:	
ELEMENTS	:	

The petition to revive under 37 CFR 1.137(b) filed 20 June 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 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
Facsimile: 571-273-0459



27 APR 2006

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

In re Application of SHIN et al	:	
U.S. Application No.: 10/539,768	:	
PCT Application No.: PCT/KR03/02322	:	
Int. Filing Date: 31 October 2003	:	DECISION
Priority Date Claimed: 01 November 2002	:	
Attorney Docket No.: HI-0185	:	
For: WEB CONTENT TRANSCODING SYSTEM	:	
AND METHOD FOR SMALL DISPLAY	:	
DEVICE	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 20 June 2005.

BACKGROUND

On 31 October 2003, applicant filed international application PCT/KR03/02322, which claimed priority of an earlier Korea application filed 01 November 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 13 May 2004. The thirty-month period for paying the basic national fee in the United States expired on 01 May 2005.

International application PCT/KR03/02322 became abandoned as to the United States for failure to timely pay the basic national fee.

On 20 June 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 31 October 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 20 June 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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200 FRIBERG PARKWAY, SUITE 1001
WESTBOROUGH MA 01581

In re Application of	:	
Muhl, et al.	:	
Application No. 10/539,786	:	DECISION ON PETITION
Filed: January 11, 2006	:	
Attorney Docket No.: WEM-081US	:	

This is a decision on the petition under 37 CFR 1.182, filed, October 30, 2006, to change the name of inventor "Heinz Oswald" to - HEINZ OSSWALD --.

The petition is **GRANTED**.

Office records have been updated to reflect the inventor's change of name. A corrected Filing Receipt, which reflects the inventor's change of name, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3205. Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.

This application is forwarded to OIPE for further processing as necessary.

ALESIA M. BROWN
Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt


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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLMS	IND CLMS
10/539,786	01/11/2006	2831	1030	WEM-081US	20	3

26339
 MUIRHEAD AND SATURNELLI, LLC
 200 FRIBERG PARKWAY, SUITE 1001
 WESTBOROUGH, MA 01581

CONFIRMATION NO. 4903

CORRECTED FILING RECEIPT



OC000000025883469

Date Mailed: 09/18/2007

Receipt is acknowledged of this nonprovisional 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 (if appropriate).**

Applicant(s)

Mike Muhl, Freiburg, GERMANY;
 Andreas Derr, Wutoschingen, GERMANY;
 Gerd Heckelmann, Lenzkirch, GERMANY;
 Heinz Osswald, Bonndorf, GERMANY;
 Jürgen Hall, Rotenbach, GERMANY;

Power of Attorney: The patent practitioners associated with Customer Number **26339**.

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/EP03/14425 12/17/2003

Foreign Applications

GERMANY 102 59746.4 12/19/2002

If Required, Foreign Filing License Granted: 08/04/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US10/539,786**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Thermally stable and liquid-tight joint between a first ceramic, metal, or plastic component and a second ceramic, metal or plastic component, and the use of one such joint

Preliminary Class

174

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

**LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15**

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier

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

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

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

NOT GRANTED

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



19 DEC 2006

KRIEGSMAN & KRIEGSMAN
30 TURNPIKE ROAD, SUITE 9
SOUTHBOROUGH MA 01772

In re Application of ALKEN
Application No.: 10/539,793
PCT No.: PCT/DE03/04204
Int. Filing: 18 December 2003
Priority Date: 19 December 2002
Attorney Docket No.: 82444
For: USE OF L-DOPA, DERIVATIVES,
THEREOF AND MEDICAMENTS COMPRISING
SAID COMPOUNDS FOR THE PROPHYLAXIS
OF PSYCHOTIC DISEASES

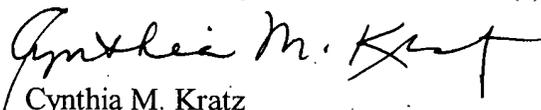
DECISION ON
PETITION TO REVIVE
UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 18 November 2006 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that an executed declaration and an English translation of the international application have now been submitted. The required petition fee of \$750 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **18 November 2006**.


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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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 04/21/2010

Applicant : Hendrik Derks : DECISION ON REQUEST FOR
Patent Number : 7607528 : RECALCULATION of PATENT
Issue Date : 10/27/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/539,796 : OF WYETH AND NOTICE OF INTENT TO
Filed : 10/27/2005 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **1034** 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 NOV 2005

#5



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

In re Application of ITO et al	:	
U.S. Application No.: 10/539,798	:	
PCT Application No.: PCT/JP03/16179	:	
Int. Filing Date: 17 December 2003	:	DECISION
Priority Date Claimed: 20 December 2002	:	
Attorney Docket No.: 274123US0PCT	:	
For: POLYESTER RESIN COMPOSITION FOR	:	
TONER AND TONER	:	

This is in response to the correspondence filed 20 June 2005, which is being treated as a petition under 37 CFR 1.182.

BACKGROUND

On 17 December 2003, applicant filed international application PCT/JP03/16179, which claimed priority of an earlier Japan application filed 20 December 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 08 July 2004. The thirty-month period for paying the basic national fee in the United States expired on 20 June 2005.

On 11 August 2005, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

MPEP 605.04(c) states in relevant part,

In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. . . . The petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

The family name of the third inventor is listed in the international application as "Harada" but is listed in the declaration as "Tamura". Applicant has submitted a proper petition under 37 CFR 1.182 and an affidavit signed with both names and setting forth the procedure whereby the name change was effected.

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 17 December 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 11 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
Office of PCT Legal Administration

Telephone: 571-272-3303

Facsimile: 571-273-0459



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Paper No.

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED

JUN 21 2010

OFFICE OF PETITIONS

In re Patent No. 7,491,722 : DECISION ON REQUEST
Dal Piaz et al. : FOR
Issue Date: February 17, 2009: RECONSIDERATION OF
Application No. 10/539,821 : PATENT TERM ADJUSTMENT
Filed: December 14, 2005 : and
Atty Docket No. 09605.0011 : NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on April 9, 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 two hundred eighty-two (282) 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 **four hundred fifty-two (452)** days.

The "B" delay period is 235 days, not 65 days. Patentee calculated this period based on the date this application fulfilled the requirements of 35 U.S.C. 371, December 14, 2005. 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). In this instance, the national stage commencement date is Monday, June 27, 2005. The priority date of this application is December 26, 2002. As the requirements for early commencement were not met, the national stage

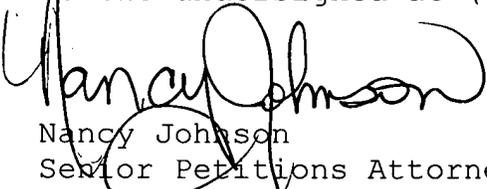
commenced in this application at the end of the thirty-month period. As the expiration of the 30-month period pursuant to 35 U.S.C. 371(b) fell on a Sunday, the period expired on the subsequent business day. See PCT Rule 80.5. Accordingly, the commencement date is Monday, June 27, 2005. Thus, "B" delay is 235 days, counting the number of days beginning on June 28, 2008 and ending on February 17, 2009, the date of issuance. See 1.703(b). Considering the overlap of 9 days, the patent term adjustment is increased by 226 days to 452 days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, 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 four hundred fifty-two **(452)** 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 : 7,491,722 B2

DATED : February 17, 2009

DRAFT

INVENTOR(S) : Del Piaz et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 226 days

Delete the phrase "by 226 days" and insert – by 452 days--



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BRIGGS AND MORGAN P.A.
2200 IDS CENTER
80 SOUTH 8TH ST
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: Jean-Christophe Fondeur	: DECISION ON REQUEST FOR
Patent Number	: 7657066	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/539,823	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **346** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



11 JUL 2006

David R. Saliwanchik
Saliwanchik, Lloyd & Saliwanchik
A Professional Corporation
P.O. Box 142950
Gainesville, FL 32614-2950

In re Application of	:	
SCHWARZ, et al.	:	
U.S. Application No.: 10/539,827	:	DECISION ON PETITION
PCT No.: PCT/EP03/14633	:	
Int. Filing Date: 19 December 2003	:	UNDER 37 CFR 1.28
Priority Date: 27 December 2002	:	
Attorney Docket No.: BB-149	:	
For: USES OF INTERLEUKIN-18 FOR TREATING	:	
SKIN DISORDERS ASSOCIATED WITH	:	
RADIATIONS	:	

This decision is in response to applicant's facsimile correspondence of 29 June 2006 which included a copy of a communication filed 18 July 2005 in the United States Patent and Trademark Office (USPTO) seeking a change from small entity to large entity status. Errors in the establishment of small entity status are rectified pursuant to 37 CFR 1.28(c). No petition fee is required.

In order for the error to be corrected 37 CFR 1.28(c)(ii) requires the itemization of the original deficiency payment:

(ii) *Itemization of the deficiency payment.* An itemization of the total deficiency payment is required. The itemization must include the following information:

(A) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for a non-small entity;

(B) The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;

(C) The deficiency owed amount (for each fee erroneously paid); and

(D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

Applicant has not included an itemization with the present request; therefore the petition cannot be granted at this time.

Applicant's petition under 37 CFR 1.28 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 1.28(c)" and include an itemization of the total deficiency payment as discussed above.

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

20 SEP 2006



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Commissioner for Patents
United States Patent and Trademark Office
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David R. Saliwanchik
Saliwanchik, Lloyd & Saliwanchik
A Professional Corporation
P.O. Box 142950
Gainesville, FL 32614-2950

In re Application of	:	
SCHWARZ, et al.	:	
U.S. Application No.: 10/539,827	:	DECISION ON
PCT No.: PCT/EP03/14633	:	
Int. Filing Date: 19 December 2003	:	RENEWED PETITION
Priority Date: 27 December 2002	:	
Attorney Docket No.: BB-149	:	UNDER 37 CFR 1.28
For: USES OF INTERLEUKIN-18 FOR TREATING	:	
SKIN DISORDERS ASSOCIATED WITH	:	
RADIATIONS	:	

This decision is in response to applicant's "Renewed Petition Under 37 CFR 1.28(c)" filed 14 September 2006 in the United States Patent and Trademark Office (USPTO).

On 11 July 2006, applicant was mailed a decision dismissing applicant's petition. Applicant was afforded two months to file any request for reconsideration.

On 14 September 2006, applicant filed the present renewed petition. The papers were certified under 37 CFR 1.8 as being deposited for mailing on 11 September 2006 and are timely filed.

A review of the present filing finds that it has addressed all of the concerns listed in the decision mailed 11 July 2006 by providing an itemization of the deficient fee payments, as well as, identifying the total deficiency. Therefore, it is proper to **GRANT** applicant's renewed petition at this time.

This application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision including 1) changing applicant's entity status to large entity and 2) charging the authorized fees to deposit account number 19-0065.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459



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HUNTSMAN ADVANCED MATERIALS AMERICAS INC.
10003 Woodloch Forest Drive
The Woodlands, TX 77380

Mail Date: 04/21/2010

Applicant	: Constantinos D. Diakoumakos	: DECISION ON REQUEST FOR
Patent Number	: 7635728	: RECALCULATION OF PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/539,844	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/20/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **961** 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



06 JAN 2006

Sandra L. Etherton
Etherton Law Group, LLC
5555 E. Van Buren St., #100
Phoenix, AZ 85008

In re Application of	:	
WILSON, Eric	:	DECISION ON
Application No.: 10/539,851	:	
PCT No.: PCT/AU2003/02420	:	
Int. Filing Date: 22 December 2003	:	PETITION UNDER
Priority Date: 20 December 2002	:	
Attorney Docket No.: 366-003	:	
For: Search Engine Result Reporter	:	37 CFR 1.181

This decision is in response to the "PETITION REQUESTING WITHDRAWAL OF HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a)" received 08 December 2005, requesting that the abandonment be withdrawn because the basic national fee was paid within 30 months of the priority date as evidenced by the itemized stamped postcard.

BACKGROUND

On 22 December 2003, this international application was filed, claiming an earliest priority date of 20 December 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 20 June 2005.

On 20 June 2005, applicant filed a Transmittal letter for entry into the national stage in the United States, and it is alleged that the filing was accompanied by requisite basic national fee as required by 35 U.S.C. 371 (c)(1). In addition, an executed declaration as required by 35 U.S.C. 371(c)(4) was submitted on such date.

On 18 November 2005, the DO/EO/US mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909), which indicated that applicant had failed to provide the full U.S. Basic National Fee by 30 months.

In response to the "NOTIFICATION OF ABANDONMENT" mailed on 18 November 2005, petitioner submitted on 08 December 2005 the instant petition requesting withdrawal of the Notice of Abandonment. In support of the petition, petitioner has provided a copy of the returned/stamped receipt card acknowledging a receipt date of the basic national fee on 20 June 2005.

6

DISCUSSION

Applicant's petition provides a copy of the stamped itemized postcards and it bears a date of 20 June 2005 and indicates the following items, inter alia, as filed on such date:

- (1) Postcard Mailing Receipt
- (2) Filing Fee (charge form for \$690)
- (3) Transmittal Letter for Submission Under 35 USC 371 (PTO-1390)
- (4) New Combined Inventor's Declaration and Power of Attorney.

MPEP 503 provides:

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Applicant's postcard is accepted as *prima facie* that the basic national fee was deposited with the U.S. Patent and Trademark Office on 20 June 2005.

Accordingly, petitioner's response- the payment of the basic national fee on June 20, 2005 is considered timely. Accordingly, the instant application has been improperly abandoned. The NOTIFICATION OF ABANDONMENT mailed on 18 November 2005 was improper.

DECISION

The petition under 37 CFR 1.181 is **GRANTED**.

Applicants' request to withdraw the "NOTIFICATION OF ABANDONMENT" is **GRANTED**. The NOTIFICATION OF ABANDONMENT, mailed 18 November 2005 has been **VACATED**.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision, that is, for issuance of a Notification of Acceptance of Application (Form PCT/DO/EO/903) identifying a 35 U.S.C. § 371(c)(1), (c)(2), and (c)(4) date of **20 June 2005**.


Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 571-3276
Facsimile: (571) 571-0459



UNITED STATES PATENT AND TRADEMARK OFFICE

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BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN, NC 28562

Mail Date: 04/20/2010

Applicant : Hubert Groll : DECISION ON REQUEST FOR
Patent Number : 7651572 : RECALCULATION of PATENT
Issue Date : 01/26/2010 : TERM ADJUSTMENT IN VIEW
Application No : 10/539,862 : OF WYETH AND NOTICE OF INTENT TO
Filed : 05/05/2006 : ISSUE CERTIFICATE OF CORRECTION
:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **825** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

05 JAN 2007



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Michael Muczynski
Marshall, Gerstein & Borun, LLP
6300 Sears Tower
233 South Wacker Drive
Chicago, IL 60606

In re Application of	:	
MEYER, et al.	:	DECISION ON PETITION
Serial No.: 10/539,877	:	
PCT No.: PCT/EP03/14029	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 08 December 2003	:	
Priority Date: 18 December 2002	:	
Atty Docket No.: 30882/SCG5205	:	
For: FIRE PROTECTION MEANS AND	:	
METHOD FOR THE PRODUCTION	:	
THEREOF	:	

This decision is in response to applicant's petition under 37 CFR 1.47(a) filed 14 November 2006 to accept the application without the signature of co-inventor Paul Hendrikx.

BACKGROUND

On 08 December 2003, applicant filed international application PCT/EP03/14029 which claimed priority to a previous application filed 18 December 2002. A copy of the international application was transmitted from the international bureau on 01 July 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, 18 June 2005.

On 15 June 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; a preliminary amendment and an Information Disclosure Statement.

On 14 April 2006, 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 14 November 2006, applicant filed the present petition under 37 CFR 1.47(a) accompanied by 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, the present response is considered timely filed.

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. Applicant has satisfied items 1, 3 and 4.

Regarding item (2), applicant has provided evidence to support the contention that the non-signing inventor could not be located after a diligent effort. However, the new address provided on 14 November 2006 seems to indicate that the inventor may have indeed been found. Applicant should confirm in a renewed petition that Mr. Hendrikx has not responded to the mailing of 14 November 2006. If he has not returned an executed declaration, the renewed petition will be granted; or alternatively applicant may receive an executed declaration from Mr. Hendrikx in which case the petition would be moot.

In light of the above, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(a) is **DISMISSED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: 571-272-3294
Fax: 571-273-0459



07 FEB 2007

Michael Muczynski
Marshall, Gerstein & Borun, LLP
6300 Sears Tower
233 South Wacker Drive
Chicago, IL 60606

In re Application of	:	
MEYER, et al.	:	
Application No.: 10/539,877	:	
PCT No.: PCT/EP03/14029	:	DECISION ON RENEWED
Int. Filing Date: 08 December 2003	:	
Priority Date: 18 December 2002	:	PETITION UNDER
Atty. Docket No.: 30882/SCG5205	:	
For: FIRE PROTECTION MEANS AND METHOD	:	37 CFR 1.47(a)
FOR THE PRODUCTION THEREOF	:	

This decision is in response to the applicant's "RENEWED PETITION UNDER 37 C.F.R. § 1.47(a)" filed 31 January 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 05 January 2007, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(a) to accept the application without the signature of inventor Paul Hendrikx. Applicant was afforded two months to file a renewed petition.

On 31 January 2007, applicant filed the renewed petition under 37 CFR 1.47(a) discussed herein.

DISCUSSION

As detailed in the decision mailed 05 January 2007, 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. Applicant previously satisfied items 1, 3 and 4.

With the present filing of the declaration of Ms. Christine David applicant has provided sufficient evidence that the non-signing inventor has not responded with an executed declaration despite the diligent efforts of the applicant. Specifically, applicant has confirmed with a firsthand statement that Mr. Hendrikx has not responded to the mailing of 14 November 2006 which was mailed to a new last known address for the inventor. This period of non-response is

considered a refusal for the purposes of 37 CFR 1.47. Applicant previously provided search results of their attempts to find any other address for Mr. Hendrikx.

As such, it is proper to grant applicant's renewed petition at this time.

CONCLUSION

For the reasons discussed above, applicant's renewed petition under 37 CFR 1.47(a) is **GRANTED**.

The application has an international filing date of 08 December 2003 under 35 U.S.C. 363, and will be given a date of **14 November 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(a) will be published in the Official Gazette.

This application is being returned to the DO/EO/US for processing in accordance with this decision.



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Fax: (571) 273-0459



BASELL USA INC
INTELLECTUAL PROPERTY
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ELKTON MD 21921

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OFFICE OF PETITIONS

In re Application of :
Gregorius, et al. :
Application No. 10/539,881 : ON PETITION
Filed: June 16, 2005 :
Attorney Docket No. LU 6076 (US) :

This is a decision on the petition filed on August 8, 2007, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed on December 29, 2006. This Office action set a shortened statutory period for reply of three months. Applicant filed an Amendment on June 14, 2007, made timely by purchasing a three month extension of time. However, by Advisory Action mailed July 10, 2007, the Examiner informed Applicant that the Amendment would not be entered because it failed to place the application in condition for allowance. Accordingly, the application became abandoned on June 30, 2007.

With the instant petition, applicant paid the petition fee, submitted the required reply in the form of an RCE, and made the proper statement of unintentional delay.

The petition fee of \$1,500 and the RCE fee of \$790 have been charged to Deposit Account No. 08-2336, as authorized.

The matter is being forwarded to Group Art Unit 1796 for consideration of the RCE, filed August 8, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

A handwritten signature in cursive script, appearing to read "Cliff Congo".

Cliff Congo
Petitions Attorney
Office of Petitions



17 OCT 2005
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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

In re Application of BARMENTLO et al	:	
U.S. Application No.: 10/539,699	:	
PCT Application No.: PCT/IB03/0560205771	:	
Int. Filing Date: 03 December 2003	:	DECISION
Priority Date Claimed: 18 December 2002	:	
Attorney Docket No.: US020549	:	
For: PUMP SYSTEM FOR A PERSONAL CARE	:	
APPLIANCE	:	

This is in response to applicant's "Petition Under 37 CFR 1.182" filed 06 September 2005.

BACKGROUND

On 03 December 2003, applicant filed international application PCT/IB03/05602, which claimed priority of an earlier United States application filed 18 December 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 01 July 2004. The thirty-month period for paying the basic national fee in the United States expired on 18 June 2005.

On 16 June 2005, applicant filed two sets of purported national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1). The first set of national stage papers referenced international application number PCT/IB03/05602 and attorney docket number "US020549" and was assigned U.S. Application Number 10/539,699. The second set of national stage papers referenced international application number PCT/IB03/05602 and attorney docket number "US020548" and was assigned U.S. Application Number 10/539,896.

On 06 September 2005, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

The petition states that the Transmittal Letter for the present application should have referenced international application PCT/IB03/05771 instead of PCT/IB03/05602. A review of the application file reveals that the remainder of the papers filed on 16 June 2005 in the present application are consistent with international application PCT/IB03/05771. Applicant's explanation for the typographical error is accepted.

CONCLUSION

The petition under 37 CFR 1.182 is GRANTED.

Application 10/539,699 is being forwarded to the United States Designated/Elected Office (DO/EO/US) for processing as the U.S. national stage entry of international application PCT/IB03/05771. Application 10/539,896 is being forwarded to the DO/EO/US for processing as the U.S. national stage entry of international application PCT/IB03/05602.



Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303

Facsimile: 571-273-0459



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HOFFMAN & BARON
6900 JERICHO TURNPIKE
SYOSSET NY 11791

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AUG 27 2008

OFFICE OF PETITIONS

In re Application of :
Dietschi et al. :
Application Number: 10/539911 : DECISION ON PETITION
Filing Date: 06/16/2005 :
Attorney Docket Number: 1325- :
5PCT/US :

This is a decision on the petition filed on June 18, 2008, under 37 CFR 1.137(b),¹ to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on December 25, 2007, for failure to timely respond to the non-final Office action mailed on September 24, 2007, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on April 17, 2008.

¹ Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The subject petition is accompanied by an amendment as the required reply.

The application is referred to Technology Center Art Unit 3744 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions



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Irving N Feit
Hoffman & Baron
6900 Jericho Turnpike
Syosset, NY 11791

Mail Date: 04/27/2010

Applicant : Eric Dietschi : DECISION ON REQUEST FOR
Patent Number : 7571621 : RECALCULATION of PATENT
Issue Date : 08/11/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/539,911 : OF WYETH AND NOTICE OF INTENT TO
Filed : 06/16/2005 : ISSUE CERTIFICATE OF CORRECTION
:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **489** 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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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510

Mail Date: 08/04/2010

Applicant : Neville Hedrick : DECISION ON REQUEST FOR
Patent Number : 7645096 : RECALCULATION of PATENT
Issue Date : 01/12/2010 : TERM ADJUSTMENT IN VIEW
Application No : 10/539,915 : OF WYETH AND NOTICE OF INTENT TO
Filed : 10/26/2005 : ISSUE CERTIFICATE OF CORRECTION
:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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JUN 23 2006

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA PA 19103

In re Application of :
Neckebroek et al. : PETITION TO MAKE SPECIAL
Serial No.: 10/539,918 :
Filed: February 17, 2006 :
Attorney Docket No.: CEPF-0006 :

This is in response to applicants' petition filed June 8, 2006, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicants have satisfied the provisions set forth in M.P.E.P. 708.02, VIII. (A), (B), (C), (D), and (E). The \$130.00 petition fee as required by 37 CFR 1.17(h) was received. Therefore, the petition is **GRANTED**.

The application will be forwarded the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the general Office facsimile number, (703) 872-9306.

Marianne C. Seidel
Special Program Examiner
Technology Center 1600



BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510

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OFFICE OF PETITIONS

In re Application of :
Schiemann :
Application No. 10/539,922 : DECISION ON PETITION
Filed: June 16, 2005 :
Docket No.: 05-431 :

This is a decision on the petition under 37 CFR 1.181, filed September 21, 2006, to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit a properly reply to the Office communication mailed October 20, 2005. The Office communication set a two month shortened statutory period of time for reply. Notice of Abandonment was mailed September 1, 2006.

Petitioner asserts non-receipt of the Office communication.

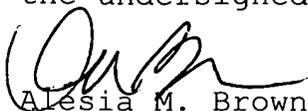
In the absence of any irregularity in the mailing of the Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

The arguments and supporting documentation presented have been carefully considered and support the conclusion that the non-final Office was not received.

In view thereof the Notice of Abandonment is hereby VACATED and the holding of abandonment is WITHDRAWN.

The application file is being forwarded to Technology Center 2100 for re-mailing of the non-final Office action. The time period for reply will be set in the re-mailed Office action.

Telephone inquiries concerning this matter may be directed to the undersigned at 571-272-3205.



Alesia M. Brown
Petitions Attorney
Office of Petitions



KNOBBE MARTENS OLSON & BEAR LLP
 2040 Main Street
 Fourteenth Floor
 Irvine, CA 92614

In re Application of:	:	
WONG, et al.	:	
U.S. Application No.: 10/539,924	:	DECISION ON PETITION TO
PCT No.: PCT/CN03/01054	:	CORRECT FILING DATE AND
International Filing Date: 10 December 2003	:	REQUEST TO CORRECT
Priority Date: 18 December 2002	:	INVENTOR'S NAME
Atty Docket No.: EAGIP2.002APC	:	
For: BIOLOGICALLY ACTIVE PEPTIDE	:	
CONJUGATES	:	

This decision is issued in response to: (1) the "Petition To Accord Application Filing Date As Of Date The Correspondence Was Deposited With The USPS" filed 30 January 2006; and (2) the 30 January 2006 filing of a declaration in which the name of the second inventor differs from that set forth in the international application, treated herein as a request to correct a transliteration error in the inventor's name. No petition fee is required.

BACKGROUND

On 10 December 2003, applicants filed international application PCT/CN03/01054. The application claimed a priority date of 18 December 2002 and designated the United States. On 01 July 2004, the International Bureau (IB) communicated a copy of the international application was communicated to the United States Patent and Trademark Office (USPTO). The published international application listed two inventors for the purposes of the United States: Waiming WONG and Gang LIN.

The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 18 June 2005.

In June 2005, applicant filed via "Express Mail" a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee. The USPTO assigned the submission a filing date of 18 June 2005, corresponding to the "date in" on the "Express Mail" envelope used to file the application materials.

On 27 October 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date. The Notification Of Missing

Requirements identified the filing date for the materials filed to initiate the national stage application as 18 June 2005.

On 30 January 2006, applicants filed a response to the Notification Of Missing Requirements (Deposit Account No. 11-1410 will be charged the required one-month extension fee). Applicants' response includes the required surcharge payment, an executed declaration in which the name of the second inventor is listed as Kong LAM (the second inventor on the international application was identified as Gang LIN), a statement from Kong LAM regarding the disparity in his name (treated below as a request to correct the inventor's name of record), and a petition to correct the filing date accorded to the application.

On 27 February 2006, the DO/EO/US mailed another Notification Of Missing Requirements (Form PCT/DO/EO/905), again requiring submission of an oath or declaration and the surcharge payment. This duplicative Notification Of Missing Requirements appears to have been mailed in error and is hereby vacated.

DISCUSSION

1. Request To Correct The Second Inventor's Name:

Section 605.04(b) of the Manual of Patent Examining Procedure states that, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition is not required, nor is a new oath or declaration needed. Here, applicants' 30 January 2006 submission includes a statement from the second inventor (identified as Gang LIN in the international application and as Kong LAM on the declaration filed 30 January 2006). The inventor states that Gang LIN and Kong LAM are "merely different transliterations" of the Chinese form of the inventor's name (one derived from the Mandarin version of the inventor's name, the other from the Cantonese version).

Based on the inventor's statement, the correct name for the second inventor is accepted as Kong LAM, as set forth in the declaration filed 30 January 2006.

2. Petition To Correct Filing Date Accorded To The Application:

As noted above, applicants assert that the materials filed to initiate the present national stage application were deposited with the USPS as "Express Mail" on 17 June 2005 and that the USPS entered the handwritten "date in" of 18 June 2005 in error.

37 CFR 1.10(d) states the following:

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.

Applicant has satisfied all the requirements for a grantable petition. With respect to the showing required under item (3), applicant has provided a copy of the "Express Mail" customer receipt that bears, in addition to the handwritten "date in" of 18 June 2005, a USPS stamp dated 17 June 2005. Applicant has also provided a copy of a USPS Form 3877 docket list that includes the original docket number for the present case and also bears a USPS stamp dated 17 June 2005. In addition, the USPS tracking database indicates that this envelope was "en route" with the USPS on 17 June 2005. These materials provide an adequate showing that the materials initiating this national stage application were deposited with the USPS as "Express Mail" on 17 June 2005. These materials will therefore properly accorded a filing date of 17 June 2005

It is noted that, with respect to a national stage application, "[f]or most legal purposes, the filing date is the PCT international filing date" (see MPEP section 1893.03(b)). In addition, the date that will be identified as the 371(c) date on the filing receipt and the Notification Of Acceptance (Form PCT/DO/EO/903) is the date on which the requirements under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) are completed. In this case, the 35 U.S.C. 371(c) date is 30 January 2006, the date on which the executed declaration was filed, not the date on which the original national stage materials were submitted (i.e., 17 June 2005).

CONCLUSION

Applicants' request to correct the inventor's name is **GRANTED**.

The name of record for the second inventor is accepted as Kong LAM, as set forth in the declaration filed 30 January 2006. Based on the correction of the inventor's name, the declaration filed on 30 January 2006 is acceptable under 37 CFR 1.497.

The duplicative Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 27 February 2006 is hereby **VACATED**.

Applicants' petition under 37 CFR 1.10(d) is **GRANTED**. The correspondence initiating the present international application, including the basic national fee, will be accorded a filing date of 17 June 2005.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including correcting USPTO records to identify the filing date of the basic national fee and accompanying materials to 17 June 2005. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 30 January 2006.



Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459



28 SEP 2006

Mark F. Harrington
Harrington & Smith, LLP
4 Research Drive
Shelton, CT 06484-6212

In re Application of	:	
MITRA, et al.	:	
Application No.: 10/539,927	:	DECISION ON PETITION
PCT No.: PCT/EP03/50993	:	
Int. Filing Date: 12 December 2003	:	UNDER 37 CFR 1.181
Priority Date: 20 December 2002	:	
Attorney Docket No.: 003D.0067.U1 (US)	:	
For: CABLE CONNECTOR AND METHOD OF	:	
ASSEMBLING A CABLE TO SUCH A CABLE	:	
CONNECTOR	:	

This decision is in response to applicant's "Request For Reconsideration of Holding of Abandonment" filed 24 July 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 12 December 2003, applicant filed international application PCT/EP03/50993, which claimed priority of an earlier application filed 20 December 2002. The deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 20 June 2005.

On 16 June 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 First Preliminary Amendment.

On 09 March 2006, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International Application number and international filing date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 14 July 2006, applicant was mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) informing applicant that applicant had failed to respond to the Form PCT/DO/EO/905 mailed 09 March 2006 within the time period set therein and that above-identified application was abandoned as to the United States.

On 24 July 2006, applicant filed the present petition under 37 CFR 1.181 requesting withdrawal of the abandonment arguing that a timely response to the Form PCT/DO/EO/905 had been filed.

DISCUSSION

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. Here, applicant has provided a copy of the date-stamped postcard receipt. The postcard identifies the application by serial number and docket number. Among the items listed on the receipt is Declaration & Power of Attorney and Petition & Fee for Extension of Time." The receipt is stamped "OIPE IAP79 JUN 30 2006 Patent & Trademark Office." Thus, it is clear that applicant filed an executed declaration of the inventors accompanied by a petition for an extension of time on 30 June 2006. Applicant has stated that the current copies provided are a true and complete copy of the papers previously filed. As such, it is proper to grant applicant's petition to withdraw the holding of abandonment at this time.

Adjustment Date: 10/04/2006 SRASHEIR 10539927
07/28/2006 PCT/DO/EO 00000120 501924
01 11:1617 130.00 CR

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The NOTIFICATION OF ABANDONMENT mailed 14 July 2006 is hereby **VACATED**.

The application has an international filing date of 12 December 2003 under 35 U.S.C. 363 and will be given a date of **30 June 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 (US/DO/EO) for further processing in accordance with this decision namely 1) the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) indicating the 371 date listed above.



Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

Adjustment Date: 10/04/2006 SRASHEIR 10539927
07/28/2006 PCT/DO/EO 00000120 501924
02 FC:1252 450.00 CR



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THELEN REID & PRIEST
P O BOX 640640
SAN JOSE, CA 95164-0640

MAILED

JUN 10 2009

In re Application of
Simon Deleonibus
Application No. 10/539,928
Filed: May 2, 2006
Attorney Docket No. 034299-646

OFFICE OF PETITIONS
ON PETITION

This is a decision in response to the petition, filed May 1, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

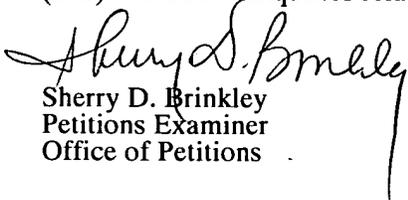
The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 29, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on December 30, 2008. On May 1, 2009, the present petition was filed. A Notice of Abandonment was subsequently mailed on May 7, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of \$1,620; and (3) an adequate statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This application is being referred to Technology Center AU 2814 for appropriate action by the Examiner in the normal course of business on the reply received May 1, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: KHALED SHAMI
200 PAGE MILL ROAD, 2ND FLOOR
PALO ALTO, CA 94306

09 MAY 2006



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28289
THE WEBB LAW FIRM, P.C.
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219

In re Application of :
JOCHAM *et al* :
U.S. Application No.: 10/539,935 :
PCT No.: PCT/EP03/14452 :
Int. Filing Date: 18 December 2003 :
Priority Date: 19 December 2002 :
Attorney Docket No.: 4385-051181 :
For: SYNTHETIC MATERIAL DISPERSIONS :

DECISION

Applicants' "Request for Corrected Filing Receipt" filed via facsimile on 02 May 2006 is treated as a petition under 37 CFR 1.181 and hereby **GRANTED** as follows:

The filing receipt mailed 13 April 2006 incorrectly listed the country of residence for the two applicants.

The country of residence is Austria.

Accordingly, the filing receipt mailed 13 April 2006 is **VACATED**.

A corrected filing receipt will be mailed with this decision.

Handwritten signature of James Thomson in cursive script.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302



#3

19 DEC 2005

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Robert E. Cannuscio
Drinker Biddle & Reath, LLP
One Logan Circle, 18th & Cherry Streets
Philadelphia, PA 19103-7595

In re Application of	:	
BOULTON	:	
Application No.: 10/539,947	:	
PCT No.: PCT/GB03/03517	:	DECISION ON PETITION
Int. Filing Date: 12 August 2003	:	
Priority Date: 12 August 2002	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: 8830-345US1 (211440)	:	
For: IMPROVEMENTS IN OR RELATING TO	:	
INTERNAL COMBUSTION ENGINES	:	

The petition to revive under 37 CFR 1.137(b) filed 16 June 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing a national application related to the above international application from the date the national application was required to be filed until the date of filing of grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has now provided payment of the full, U.S. Basic National Fee. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States were satisfied with the filing of an executed declaration of the inventors.

The application has an international filing date of 12 August 2002 under 35 U.S.C. 363 and will be given a date of **16 June 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
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Fax: (571) 273-0459



#4

23 NOV 2005

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Fulbright & Jaworski L.L.P.
600 Congress Avenue, Suite 2400
Austin, TX 78701

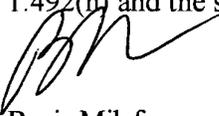
In re Application of	:	
Norris	:	
Application No.: 10/539,956	:	DECISION
PCT No.: PCT/US03/41182	:	
Int. Filing Date: 22 December 2003	:	ON
Priority Date: 20 December 2002	:	
Attorney Docket No.: UTSH:264US	:	PETITION
For: VMP-Like Sequences Of Pathogenic	:	
Borrelia Species And Strains	:	

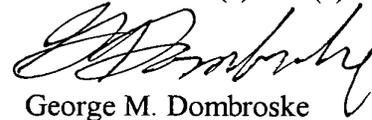
The petition to revive under 37 CFR 1.137(b) filed 10 October 2005 in the above-captioned application is hereby **GRANTED** as follows:

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 pursuant to 37 CFR 1.137(b) was unintentional." This statement is being accepted in satisfaction of 37 CFR 1.137(b)(3).

A review of the application file reveals that the required small entity petition fee of \$750.00 has been paid. The \$150.00 small entity basic national fee has also been 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 payment of the surcharge under 37 CFR 1.492(h) and the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b).


Boris Milef
PCT Legal Examiner
PCT Legal Office


George M. Dombroske
PCT Legal Examiner
PCT Legal Office
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SEP 03 2009

OFFICE OF PETITIONS

In re Application of	:	
Fagan, et al.	:	
Application No. 10/539,962	:	LETTER REGARDING
Filed: June 17, 2005	:	PATENT TERM ADJUSTMENT
Docket No. C&R-106	:	

This is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed July 14, 2009. Pursuant to applicants' duty of good faith and candor to the Office, applicants request that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **41 days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 18, 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 is 164 days. On July 14, 2009, applicants submitted the instant comment. Applicants disclose that they believe that the patent term adjustment indicated in the Determination of Patent Term Adjustment is incorrect and should be recalculated.

On November 13, 2007, the Office mailed a Restriction Requirement. Applicants filed an election on December 13, 2007. On March 26, 2008 the Office mailed a Notice to Comply that stated the December 13, 2007 submission contained an omission that required correction. Specifically, the elected claims contained sequences for which no Sequence Listing had been

submitted. On April 14, 2008, applicants filed a supplemental preliminary amendment with an appropriate Sequence Listing. The April 14, 2008 supplemental preliminary amendment corrected the omission in the December 13, 2007 election. Thus, applicants failed to engage in reasonable efforts to conclude prosecution of the application. The period of adjustment should have been reduced by 123 days pursuant to 37 CFR 1.704(c)(7), counting the number of days beginning on the day after the date the reply having an omission was filed, December 14, 2007, and ending on the date that the reply correcting the omission was filed, April 14, 2008. Accordingly, a period of reduction of 123 days will be entered.

In view thereof, the correct patent term adjustment at the time of mailing of the notice of allowance is **41 days** (165 days of Office delay - 124 days of applicant delay).

As this letter was submitted to advise the Office of an error in applicants' favor, the Office will refund the \$200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.


Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Day : Monday
Date: 8/31/2009

PALM INTRANET

Time: 20:57:39

PTA Calculations for Application: 10/539962			
Application Filing Date:	11/13/2006	PTO Delay (PTO):	165
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	1
Post-Issue Petitions:	0	Total PTA (days):	41
PTO Delay Adjustment:	-123		

File Contents History					
Number	Date	Contents Description	PTO	APPL	START
62	08/31/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		123	
56	06/18/2009	MAIL NOTICE OF ALLOWANCE			
55	06/17/2009	ISSUE REVISION COMPLETED			
54	06/18/2009	DOCUMENT VERIFICATION			
53	06/18/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
52	06/18/2009	EXAMINER'S AMENDMENT COMMUNICATION			
51	06/18/2009	NOTICE OF ALLOWABILITY			
50	06/02/2009	DATE FORWARDED TO EXAMINER			
49	04/27/2009	RESPONSE AFTER NON-FINAL ACTION		1	48
48	01/26/2009	MAIL NON-FINAL REJECTION	165		41
47	01/21/2009	NON-FINAL REJECTION			
44	05/14/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
43	12/22/2008	CASE DOCKETED TO EXAMINER IN GAU			
42	12/04/2008	DATE FORWARDED TO EXAMINER			
41	04/14/2008	RESPONSE AFTER NON-FINAL ACTION			
40	11/13/2006	371 COMPLETION DATE			
39	06/23/2008	APPLICATION RETURN FROM OIPE			
38	06/23/2008	NOTICE OF DO/EO ACCEPTANCE MAILED			
37	06/23/2008	FILING RECEIPT			
36	11/13/2006	ADDITIONAL APPLICATION FILING FEES			
34	05/14/2007	INFORMATION DISCLOSURE STATEMENTS			
33	04/25/2008	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
32	04/25/2008	CRF DISK HAS BEEN RECEIVED BY PREEXAM /			

		GROUP / PCT			
31	06/19/2008	APPLICATION RETURN TO OIPE			
30	04/25/2008	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
29	03/26/2008	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
28	03/19/2008	MISCELLANEOUS ACTION WITH SSP			
27	01/18/2008	DATE FORWARDED TO EXAMINER			
26	12/13/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
25	11/13/2007	MAIL RESTRICTION REQUIREMENT			
24	11/08/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
20	08/17/2007	CASE DOCKETED TO EXAMINER IN GAU			
19	08/04/2007	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	06/21/2007	PG-PUB ISSUE NOTIFICATION			
13	05/14/2007	REFERENCE CAPTURE ON IDS			
12	05/14/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	05/14/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	04/11/2007	APPLICATION DISPATCHED FROM OIPE			
8	03/16/2007	SENT TO CLASSIFICATION CONTRACTOR			
5	11/13/2006	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	03/10/2007	CORRESPONDENCE ADDRESS CHANGE			

Search Another: **Application#**

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to [OASIS](#) | [Home page](#)



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GAINESVILLE FL 32614

MAILED

MAY 10 2010

OFFICE OF PETITIONS

In re Patent of Fagan et al. : DECISION ON REQUEST
Patent No. 7,605,129 : FOR
Issue Date: October 20, 2009 : RECONSIDERATION OF
Application No. 10/539,962 : PATENT TERM ADJUSTMENT
Filed: November 13, 2006 : AND
Attorney Docket No. C.R.106 : NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed December 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 at least one hundred ninety-eight (198) 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 at least one thousand one hundred ninety-eight (198) days is **GRANTED to the extent indicated herein.**

In an international application, the B period of delay is based on the failure of the Office to issue a patent within three years after the national stage commences under 35 U.S.C. 371(b) or (f). See 1.702(b). Contrary to patentees' assertion, the actual filing date of the application is not a consideration when determining the B period of delay. The national stage commenced in this application on June 20, 2005. Thus, maximum B period delay is 487 days, which is the number of days beginning on June 21, 2008, the day after the date three years after the date of commencement, and ending on October 20, 2009, the date the patent issued. See 1.703(b). The B period of delay is 322

days, which is 487 days minus the 165 days of overlapping delay between the A period of delay and the B period of delay.

Patentees assert entitlement to 198 days of total patent term adjustment based upon the following formula: 487 of B delay minus 165 days of A delay minus 124 days of Applicant delay (petition page 3). Patentees are informed that patentees are entitled to 165 days of A delay plus 487 days of B delay minus 165 days of overlapping delay minus 124 days of Applicant delay for a total of 363 days of patent term adjustment.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

The Office acknowledges receipt 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 **three hundred sixty-three (363) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.


Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,605,129 B2

DATED : **October 20, 2009**

DRAFT

INVENTOR(S) : Fagan et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 41 days

Delete the phrase "by 41 days" and insert – by 363 days--



25 JAN 2006

Stephen T. Olson
Harness, Dickey & Pierce, PLC
P.O. Box 828
Bloomfield Hills, MI 48303

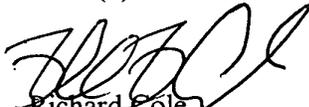
In re Application of	:	
Grech et al.	:	
Application No.: 10/540,006	:	DECISION
PCT No.: PCT/US03/38021	:	
Int. Filing Date: 26 November 2003	:	ON
Priority Date: 30 November 2002	:	
Attorney Docket No.: 4623C-083/NPB	:	PETITION
For: Reduced Water Consumption Flush Toilet	:	

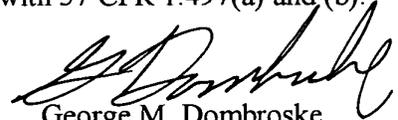
The petition to revive under 37 CFR 1.137(b) filed 20 June 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant states that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." This statement is being accepted in satisfaction of 37 CFR 1.137(b)(3).

A review of the application file reveals that counsel has filed the required reply in the form of the basic national fee, and has paid the petition fee. 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 payment of the surcharge under 37 CFR 1.492(h) and the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b).


Richard Cole
PCT Legal Examiner
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21 SEP 2006

Stephen T. Olson
Harness, Dickey & Pierce, PLC
P.O. Box 828
Bloomfield Hills, MI 48303

In re Application of :
Grech et al. :
Application No.: 10/540,006 :
PCT No.: PCT/US03/38021 :
Int. Filing Date: 26 November 2003 : DECISION
Priority Date: 30 November 2002 :
Attorney Docket No.: 4623C-083/NPB :
For: Reduced Water Consumption Flush Toilet :

This is in response to the correspondence filed on 21 July 2006, which is being treated under 37 CFR 1.497(d).

BACKGROUND

This international application was filed on 26 November 2003 and claimed a priority date of 30 November 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 30 May 2005. This international application became abandoned with respect to the national stage in the United States for failure to timely pay the basic national fee.

On 20 June 2005, applicants filed a petition under 37 CFR 1.137(b).

On 25 January 2006, a decision granting the petition filed on 20 June 2005 was mailed.

On 01 February 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an oath or declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(h).

On 01 May 2006, applicants filed a response, including the surcharge under 37 CFR 1.492(h), with a petition and fee for a one-month extension of time.

On 21 June 2006, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed to applicants, again requiring the submission of an oath or declaration of the inventors in compliance with 37 CFR 1.497(a) and (b), and noting that "all the inventors mentioned on the published international application didn't sign the declaration and the assignment. In addition, I do not have an IB Form 306 indicating any changes."

DISCUSSION

The declarations of the inventors filed on 21 July 2006 reveals that one of the documents lists a joint inventor, Brian Kelly, who was not nominated in the published international application, and does not list Kim Keith and Greg Exner, who were nominated in the published international application. Counsel requests correction of inventorship under 37 CFR 1.48, but the regulation applicable to the instant situation is 37 CFR 1.497(d). A declaration filed under 37 CFR 1.497 (d) must be by the actual inventor or inventors as required under 37 CFR 1.63 or as

permitted by 37 CFR 1.42, 1.43 or 1.47. The declaration must be accompanied by (1) 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 appropriate statements by Kim Keith and Greg Exner, but no statement by Brian Kelly has been furnished. Accordingly, requirement (1) has not been satisfied.

Regarding requirement (2), the required processing fee was paid on 21 July 2006.

Regarding requirement (3), the "Written Consent By Assignee Under 37 CFR §1.48(a)(5)" document included among the instant correspondence is signed on behalf of THETFORD CORPORATION by Greg Exner in his capacity as "Vice President of Global Engineering." Counsel's attention is drawn to 37 CFR 3.73(b), which provides that

(1) In order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either:

(i) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment). The documents submitted to establish ownership may be required to be recorded pursuant to § 3.11 in the assignment records of the Office as a condition to permitting the assignee to take action in a matter pending before the Office; 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).

(2) The submission establishing ownership must show that the person signing the submission is a person authorized to act on behalf of the assignee by:

(i) Including a statement that the person signing the submission is authorized to act on behalf of the assignee; or

(ii) Being signed by a person having apparent authority to sign on behalf of the assignee, e.g., an officer of the assignee.

The instant "Written Consent By Assignee..." does not satisfy 37 CFR 3.73(b)(1) because it is not accompanied by documentary evidence of a chain of title (and a request to record it) or by a statement specifying the reel and frame number where such documentation may be found in the records of the USPTO. Therefore, requirement (3) has not been satisfied. Based on the totality of the evidence of record, it would not be appropriate to conclude that the requirements of 37 CFR 1.497(d) have been satisfied.

Inspection of the declaration documents filed on 21 July 2006 reveals that they appear to have been assembled by aggregating individual sheets signed by each of the inventors into two

composite documents (each of which names a different inventive entity). 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, naming the proper inventive entity. Therefore, it would not be appropriate to grant the requested relief at this time. Counsel is required to furnish a complete declaration, as signed by the inventors, nominating the complete and correct inventive entity. It is noted that one of the declaration documents filed on 21 July 2006 lists deleted inventors Keith and Exner and does not list added inventor Kelly. The other declaration filed on 21 July 2006 does list an inventive entity including the inventors nominated on the published international application, except for Keith and Exner, and also includes Kelly. However, said document is defective for the other reasons noted herein.

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.



Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration



George M. Dombroske
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In re Application of :
 Grech et al. :
 Application No.: 10/540,006 :
 PCT No.: PCT/US03/38021 :
 Int. Filing Date: 26 November 2003 : DECISION
 Priority Date: 30 November 2002 :
 Attorney Docket No.: 4623C-083/NPB :
 For: Reduced Water Consumption Flush Toilet :

This is in response to the renewed submission under 37 CFR 1.497(d) filed on 14 November 2006.

DISCUSSION

In a Decision mailed on 21 September 2006, the correspondence filed on 21 July 2006 was treated under 37 CFR 1.497(d). The declarations of the inventors filed on 21 July 2006 were not accepted, without prejudice, because

Regarding requirement (1), applicants have provided appropriate statements by Kim Keith and Greg Exner, but no statement by Brian Kelly has been furnished. Accordingly, requirement (1) has not been satisfied.

Regarding requirement (3), the "Written Consent By Assignee Under 37 CFR §1.48(a)(5)" document included among the instant correspondence is signed on behalf of THETFORD CORPORATION by Greg Exner in his capacity as "Vice President of Global Engineering"... the instant "Written Consent By Assignee..." does not satisfy 37 CFR 3.73(b)(1) because it is not accompanied by documentary evidence of a chain of title (and a request to record it) or by a statement specifying the reel and frame number where such documentation may be found in the records of the USPTO. Therefore, requirement (3) has not been satisfied. Based on the totality of the evidence of record, it would not be appropriate to conclude that the requirements of 37 CFR 1.497(d) have been satisfied.

Inspection of the declaration documents filed on 21 July 2006 reveals that they appear to have been assembled by aggregating individual sheets signed by each of the inventors into two composite documents (each of which names a different inventive entity). 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, naming the proper inventive entity. Therefore, it would not be appropriate to grant the requested relief at this time. Counsel is required to furnish a complete declaration, as signed by the inventors, nominating the complete and correct inventive entity. It is noted that one of the declaration documents filed on 21 July 2006 lists deleted inventors Keith and Exner and does not list added inventor Kelly. The other declaration filed on 21 July 2006 does list an inventive entity including the

inventors nominated on the published international application, except for Keith and Exner, and also includes Kelly. However, said document is defective for the other reasons noted herein.

In response, counsel has provided a statement by Brian Kelly that "through error I was inadvertently excluded from being named as an inventor in the above-referenced patent application and that the error in inventorship occurred without deceptive intent on my part." Therefore, requirement (1) has now been satisfied.

Counsel has also furnished a "Written Consent By Assignee..." signed on behalf of THETFORD CORPORATION by Greg Exner in the capacity of Vice President of Global Engineering, and explicitly stating that Mr. Exner is "authorized to act on behalf of the Assignee." The "Written Consent By Assignee..." identifies the reel and frame numbers where assignment documents were recorded with the USPTO. This document satisfies requirement (3).

Inspection of the declaration accompanying the instant renewed submission under 37 CFR 1.497(d) reveals that it nominates "Michael Harris" in place of "HARRIS, Mike" who is nominated in the published international application. MPEP 605.04(b) states in part that

Except for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 37 CFR 1.182 together with an appropriate petition fee.

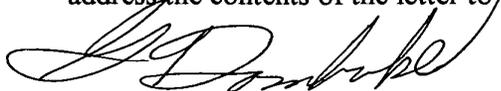
Since change described above represents more than a mere typographic error or phonetic misspelling of applicant's name, a petition (and fee) under 37 CFR 1.182 is required. *See also* MPEP § 201.03(b). Alternatively, applicants may submit a new declaration naming the same inventive entity as the published international application.

CONCLUSION

The declaration is **NOT ACCEPTED**, without prejudice.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely reply will result in **ABANDONMENT** of this application.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.



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02 APR 2007

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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In re Application of	:	
Grech et al.	:	
Application No.: 10/540,006	:	
PCT No.: PCT/US03/38021	:	
Int. Filing Date: 26 November 2003	:	DECISION
Priority Date: 30 November 2002	:	
Attorney Docket No.: 4623C-083/NPB	:	
For: Reduced Water Consumption Flush Toilet	:	

This is in response to the petition under 37 CFR 1.182 filed on 14 March 2007, which also includes a request for relief under 37 CFR 1.183.

DISCUSSION

In a Decision mailed on 29 January 2007, the declaration of inventorship filed on 14 November 2006 was not accepted, without prejudice, because

Inspection of the declaration accompanying the instant renewed submission under 37 CFR 1.497(d) reveals that it nominates "Michael Harris" in place of "HARRIS, Mike" who is nominated in the published international application. MPEP 605.04(b) states in part that

Except for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 37 CFR 1.182 together with an appropriate petition fee.

Since change described above represents more than a mere typographic error or phonetic misspelling of applicant's name, a petition (and fee) under 37 CFR 1.182 is required. *See also* MPEP MPEP § 201.03(b). Alternatively, applicants may submit a new declaration naming the same inventive entity as the published international application.

Petition Under 37 CFR 1.182

In response, petitioner urges acceptance of the declaration filed on 14 November 2006 because "Michael Harris is the same person as HARRIS, Mike that was less formally nominated in the published international application." Though this statement clearly communicates petitioner's reasoning for requesting acceptance of the declaration, petitioner has not provided an appropriate formal showing that the Michael Harris nominated in the declaration is the same person as the HARRIS, Mike nominated in the published international application. Appropriate evidence in this regard would ideally include a statement signed by Mr. Harris attesting to the facts involved. It is noted that counsel has not stated that his assertion as to Mr. Harris' name and identity is made on the basis of first-hand knowledge.

With regard to the petition fee, counsel has paid \$130.00 toward the \$400.00 fee. The balance of \$270.00 is being charged to Deposit Account No. 08-0750 as authorized by the petition.

Petition Under 37 CFR 1.183

Petitioner states that "Applicant believes that all the deficiencies noted in the Decision have been corrected. To any extent necessary, Applicant petitions the Commissioner under 37 CFR 1.183 to suspend or waive the technical requirements of the appropriate regulations."

§ 1.183 Suspension of rules.

In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

The circumstances of this application do not present "an extraordinary situation" in the sense that the regulations and practice already contemplate an adequate avenue for relief - specifically, relief is available by submitting a proper showing under 37 CFR 1.182 as described above. Moreover, it is not the case that "justice requires" suspension or waiver because petitioner has not shown that the required showing under 37 CFR 1.182 imposes an undue burden on applicants. Therefore, it would not be appropriate to grant the requested relief under 37 CFR 1.183 at this time.

CONCLUSION

The petition under 37 CFR 1.182 is **DISMISSED**, without prejudice.

The petition under 37 CFR 1.183 is **DISMISSED**, without prejudice.

The balance of the petition fee, in the amount of \$270.00, is being charged to Deposit Account No. 08-0750 as authorized by the petition.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely reply will result in **ABANDONMENT** of this application.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.


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17 SEP 2007

In re Application of	:	
Grech et al.	:	
Application No.: 10/540,006	:	
PCT No.: PCT/US03/38021	:	
Int. Filing Date: 26 November 2003	:	DECISION
Priority Date: 30 November 2002	:	
Attorney Docket No.: 4623C-083/NPB	:	
For: Reduced Water Consumption Flush Toilet	:	

This is in response to the renewed petition under 37 CFR 1.182 filed on 31 May 2007.

DISCUSSION

In a Decision mailed on 02 April 2007, the petition under 37 CFR 1.182 filed on 14 March 2007 was dismissed, without prejudice, because

...petitioner urges acceptance of the declaration filed on 14 November 2006 because "Michael Harris is the same person as HARRIS, Mike that was less formally nominated in the published international application." Though this statement clearly communicates petitioner's reasoning for requesting acceptance of the declaration, petitioner has not provided an appropriate formal showing that the Michael Harris nominated in the declaration is the same person as the HARRIS, Mike nominated in the published international application. Appropriate evidence in this regard would ideally include a statement signed by Mr. Harris attesting to the facts involved. It is noted that counsel has not stated that his assertion as to Mr. Harris' name and identity is made on the basis of first-hand knowledge.

In response, petitioner now presents a "Signed Statement of Mr. Harris" in which Mr. Harris states in part that

I was nominated in the Declaration for the above-captioned matter as Michael Harris.

I was nominated less formally in the published International Application as HARRIS, Mike.

I state that Michael Harris nominated in the Declaration for the above-captioned matter and Harris, Mike nominated in the International Application for the above-captioned matter are one and the same person.

Upon consideration of the totality of the evidence currently of record, including Mr. Harris' statements, it would now be appropriate to accept the declaration filed on 14 November 2006 for purposes of compliance with 37 CFR 1.497(a) and (b).

CONCLUSION

The petition under 37 CFR 1.182 is **GRANTED**.

The declaration filed on 14 November 2006 is **ACCEPTED** under 37 CFR 1.497(d).

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **14 November 2006** (the date the declaration of the inventors was filed).



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09 DEC 2005



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SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, D.C. 20037-3213

In re Application of	:	DECISION ON
FOCKE et al	:	
PCT No.: PCT/EP03/13609	:	
Application No.: 10/540,031	:	PAPERS FILED
Int. Filing Date: 03 December 2003	:	
Priority Date: 23 December 2002	:	
Attorney's Docket No.: Q-88450	:	UNDER 37 CFR 1.42
For: DEVICE FOR PRODUCING CIGARETTE	:	
PACKAGES	:	

This is a decision on the declaration filed 22 June 2005, which has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 22 June 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 as required by 35 U.S.C. 371(c)(4). The declaration, however, is signed by Doris Focke and Jurgen Focke as legal representatives of the inventor now deceased 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 22 June 2005.



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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : AUGUST 1, 2007

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/540036 Patent No.: 7241721 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

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: _____

Joseph K. McKane
JOSEPH K. MCKANE

SUPERVISORY PATENT EXAMINER

TECHNOLOGY CENTER 1600

SPE

1626
Art Unit



13 JUL 2006

Steven J. Hultquist
Intellectual Property/Technology Law
P.O. Box 14329
Research Triangle Park, NC 27709

In re Application of	:	
KNIGHT et al.	:	
U.S. Application No.: 10/540,042	:	DECISION ON PETITION
PCT No.: PCT/EP03/14786	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 23 December 2003	:	
Priority Date: 23 December 2002	:	
Attorney Docket No.: 4245-107	:	
For: APPARATUS AND METHOD FOR	:	
STORING PROTEINS	:	

This decision is in response to applicants' "Petition for Acceptance of Declaration and Power of Attorney Executed by Assignee on Behalf of Non-Signing Inventor under 37 CFR 1.47(b). ." filed 25 April 2006, which is being treated as a petition under 37 CFR 1.47(a) to accept the application without the signature of joint-inventor, Larissa Pinnock. The \$200 petition fee has been submitted.

BACKGROUND

On 23 December 2003, applicants filed international application PCT/EP03/14786 which claimed a priority date of 23 December 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 08 July 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 23 June 2005.

On 22 June 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 21 November 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 25 April 2006, applicants filed the present petition.

DISCUSSION

A filing under 37 CFR 1.47(b) and 35 U.S.C. 118 is permitted only when no inventor is available to make application. Therefore, applicant's petition will be treated 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 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) and (3) have been satisfied.

Regarding item (2) above, petitioner states that Larissa Pinnock 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.

Regarding item (2) above, a review of the present petition reveals that petitioner has not satisfied item (2), in that, petitioner has not provided sufficient proof that the inventor refuses to execute the application. Michael Rheinnecker states that "Attorney Robert Harrison contacted Larissa Pinnock by letter dated November 3, 2004. . . Larissa

Pinnock responded to such November 3, 2004 letter by correspondence dated December 17, 2004, communicating her refusal to sign such declaration." However, petitioner fails to provide documentary evidence of Larissa Pinnock's refusal. As stated above, when there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. Lastly, 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, i.e. Robert Harrison.

Regarding item (4) above, 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.

In this case, applicants filed a declaration executed by the first named inventor and assignee of the above identified application. A declaration executed by the assignee is necessary only when there is no inventor available. Therefore, applicants must submit newly executed declarations executed by the cooperating inventor and containing unsigned signature blocks for the nonsigning inventor. Such a declaration can then be treated as having been executed by the available inventor on their own behalf and on behalf of the nonsigning inventors. Until such declaration is submitted, item (4) is not satisfied.

CONCLUSION

The petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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Attorney-Advisor
Office of PCT Legal Administration
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Fax: (571) 273-0459

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 25 April 2006 and 22 August 2006 reveals that petitioner has paid the requisite petition fee, provided sufficient proof that the non-signing inventor (Larissa Pinnock) refused to sign, stated the last known address of the non-signing inventor (Larissa Pinnock), 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 23 December 2003 under 35 U.S.C. 363, and a date of **22 August 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
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459



29 AUG 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Larissa Pinnock
23 St. Davids Road
Newbury
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England

In re Application of
KNIGHT et al.
U.S. Application No.: 10/540,042
PCT No.: PCT/EP03/14786
Int. Filing Date: 23 December 2003
Priority Date: 23 December 2002
Attorney Docket No.: 4245-107
For: APPARATUS AND METHOD FOR STORING PROTEINS

Dear Larissa Pinnock:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

Counsel of Record:
Steven J. Hultquist
Intellectual Property/Technology Law
P.O. Box 14329
Research Triangle Park, NC 27709



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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

Mail Date: 04/20/2010

Applicant : Frans Eduard Janssens : DECISION ON REQUEST FOR
Patent Number : 7572786 : RECALCULATION of PATENT
Issue Date : 08/11/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/540,045 : OF WYETH
Filed : 06/22/2005 :
:
:

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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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

Mail Date: 05/17/2010

Applicant : Frans Eduard Janssens : NOTICE CONCERNING IMPROPER
Patent Number : 7572786 : DISMISSAL OF THE REQUEST
Issue Date : 08/11/2009 : FOR RECALCULATION OF
Application No : 10/540,045 : PATENT TERM ADJUSTMENT
Filed : 06/22/2005 : IN VIEW OF WYETH

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO mistakenly dismissed a small number of requests as ineligible. The dismissals involve requests that were filed on February 9-12, 2010, for patents that were granted on August 11, 2009. Any request that was filed on February 8, 2010 was properly deemed eligible for patent term adjustment (PTA) and was recalculated.

Patents meeting the above criteria were eligible because the USPTO was closed February 8-11, 2010, due to a snowstorm. See Closing of the United States Patent and Trademark Office from Monday February 8, 2010, through Thursday, February 11, 2010, 1352 *Off. Gaz. Pat. Office* 146 (March 16, 2010). The Office considered each day from Monday, February 8, 2010, through Thursday, February 11, 2010, to be a "Federal holiday within the District of Columbia" under 35 U.S.C. § 21(b) and 37 CFR 1.6, 1.7, 1.9, 2.2(d), 2.195 and 2.196. Any actions that were due from Monday, February 8, 2010, through Thursday, February 11, 2010, (or the preceding Saturday (February 6, 2010) or Sunday (February 7, 2010)) will be considered timely if the action was taken on the next succeeding business day on which the USPTO was open, which was February 12, 2010.

This notice **VACATES** the previous mailed decision in the patented file that deemed patentee ineligible for the request for recalculation. Patentee's request for recalculation is GRANTED.

The patent term adjustment has been determined to be **921** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** 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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NEW YORK NY 10008-0770

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JUL 24 2009

OFFICE OF PETITIONS

In re Application of :
Martin Hirsch et al :
Application No. 10/540,071 : DECISION GRANTING PETITION
Filed: June 22, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 20941/0211435-USO :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 22, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 10, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1793 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.



30 DEC 2005

SHELDON & MAK, INC
225 SOUTH LAKE AVENUE
9TH FLOOR
PASADENA, CA 91101

In re Application of PARISI et al	:	
U.S. Application No.: 10/540,098	:	
PCT Application No.: PCT/EP03/12948	:	
Int. Filing Date: 19 November 2003	:	DECISION
Priority Date Claimed: 19 December 2002	:	
Attorney Docket No.: 16111US	:	
For: PROCESS FOR MANUFACTURING	:	
RETROREFLECTIVE PRINTED	:	
MATERIAL	:	

This is in response to applicant's "Petition Under 37 CFR 1.181 and Request for Corrected Filing Receipt" filed 27 December 2005.

BACKGROUND

On 19 November 2003, applicant filed international application PCT/EP03/12948, which claimed priority of an earlier European Patent Office application filed 19 December 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 08 July 2004. The thirty-month period for paying the basic national fee in the United States expired on 20 June 2005 (19 June 2005 was a Sunday)..

On 20 June 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 December 2005, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The petition states that a substitute specification containing a replacement set of claims was filed on 20 June 2005, and that the issued filing receipt did not reflect entry of the replacement set of claims. A review of the 20 June 2005 submission reveals that the purported

claim amendments were not in compliance with 37 CFR 1.121(c). Thus, correction of the filing receipt is not indicated in the present situation.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181".

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459



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OSHA LIANG L.L.P.
1221 MCKINNEY STREET
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HOUSTON TX 77010

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AUG 03 2007

OFFICE OF PETITIONS

Applicant: Norman, Michael
Appl. No.: 10/540,115
International Filing Date: December 19, 2003
Title: POSITION COMMUNICATION METHOD AND APPARATUS
Attorney Docket No.: 04465/019001
Pub. No.: US 2006/0148489 A1
Pub. Date: July 6, 2006

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on August 22, 2006, for the above-identified application.

The instant request is that the application be republished because the patent application publication has an error in claim 5.

The request is granted.

It would greatly benefit the Office if **applicant did not provide copies of papers**, which were previously submitted or **complete copies of the publication**, as it unnecessarily increases the cost to the Office. See 37 CFR 1.4(b). A request for corrected publication need only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted.

Inquiries relating to this matter may be directed to Mark O. Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy



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MAR 3 1 2008

HARNES, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of	:	
INOUE, Hitoshi et al.	:	
Application No. 10/540,129	:	DECISION ON PETITION
Filed: June 21, 2005	:	TO WITHDRAW
Attorney Docket No. 25613-000010/US	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 20, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Tredelle D. Jackson
Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **ANTHONY M. ZUPCIC**
FITZPATRICK, CELLA, HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112



HARNES, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

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MAY 12 2008

In re Application of

INOUE, Hitoshi et al.

Application No. 10/540,129

Filed: June 21, 2005

Attorney Docket No. **25613-000010/US**

**DECISION ON PETITION
TO WITHDRAW
FROM RECORD**

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 07, 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 John Castellano on behalf of all attorneys of record who are associated with customer No. 30593. All attorneys/agents associated with the Customer Number 30593 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed April 14, 2008 that requires a reply from 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: **HITOSHI INOU**
CANON FINETECH INC.
5540-11, SAKATEMACHI
MITSUKAIDO-SHI, IBARAKI 303-8503
JAPAN

cc: **ANTHONY ZUPCIC**
FITZPATRICK, CELLA, HARPER & SCINTO
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SEP 29 2009

OFFICE OF PETITIONS

In re Patent No. 7,542,834 :
Nobori, et al. : DECISION ON
Application No. 10/540,135 : REQUEST FOR
Issue Date: June 2, 2009 : RECONSIDERATION OF
Filed: June 21, 2005 : PATENT TERM ADJUSTMENT
Attorney Docket No. :
5077-244/NP :

This is in response to the PETITION UNDER RULE 1.705, filed July 29, 2009, which is properly treated under 37 CFR 1.705(d). Patentees request that the determination of patent term adjustment be corrected from five hundred thirty-three (533) days to nine hundred twenty-six (926) 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 533 days.

On June 2, 2009, the application matured into U.S. Patent No. 7,542,834, with a revised patent term adjustment of 533 days. The Office determined that the 346 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)^{1,2} overlaps with the 584 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A)

¹ Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides, in pertinent part, that:

Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application

² The application was pending three years and 346 days.

and 37 CFR 1.702(a)(1)^{3,4} accorded prior to the issuance of the patent. As such, the Office allowed only entry of the adjustment of 584 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 51 days, the patent issued with a revised patent term adjustment of 533 (584 - 51) days.

On July 29, 2009, patentees timely submitted this request for reconsideration of patent term adjustment within two months of the issue date of the patent. See 37 CFR 1.705(d). Patentees aver that the correct number of days of patent term adjustment is 926 days based, in part, on the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q.2d 1538 (D.D.C. 2008). Specifically, patentees state that:

...Applicant hereby petitions under Rule 1.705 for a corrected Patent Term Adjustment of an additional 344 days since the present Patent did not issue within 36 months of the filing date, namely by June 21, 2008. The 2 days attributable to Applicant's delay have been subtracted from the computation.

In addition to the 344 days sought under Wyeth, Applicant further petitions for a corrected Patent Term Adjustment of an additional 49 days since 49 days were mistakenly counted as Applicant delay upon Applicant's

³ 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

⁴ A first Office action was not mailed until March 27, 2008, fourteen months and 584 days after the date of completion of all 35 U.S.C. 371 requirements on June 21, 2005.

filing of an amendment on January 23, 2009. Applicant's Amendment was filed in response to a revised Office Action mailed October 23, 2009 restarting the period for response to the previous Office Action. The revised Office Action was issued due to a deficiency in the previous Office action (mailed September 5, 2008) which should not cost Applicant days under the Patent Term Adjustment calculation.

Therefore, adding the 344 days earned by the holding in *Wyeth* and the 49 days incorrectly reduced for the response to the revised Office Action, Applicant petitions for a corrected Patent Term Adjustment totaling 393 days. The corrected Patent Term Adjustment should now equal 926 days.

Excerpt taken from "Petition under Rule 1.705", filed July 29, 2009, pgs. 1-2.

No consideration will be given to patentees' assertion that the 49 day reduction to the patent term adjustment was not warranted because the assertion is untimely. Further to this point, PALM records indicate that the issue fee payment was received in the Office on April 23, 2009. No filing of an application for patent term adjustment preceded the payment of the issue fee. The period for filing an application for patent term adjustment requesting reconsideration of the initial determination of patent term adjustment at the time of mailing of the notice of allowance ended February 24, 2009. Accordingly, relative to the 49 days of reduction to the patent term adjustment entered prior to the issuance of the patent, it is appropriate to dismiss this petition as untimely filed under § 1.705(b).

Further, consideration under § 1.705(d) is not appropriate. As stated in MPEP 2730, § 1.703(d) provides that:

If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and

(b) (2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues.

The issue of the 49 day reduction to the patent term adjustment raised herein should have been timely raised on application for patent term adjustment under § 1.705(b). Thus, the 49 days of reduction to the patent term adjustment will not be removed.

The Office notes that period of delay of 344 days, pursuant to 37 CFR 1.702(b), as set forth by patentees, for the Office taking in excess of three years to issue the patent is incorrect as patentees did not use the 35 U.S.C. 371(b) national stage commencement date of June 21, 2005, in calculating the period of adjustment under 37 CFR 1.703(b). As stated in 37 CFR 1.703(b), the period of adjustment under § 1.702(b) is the number of days in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) in an international application and ending on the date a patent was issued. Pursuant to 37 CFR 1.703(b), the period of adjustment under 37 CFR 1.702(b) should be 346 days, counting the number of days beginning on the day after the date that is three years after the date on which the national stage commenced under 35 U.S.C. 371(f), June 22, 2008, and ending on the date the patent issued, June 2, 2009.

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)*⁵ and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the

⁵ Likewise, 37 CFR 1.703(f) provides that:

To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

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 from June 21, 2005, the date of commencement of the national stage under 35 U.S.C. 371(f), to June 2, 2009, the date of the issuance of the patent (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 584 days of patent term adjustment were accorded 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), 346 days of patent term adjustment accrued for Office issuance of the patent more than three years after the date of commencement of the national stage under 35 U.S.C. 371(f). All of the 346 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 584 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 584 days and the 346 days is neither permitted nor warranted. 584 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 533 days (584 days of Office delay - 51 days of applicant delay).

The Office acknowledges the submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The address cited on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address cited on the petition. All future correspondence will be mailed to the correspondence address of record until appropriate written instructions to the contrary are received.

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

cc:
Harness, Dickey & Pierce, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303



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

GREGORY A. STOBBS
5445 CORPORATE DRIVE
SUITE 400
TROY MI 48098

MAILED

MAY 03 2010

OFFICE OF PETITIONS

In re Patent No. 7,542,834 : DECISION ON REQUEST
Nobori, et al. : FOR
Issue Date: June 2, 2009 : RECONSIDERATION OF
Application No. 10/540,135 : PATENT TERM ADJUSTMENT
Filed: June 21, 2005 : and
Atty Docket No. 5077-244/NP : NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 23, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred and twenty-six days (926) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by **eight hundred and seventy-nine (879) days** is **GRANTED to the extent indicated herein.**¹

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 Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred and seventy-nine (879) days**.

¹ As a point of clarification, the instant petition is granted on the basis of matters properly considered under 37 CFR 1.705(d), which includes only reductions and/or adjustments that occurred after the mailing of the notice of allowance and arguments concerning the failure of the Office to issue the patent more than three years after the application commenced under 35 U.S.C. 371(f). No matters properly raised under 37 CFR 1.705(b) were revisited.

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 : 7,542,834 B2

DATED : Jun. 2, 2009

INVENTOR(S) : Nobori 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 (533) days

Delete the phrase "by 533 days" and insert – by 926 days--



OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

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NOV 27 2009

OFFICE OF PETITIONS

In re Application of :
Hiroyuki Tomita, et al. :
Application No. 10/540,136 : DECISION GRANTING PETITION
Filed: June 21, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 124408 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 27, 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 October 16, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2862 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.



25 AUG 2006

Nixon & Vanderhuy, P.C.
901 North Glebe Road, 11th Floor
Arlington, VA 22203

In re Application of :
SCHMEISSER, Dirk :
Application No.: 10/540,152 :
PCT No.: PCT/GB03/05492 :
Int. Filing Date: 17 December 2003 :
Priority Date: 21 December 2002 :
Attorney Docket No.: 45-316 :
For: ROTARY STIRRING DEVICE FOR :
TREATING MOLTEN METAL :

DECISION ON REQUEST

This decision is issued in response to applicants' "Petition for Withdrawal of Holding of Abandonment under 37 CFR 1.181(a)(1)" filed in the United States Patent and Trademark Office on 26 July 2006 which is being treated as a "Petition under 37 CFR 1.182." The \$400 petition fee under 37 CFR 1.17(f) will be charged to Deposit Account no. 14-1140.

BACKGROUND

On 17 December 2003, applicant filed international application PCT/GB03/05492 which claimed a priority date of 21 December 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 08 July 2004. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America expired at midnight on 21 June 2005.

On 21 June 2005, applicant filed a Transmittal Letter for entry into the national stage accompanied, *inter alia*, by: the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 12 December 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration executed by the inventor and the surcharge for filing after the thirty-month period were required.

On 24 July 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT indicating, in effect, that the application was abandoned for failure to respond to the Notification of Missing Requirements mailed 12 December 2005.

On 26 July 2006, applicant filed "Petition to Withdrawal of Holding of Abandonment under 37 CFR 1.181(a)(1)" which was accompanied, inter alia, by: copy of the declaration and power of attorney; a post card receipt for application no. 10/450,152; and a copy of a transmittal letter for application no. 10/450,152.

DISCUSSION

Accordingly, the present petition has been treated as a petition under 37 CFR 1.182 to correct the application number identified on applicant's 25 January 2006 submission to the proper application number, that is, 10/540,152.

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by inventor, title of invention; and the docket number. The receipt itemizes a Declaration for Patent Application. The receipt is stamped "Rec'd. PCT/PTO 25 JAN 2006" across its face. A review of the papers filed 25 January 2006 reveals that the declaration included sufficient information to permit identification of the application to which it was intended to be directed, i.e., national stage application no. 10/540,152.

CONCLUSION

Applicant's petition under 37 CFR 1.182 is **GRANTED**. The declaration and power of attorney filed 25 January 2006 was a timely response to the Notification of Missing Requirements mailed 12 December 2005.

A review of the application papers reveals that applicant completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application will be given an international application filing date of 17 December 2003 and a date of **25 January 2006** under 35 U.S.C. 371.

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.



Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459



DAVIDSON, DAVIDSON & KAPPEL, LLC
485 SEVENTH AVENUE, 14TH FLOOR
NEW YORK NY 10018

COPY MAILED

MAR 22 2007

OFFICE OF PETITIONS

Applicant: Schindler
Appl. No.: 10/540,163
International Filing Date: August 13, 2003
Title: METHOD FOR THE PRODUCTION OF A SCOURING BODY
Attorney Docket No.: 331.1092
Pub. No.: US 2006/0168897 A1
Pub. Date: August 3, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on September 29, 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 includes a material error in the foreign priority information as the application improperly fails to include a foreign priority claim to application DE 102 59 540.2 filed December 19, 2002.

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 failure to include a foreign priority claim to application DE 102 59 540.2 filed December 19, 2002, in the priority information on the front page of the published patent application is an Office error but it is not a material error, as required by 37 CFR 1.221(b). The error in the foreign priority claim is not a material mistake because it 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 specification and claims

¹Changes 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).

were accurately published, thus one can read and understand the content of the application. The error also does not affect the use of the patent application publication as a prior art reference, because the foreign priority date is not useable as a reference date.

On April 24, 2006, a Filing Receipt was mailed by the Office. To avoid this type of problem in the future, applicant's representative should make request a corrected filing receipt.

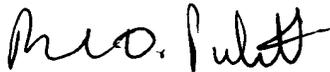
The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the 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 at (571) 272-7709 (voice).



Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

29 JAN 2007



United States Patent and Trademark Office

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FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN, TX 78701

In re Application of	:	
Jallouli et al.	:	
Application No.: 10/540,176	:	DECISION
PCT No.: PCT/EP03/15046	:	
Int. Filing Date: 19 December 2003	:	ON
Priority Date: 20 December 2002	:	
Attorney Docket No.: ESSR:094US	:	PETITION
For: Spirotetrathiocarbamates And	:	
Spirooxothiocarbamates	:	

This is in response to the petition under 37 CFR 1.47(a) filed on 04 April 2006.

BACKGROUND

This international application was filed on 19 December 2003, claimed an earlier priority date of 20 December 2002, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 08 July 2004. The 30 month time period for paying the basic national fee in the United States expired at midnight on 20 June 2005. Applicants filed *inter alia* the basic national fee on 17 June 2005.

On 07 December 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 indicating that the "4th inventor signature missing (Declaration filed under PCT Rule 4.17)."

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), applicants paid \$130.00 toward the petition fee on 04 April 2006. The balance of \$70.00 is being charged to counsel's Deposit Account No. 50-1212, as authorized by the "Response To Notification Of Missing Requirements..." filed on 04 April 2006.

Regarding requirement (2), petitioner urges that the absence on the declaration of the signature of joint inventor Sirisoma Wanigatunga be excused because of 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.

Counsel refers to the accompanying "Declaration of Mark B. Wilson" as evidence of the circumstances surrounding the alleged refusal to execute this patent application. Atty. Wilson refers, *inter alia*, to a letter mailed to the inventors on 03 October 2005 (Exhibit 1), but that letter does not indicate that it was accompanied by a complete copy of the instant application. Petitioner also refers to e-mail correspondence dated 15 December 2005 (Exhibit 4) in which Dominique Jeannin states that "I do not expect him to sign any paper." Exhibit 4 is not persuasive because Mr. Jeannin is in essence making a conclusory statement about the mental state of Mr. Wanigatunga without providing a showing as to his basis for making the conclusion.

With regard to Exhibits 8 and 9, these Exhibits tend to show that an e-mail was sent to Mr. Wanigatunga and delivered to his in-box on 09 January 2006. Though Atty. Wilson's e-mail alludes to "attached documents," it does not clearly indicate that a complete copy of this particular patent application and a declaration directed thereto were attached. Therefore, Mr. Wanigatunga's alleged failure to reply to this e-mail as requested does not show that he refused to sign and return a declaration directed to this application after being presented with a complete copy of the application.

Turning to Exhibit 5, Atty. Wilson has provided a copy of a letter addressed to Mr. Wanigatunga at his last-known residential address. The letter itemizes *inter alia* a "complete copy of U.S. Serial No. 10/540,176 as filed June 17, 2005," as well as a declaration document. In the letter, Atty. Wilson requests that Mr. Wanigatunga execute and return the declaration document. Exhibits 6 and 7 constitute a showing that Federal Express delivered the correspondence to Mr. Wanigatunga's address on 10 January 2006. According to paragraph 15 of Atty. Wilson's Declaration, "As of the date of the execution of this Declaration, I have received no correspondence from Sirisoma Wanigatunga" as of 04 April 2006. On the basis of this showing, it would be appropriate to conclude that Mr. Wanigatunga's failure to execute and return the declaration sent to him on 09 January 2006 constitutes a "refusal" within the meaning of 37 CFR 1.47(a).

Regarding requirement (3), the petition includes a statement of the last known address of Sirisoma Wanigatunga. Accordingly, requirement (3) has been satisfied.

Regarding requirement (4), the declaration filed on 04 April 2006 has been signed by joint inventors Aref Jallouli, Martin Rickwood and Kimberly Morgan on behalf of themselves and non-signing joint inventor Sirisoma Wanigatunga. Said declaration is acceptable for purposes of compliance with 37 CFR 1.47(a) and 37 CFR 1.497(a) and (b). Therefore, requirement (4) has been satisfied.

DECISION

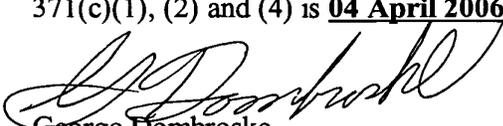
The petition under 37 CFR 1.47(a) is **GRANTED**.

The petition fee balance of \$70.00 is being charged to counsel's Deposit Account No. 50-1212.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **04 April 2006**.



George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

01/29/2007 SBASHEIR 00000001 501212 10540176
01 FC:1463 78.00 DA 130.00 OP

Adjustment date: 01/29/2007 SBASHEIR
04/07/2006 GFREY1 00000147 10540176
01 FC:1617 -130.00 OP



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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

BASF Performance Products LLC
Patent Department
540 White Plains Road
P.O. Box 2005
Tarrytown, NY 10591

Mail Date: 04/20/2010

Applicant	: Zhiqiang Song	: DECISION ON REQUEST FOR
Patent Number	: 7659354	: RECALCULATION OF PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/540,198	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/08/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **731** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



JAN 12 2010

Davidson, Davidson & Kappel, LLC
485 7th Avenue, 14th Floor
New York, New York 10018

In re Application of: : PETITION FOR RECONSIDERATION
Stefan Beichl : EXAMINER'S OBJECTION UNDER
Appl. No.: 10/540,203 : 37 CFR 1.83(a)
Filed: August 17, 2005 :
For: SEALING ARRANGEMENT

This is a decision on applicant's petition filed October 29, 2009 under 37 CFR 1.181 for reconsideration of the Examiner's objection under 37 CFR 1.83(a) for not showing every feature of the claimed invention. There is no fee required for this petition.

The petition is **GRANTED**.

In the non-final Office action mailed June 25, 2008, and again in a subsequent final Office action mailed March 13, 2009, the Examiner objected to the drawings for not showing every claimed feature of the invention. Specifically, the Examiner objected to the drawings for not depicting the "axially symmetrical components" as recited in independent claim 20.

Applicant has argued that in view of the description of "axially symmetrical" in paragraphs [0004], [0019], and [0030] of the specification, it would be clear to one of ordinary skill in the art that Figure 1 depicts the claimed "axially symmetrical components".

In view of Applicant's arguments and Figure 1 of the instant application, it has been found that the drawings do meet the requirements of 37 CFR 1.83(a) as every feature of the claimed invention is sufficiently shown. Therefore applicant's request that the objections to the drawings under 37 CFR 1.83(a) raised in the final Office action dated March 13, 2009 be withdrawn is hereby granted.

Any questions regarding this decision should be directed to Jennifer H Gay at 571-272-7029.


Frederick Schmidt, Director
Patent Technology Center 3600
571-272-5150



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COOLEY GODWARD KRONISH, LLP
ATTN: PATENT GROUP
SUITE 1100
777 - 6TH STREET, NW
WASHINGTON, DC 20001

COPY MAILED

APR 30 2009

OFFICE OF PETITIONS

In re Application of	:	
David Henry Salomon, et al.	:	
Application No. 10/540,206	:	DECISION ON PETITION
Filed: June 20, 2005	:	TO WITHDRAW
Attorney Docket No. LIFT-046/00US	:	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 30, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Thomas A. Blinka on behalf of all attorneys of record who are associated with customer No. 58249. All attorneys/agents associated with the Customer Number 58249 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 February 16, 2006 does not include a proper 3.73(b) statement listing the reel and frame number.

There is an outstanding Office action mailed April 23, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: DAVID HENRY SOLOMON
25 DORIS STREET
MURRUMBEENA, VICTORIA, 3163
AUSTRALIA

cc: WAYNE BELLMAN
LIFE THERAPEUTICS LTD.
COMPANY MATTERS PTY, LTD.
LEVEL 12, 680 GEORGE STREET
SYDNEY, NSW 2000
AUSTRALIA



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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/540,206	12/30/2005	David Henry Salomon	LIFT-046/00US

CONFIRMATION NO. 6698

POWER OF ATTORNEY NOTICE



58249
COOLEY GODWARD KRONISH LLP
ATTN: Patent Group
Suite 1100
777 - 6th Street, NW
WASHINGTON, DC 20001

Date Mailed: 04/27/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/30/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101



BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

02 OCT 2006

In re Application of	:	
WASCHKIES, Eckhard	:	
Application No.: 10/540,210	:	DECISION ON
PCT No.: PCT/EP03/14094	:	
Int. Filing Date: 11 December 2003	:	REQUEST
Priority Date: 18 December 2002	:	
Attorney Docket No.: 1033033-000028	:	UNDER 37 CFR 1.43
For: METHOD FOR EVALUATING A WELD	:	
JOINT FORMED DURING A WELDING	:	
PROCESS	:	

This decision is in response to applicant's request for status under 37 CFR 1.43.

BACKGROUND

On 11 December 2003, applicants filed international application PCT/EP03/14094, which claimed a priority date of 18 December 2002. A copy of the international application was transmitted to the Office by the International Bureau on 01 July 2004. The deadline for entry into the national stage in the United States was 20 June 2005 (18 June 2005 was a Saturday).

On 18 June 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 26 January 2006, 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), an English translation, the surcharge for late filing of the filing fee, search fee, exam fee or oath or declaration and the processing for late filing of the translation were required.

On 26 May 2006, applicants submitted, *inter alia*, this request for status under 37 CFR 1.43.

On 15 August 2006, the Office mailed Notice of Acceptance (Form PCT/DO/EO/903) indicating that the application satisfied the requirements of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) on 26 May 2006.

DISCUSSION

Under 35 U.S.C. 117, legal representatives of deceased inventors or those under legal incapacity may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor.

The oath or declaration for entry into the national stage in the United States must comply with 37 CFR 1.497(a)-(b). The 26 May 2006 submission indicates that Eckhard Waschkies is legally incapacitated. Under 37 CFR 1.497(b), the oath or declaration must identify the person making the oath

and that they are the legal representative. See 35 U.S.C. 117. The declaration fails to comply as it does not list the legal representative by at least one given name. See MPEP 605.04(b) and 35 U.S.C. 117. Applicant has not indicated that "B." is the entire given name of the legal representative.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.43 is **REFUSED**.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed 15 August 2006 is **VACATED**.

Applicant is required to submit a declaration in compliance with 37 CFR 1.497 and 1.43 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 1.43."

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.



Charles Pearson
Director
PCT Legal Administration



Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: (571)272-3292
Facsimile: (571)273-0459



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Date Mailed : 05/13/10

Patent No. : 7671027 B2
Inventor : LOUMAYE, ERNEST
Patent Issued : 03/02/10
Docket No. : KZY-001US

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.

Inspection of the file of the application for the patent reveals that in column 15, line 17 is printed in accordance with the record (no fee or authorization to charge fee). **“Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322.”**

In view of the foregoing, your request in this matter is hereby denied.

A handwritten signature in cursive script that reads "Lamonte M. Newsome".

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703)-308-9390 #112

**LAHIVE & COCKFIELD, LLP
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109**

Lmn



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INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN NC 28562

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NOV 03 2006
OFFICE OF PETITIONS

In re Application of :
Stephane CLAUSS et al. : DECISION ON PETITION
Application No. 10/540,241 : UNDER 37 CFR 1.78(a)(3)
Filed: June 22, 2005 :
Attorney Docket No. 2002P01382WOUS :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 28, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/EP2004/000171, filed January 13, 2004, set forth in the accompanying Application Data Sheet.

The petition under 37 CFR 1.78(a)(3) is **DISMISSED** as moot in view of the request filed July 31, 2006, withdrawing the petition to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to the prior-filed PCT Application. The petition fee has previously been credited to petitioner's deposit account.

Any inquiries concerning this decision may be directed to David Bucci at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to Technology Center 3749.


David Bucci
Petitions Examiner
Office of Petitions



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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

Mail Date: 04/20/2010

Applicant : Toshiharu Ohta : DECISION ON REQUEST FOR
Patent Number : 7576135 : RECALCULATION of PATENT
Issue Date : 08/18/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/540,259 : OF WYETH
Filed : 06/05/2006 :
:
:

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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King & Spalding
1185 Avenue of the Americas
New York, NY 10036-4003

MAILED

JUN 21 2010

OFFICE OF PETITIONS

In re Patent No. 7,576,135 :
Ohta et al. : DECISION UPON REMAND AND
Issue Date: August 18, 2009 : RECONSIDERATION OF
Application No. 10/540,259 : PATENT TERM ADJUSTMENT
Filed: June 5, 2006 : AND NOTICE OF INTENT
Attorney Docket No. 1760- : TO ISSUE CERTIFICATE OF
105007US6 : CORRECTION
Title: Diamine Derivatives :

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by five hundred and three (503) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by five hundred and three (503) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor Attorney.

Patent No. 7,567,135 Application No. 10/540,259
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Page 2

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,576,135 B2

DATED : August 18, 2009

DRAFT

INVENTOR(S) : Ohta 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 86 days

Delete the phrase "by 86 days" and insert – by 503 days--

Day : Thursday

Date: 6/17/2010

PALM INTRANET

Time: 12:44:33

PTA Calculations for Application: 10/540259			
Application Filing Date:	06/05/2006	PTO Delay (PTO):	144
Issue Date of Patent:	08/18/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	58
Post-Issue Petitions:	0	Total PTA (days):	503
PTO Delay Adjustment:	417		

File Contents History					
Number	Date	Contents Description	PTO	APPL	START
86	06/17/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	417		
73.5	07/29/2009	PTA 36 MONTHS			
73	08/18/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
72	07/14/2009	EXPORT TO FINAL DATA CAPTURE			
71	07/10/2009	FINISHED INITIAL DATA CAPTURE			
70	07/10/2009	DISPATCH TO FDC			
69	06/15/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
68	06/12/2009	ISSUE FEE PAYMENT VERIFIED			
67	06/12/2009	ISSUE FEE PAYMENT RECEIVED			
66	04/03/2009	EXPORT TO INITIAL DATA CAPTURE			
61	04/01/2009	MAIL NOTICE OF ALLOWANCE			
60	03/23/2009	ISSUE REVISION COMPLETED			
59	03/23/2009	DOCUMENT VERIFICATION			
58	03/23/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
57	03/23/2009	CASE DOCKETED TO EXAMINER IN GAU			
56	03/20/2009	EXAMINER'S AMENDMENT COMMUNICATION			
55	03/20/2009	NOTICE OF ALLOWABILITY			
51	01/14/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
50	08/04/2008	TERMINAL DISCLAIMER FILED		0	39
49	01/24/2009	DATE FORWARDED TO EXAMINER			
48	01/21/2009	AMENDMENT AFTER FINAL REJECTION			
47	01/14/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

46	01/14/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
45	10/21/2008	ELECTRONIC REVIEW			
44	10/21/2008	EMAIL NOTIFICATION			
43	10/21/2008	MAIL FINAL REJECTION (PTOL - 326)			
42	10/16/2008	FINAL REJECTION			
41	09/19/2008	PARALEGAL TD ACCEPTED			
40	09/18/2008	DATE FORWARDED TO EXAMINER			
39	08/04/2008	RESPONSE AFTER NON-FINAL ACTION		58	35
38	08/04/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
37	03/08/2008	ELECTRONIC REVIEW			
36	03/07/2008	EMAIL NOTIFICATION			
35	03/07/2008	MAIL NON-FINAL REJECTION			
34	02/27/2008	NON-FINAL REJECTION			
28	02/22/2008	DATE FORWARDED TO EXAMINER			
27	01/25/2008	RESPONSE TO ELECTION / RESTRICTION FILED			
26	01/25/2008	MISCELLANEOUS INCOMING LETTER			
25	12/28/2007	ELECTRONIC REVIEW			
24	12/27/2007	EMAIL NOTIFICATION			
23	12/27/2007	MAIL RESTRICTION REQUIREMENT	144		9
22	12/20/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
20	09/06/2007	CASE DOCKETED TO EXAMINER IN GAU			
19	09/04/2007	CASE DOCKETED TO EXAMINER IN GAU			
18	08/03/2007	CASE DOCKETED TO EXAMINER IN GAU			
17	06/13/2007	CASE DOCKETED TO EXAMINER IN GAU			
16	10/20/2006	CASE DOCKETED TO EXAMINER IN GAU			
15	10/20/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	06/05/2006	371 COMPLETION DATE			
8	08/04/2006	APPLICATION DISPATCHED FROM OIPE			
7	08/04/2006	NOTICE OF DO/EO ACCEPTANCE MAILED			
6	06/05/2006	ADDITIONAL APPLICATION FILING FEES			
5	06/05/2006	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

Search Another: Application#

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to [OASIS](#) | Home page



#3

15 DEC 2005

James P. Demers
Brown Raysman Millstein Felder & Steiner
900 Third Avenue
New York, NY 10022

In re Application of
HONG, et al.
Application No.: 10/540,277
PCT No.: PCT/US02/40757
Int. Filing Date: 19 December 2002
Priority Date: None
Atty. Docket No.: 6319-4017
For: PARALLEL INDUCIBLE CELL-BASED
KINASE SCREEN

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 21 June 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.

The enclosed "Petition For Acceptance of Color Drawings [37 C.F.R. §1.84(a)(2)]" will be held in abeyance pending the completion of the 35 U.S.C. 371 requirements and then forwarded to the appropriate Group Art Unit for a decision by the Supervisory Patent Examiner pursuant to M.P.E.P. § 1002.02(d)(9).

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459



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P.O. BOX 770
CHURCH STREET STATION
NEW YORK NY 10008-0770

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MAR 11 2008

In re Application of :
Michael Ludensky et al :
Application No. 10/540,293 : **DECISION GRANTING PETITION**
Filed: June 20, 2005 : **UNDER 37 CFR 1.313(c)(2)**
Attorney Docket No. 05408/100J111-US2 :

OFFICE OF PETITIONS

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 7, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 15, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1797 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed 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.



06 JUN 2006

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AS

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DARBY & DARBY, P.C.
P.O. Box 5257
New York, New York 10150-5257

In re Application of: FRANGIONE, Blas, et al. :
U.S. Application No.: 10/540,294 :
PCT No.: PCT/US2003/040744 :
International Filing Date: 18 December 2003 :
Priority Date: 19 December 2002 :
Attorney's Docket No.: 05986/100K560-US1 :
For: METHODS FOR TREATING AMYLOID :
DISEASES :

DECISION

This decision is issued in response to: (1) the request for a refund of one half of the large entity basic national fee, filed 17 October 2005; (2) the "Response To Notification Of Missing Requirements" filed on 06 January 2006, treated in part herein as a petition under 37 CFR 1.181 to confirm the 17 October 2005 filing of an executed declaration and additional fees; and (3) the "Communication Affirming Correct Inventorship" filed 26 January 2006.

BACKGROUND

On 18 December 2003, applicants filed international application PCT/US2003/040744. The application claimed a priority date of 19 December 2002 and it designated the United States. The published international application listed three applicant-inventors for the United States: Blas FRANGIONE, Einar M. SIGURDSSON, and Jorge GHISO. The deadline for payment of the basic national fee was thirty months from the priority date, i.e., 20 June 2005 (19 June 2005 was a Sunday).

On 20 June 2005, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the large entity basic national fee.

On 17 October 2005, applicants filed a second submission that included, among other materials, an assertion of small entity status, a request for a refund of one half of the previously filed large entity basic national fee (considered below), \$280 in additional fees, and a declaration. The declaration was executed by the three inventors listed on the published international application, as well as an additional inventor, Thomas WISNIEWSKI.

On 08 November 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 was required, as well as sequence listing materials and the search and examination fees.

On 06 January 2006, applicants filed the "Response To Notice Of Missing Requirements" considered in part herein, which included a copy of the declaration previously filed on 17 October 2005, an explanation regarding the previous fee payment, a copy of a return postcard itemizing the fee payment and declaration and bearing a USPTO receipt stamp dated 17 October 2005, and sequence listing materials responsive to the Notification Of Missing Requirements (including a purported Computer Readable Form (CRF) of the sequence listing).¹

On 26 January 2006, applicants filed the "Communication Affirming Correct Inventorship" considered herein. This submission seeks to confirm that the additional inventor listed on the declaration filed 17 October 2005 (i.e., Thomas WISNIEWSKI) is a proper inventor-of-record herein, despite the failure of the published international application to include his name.

DISCUSSION

1. Petition Under 37 CFR 1.181 To Confirm The 17 October 2005 Filing:

A review of the application file and applicants' 06 January 2006 submission confirms that the executed declaration herein was filed on 17 October 2005, as was an additional fee payment of \$280 and the request for refund considered below.

2. Request For Refund:

Applicants' 17 October 2005 submission included an assertion of small entity status and a request for a refund of one-half of the \$300 large-entity basic national fee filed on 20 June 2005 (based on the small entity status). However, pursuant to 37 CFR 1.28(a), any request for a refund of a portion of a previously paid large entity fee based on a later assertion of small entity status must be submitted within three months of the original fee payment. Because applicants' refund request of 17 October 2005 was not filed within three months of the 20 June 2005 payment of the large entity basic national fee, a refund of any portion of such fee would be inappropriate.

Because applicants are not entitled to the refund of one half of the basic national fee, an additional \$150 in fees is required herein (\$100 as the small entity examination fee and \$50 as the small entity search fee). Based on the authorization contained in applicants' 06 January 2006 submission, Deposit Account No. 04-0100 will be charged for these required fees.

3. Confirmation Of The Proper Inventors-Of-Record

The published international application listed only three applicant-inventors with respect

¹ It is noted that additional materials filed by above counsel on 06 January 2006 with respect to an unrelated application, including fees in the amount of \$2,130, were inadvertently placed in the present application file. These materials and fees will be forwarded to the application file to which they were intended (11/267,027).

to the United States. However, a review of the USPTO application file for the international application and communications with the International Bureau have confirmed that there are four applicant-inventors of record for the instant application: Blas FRANGIONE, Einar M. SIGURDSSON, Thomas WISNIEWSKI, and Jorge GHISO.

Accordingly, the declaration filed herein by applicants on 17 October 2005, which identifies and is executed by these four applicant-inventors, properly identifies the applicants-of-record, as required.

CONCLUSION

The petition under 37 CFR 1.181 to confirm the 17 October 2005 filing of the executed declaration, additional fees, and refund request is **GRANTED**.

The request for a refund of one half of the large entity basic national fee is **DISMISSED** without prejudice pursuant to 37 CFR 1.28(a). Any request for reconsideration of the decision on the refund request must be submitted within **TWO MONTHS** of the mail-date of the present decision.

Deposit Account No. 04-0100 will be charged \$100 as the small entity examination fee and \$50 as the small entity search fee.

The request to confirm that Thomas WISNIEWSKI is an inventor-of-record is **GRANTED**. The inventors-of-record herein are Blas FRANGIONE, Einar M. SIGURDSSON, Thomas WISNIEWSKI, and Jorge GHISO, as listed on the declaration filed by applicants on 17 October 2005.

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, including a review of applicants' 06 January 2006 submission of sequence listing materials.



Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459



02 APR 2007

Hoffmann & Baron, LLP
6900 Jericho Turnpike
Syosset, NY 11791

In re Application of	:	
Marrero Miragaya et al.	:	
Application No.: 10/540,296	:	DECISION
PCT No.: PCT/CU03/00020	:	
Int. Filing Date: 22 December 2003	:	ON
Priority Date: 27 December 2002	:	
Attorney Docket No.: 976-28 PCT/US	:	PETITION
For: Formulations For The Rectal Administration	:	
Of Thrombolytically-Active Agents	:	

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 12 March 2007.

DISCUSSION

In a Decision mailed on 08 January 2007, the petition under 37 CFR 1.47(a) filed on 20 January 2006 was dismissed without prejudice because, regarding requirement (2),

The petition states that the “pertinent facts are recounted in the accompanying ‘Declaration’ signed by Dr. Sonia Gonzalez Blanco.” In her Declaration, Dr. Gonzalez Blanco (hereinafter, “Blanco”) states that she sent a letter to Milesa Yeni Sarmiento Mayea (hereinafter, “Mayea”) at her last known address, requesting her appearance at the Patents Department of the Genetic Engineering and Biotechnology Center to execute a declaration, but that the letter subsequently was returned by the Cuban Postal Service with markings indicating that Ms. Mayea had “Moved, Left No Forwarding Address.” Dr. Blanco further states that she conducted an internet search “using the Google search engine” to perform a search “in English” for “Milesa Yeni Sarmiento,” but that the search “did not locate Milesa Yeni Sarmiento.”

It is not clear from the record whether any further efforts were made to locate Ms. Mayea and, if not, why not. For instance, was a search performed using the “Mayea” portion of her name? Was a search performed using Spanish as the operative language, or using a different search engine? Was a telephone directory search performed? Were inquiries made of any neighbors, known associates or appropriate civil authorities who may have been aware of Ms. Mayea’s whereabouts? Were any electronic communications (e.g., telephone calls or e-mails) attempted? In the absence of a complete showing of what efforts were undertaken to ascertain the whereabouts of Ms. Mayea, it would not be appropriate to conclude that she “could not be found or reached after diligent effort” within the meaning of 37 CFR 1.47(a).

and

Regarding requirement (4), the petition is accompanied by a declaration document signed by joint inventors Marrero Miragaya, Aguilera Barreto, Gonzalez Chavez,

Martinez Diaz, Torrez Cabrera, Cosme Diaz, Hernandez Marrero and Tamargo Santos on behalf of themselves and non-signing joint inventor Sarmiento Mayea. However, further inspection reveals that the published international application nominates "Cosme Diaz, Carelia" as an inventor, whereas the declaration nominates "Karelia Cosme Diaz." The record appears to include no explanation of this discrepancy. In the absence of a suitable explanation and/or showing concerning this discrepancy, it would be inappropriate to conclude that the declaration filed on 20 January 2006 satisfies requirement (4). *See* MPEP 605.04(b) and 201.03(b).

Regarding **requirement (2)**, petitioner now presents a "Declaration" signed by Dr. Sonia González Blanco, describing her renewed efforts to locate the whereabouts of Milea Yeni Sarmiento Mayea, along with copies of internet searches she performed and along with a copy of the relevant page from the Ciudad de la Habana telephone directory. This showing satisfies requirement (2).

Regarding **requirement (4)**, petitioner states that "The declaration contains a typographical error in the spelling of the joint inventor, Carelia Cosme Diaz. Ms. Diaz has corrected the spelling of her name in the declaration, and has initialed and dated the change. Enclosed is the corrected declaration executed by each 37 C.F.R. 1.47(a) applicant on his or her own behalf and on behalf of the non-signing inventor." In view of this explanation of the discrepancy in the spelling of the inventor's name, and pursuant to the practice described at MPEP 605.04(b), requirement (4) has now been satisfied.

DECISION

The petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at her last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **20 January 2006**.



George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459



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 (Milesa Yeni SARMIENTO MAYEA) 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/CU03/00020 and was filed on December 22, 2003 in the names of Maria Acelia MARRERO MIRAGAYA, Ana AGUILERA BARRETO, Lisette GONZALEZ CHAVEZ, Eduardo MARTINEZ DIAZ, Beatriz TORREZ CABRERA, Carelia COSME DIAZ, Milesa Yeni SARMIENTO MAYEA, Luciano HERNANDEZ MARRERO and Beatriz TAMARGO SANTOS for the invention entitled FORMULATIONS FOR THE RECTAL ADMINISTRATION OF THROMBOLYTICALLY-ACTIVE AGENTS. The national stage application number is 10/540,296 and has a 35 U.S.C. 371(c)(1), (2) and (4) date of January 20, 2006.



08 JAN 2007

United States Patent and Trademark Office

46

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Hoffmann & Baron, LLP
6900 Jericho Turnpike
Syosset, NY 11791

In re Application of
Marrero Miragaya et al.
Application No.: 10/540,296
PCT No.: PCT/CU03/00020
Int. Filing Date: 22 December 2003
Priority Date: 27 December 2002
Attorney Docket No.: 976-28 PCT/US
For: Formulations For The Rectal Administration
Of Thrombolytically-Active Agents

DECISION
ON
PETITION

This is in response to the petition under 37 CFR 1.47(a) filed on 20 January 2006.

BACKGROUND

This international application was filed on 22 December 2003, claimed an earlier priority date of 27 December 2002, and designated the United States. The International Bureau transmitted a copy of the published international application to the USPTO on 15 July 2004. The 30 month time period for paying the basic national fee in the United States expired at midnight on 27 June 2005. Applicants filed *inter alia* the basic national fee on 21 June 2005.

On 22 December 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) 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 petitioner's Deposit Account No. 08-2461, as authorized by the "Response To Notification Of Missing Requirements..." filed on 20 January 2006.

Regarding requirement (2), petitioner urges that the absence on the declaration of the signature of joint inventor Milesa Yeni Sarmiento Mayea be excused because she "could not be found." Counsel's attention is respectfully drawn to MPEP 409.03(d), which states in part:

Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. The fact that a nonsigning inventor is on vacation or out of town and is

therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47. Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 CFR 1.47. 37 CFR 1.43 may be available under these circumstances. See MPEP § 409.02. Such a petition under 37 CFR 1.47 will be dismissed as inappropriate.

The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in the statement of facts. It is important that the statement contain facts as opposed to conclusions.

The petition states that the "pertinent facts are recounted in the accompanying 'Declaration' signed by Dr. Sonia Gonzalez Blanco." In her Declaration, Dr. Gonzalez Blanco (hereinafter, "Blanco") states that she sent a letter to Milesa Yeni Sarmiento Mayea (hereinafter, "Mayea") at her last known address, requesting her appearance at the Patents Department of the Genetic Engineering and Biotechnology Center to execute a declaration, but that the letter subsequently was returned by the Cuban Postal Service with markings indicating that Ms. Mayea had "Moved, Left No Forwarding Address." Dr. Blanco further states that she conducted an internet search "using the Google search engine" to perform a search "in English" for "Milesa Yeni Sarmiento," but that the search "did not locate Milesa Yeni Sarmiento."

It is not clear from the record whether any further efforts were made to locate Ms. Mayea and, if not, why not. For instance, was a search performed using the "Mayea" portion of her name? Was a search performed using Spanish as the operative language, or using a different search engine? Was a telephone directory search performed? Were inquiries made of any neighbors, known associates or appropriate civil authorities who may have been aware of Ms. Mayea's whereabouts? Were any electronic communications (e.g., telephone calls or e-mails) attempted? In the absence of a complete showing of what efforts were undertaken to ascertain the whereabouts of Ms. Mayea, it would not be appropriate to conclude that she "could not be found or reached after diligent effort" within the meaning of 37 CFR 1.47(a).

Regarding requirement (3), the petition includes a statement the last known address of Milesa Yeni Sarmiento Mayea. Accordingly, requirement (3) has been satisfied.

Regarding requirement (4), the petition is accompanied by a declaration document signed by joint inventors Marrero Miragaya, Aguilera Barreto, Gonzalez Chavez, Martinez Diaz, Torrez Cabrera, Cosme Diaz, Hernandez Marrero and Tamargo Santos on behalf of themselves and non-signing joint inventor Sarmiento Mayea. However, further inspection reveals that the published international application nominates "Cosme Diaz, Carelia" as an inventor, whereas the declaration nominates "Karelia Cosme Diaz." The record appears to include no explanation of this discrepancy. In the absence of a suitable explanation and/or showing concerning this discrepancy, it would be inappropriate to conclude that the declaration filed on 20 January 2006 satisfies requirement (4). *See* MPEP 605.04(b) and 201.03(b).

DECISION

The petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.



George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459



02 APR 2007

Hoffmann & Baron, LLP
6900 Jericho Turnpike
Syosset, NY 11791

In re Application of	:	
Marrero Miragaya et al.	:	
Application No.: 10/540,296	:	DECISION
PCT No.: PCT/CU03/00020	:	
Int. Filing Date: 22 December 2003	:	ON
Priority Date: 27 December 2002	:	
Attorney Docket No.: 976-28 PCT/US	:	PETITION
For: Formulations For The Rectal Administration	:	
Of Thrombolytically-Active Agents	:	

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 12 March 2007.

DISCUSSION

In a Decision mailed on 08 January 2007, the petition under 37 CFR 1.47(a) filed on 20 January 2006 was dismissed without prejudice because, regarding requirement (2),

The petition states that the "pertinent facts are recounted in the accompanying 'Declaration' signed by Dr. Sonia Gonzalez Blanco." In her Declaration, Dr. Gonzalez Blanco (hereinafter, "Blanco") states that she sent a letter to Milesa Yeni Sarmiento Mayea (hereinafter, "Mayea") at her last known address, requesting her appearance at the Patents Department of the Genetic Engineering and Biotechnology Center to execute a declaration, but that the letter subsequently was returned by the Cuban Postal Service with markings indicating that Ms. Mayea had "Moved, Left No Forwarding Address." Dr. Blanco further states that she conducted an internet search "using the Google search engine" to perform a search "in English" for "Milesa Yeni Sarmiento," but that the search "did not locate Milesa Yeni Sarmiento."

It is not clear from the record whether any further efforts were made to locate Ms. Mayea and, if not, why not. For instance, was a search performed using the "Mayea" portion of her name? Was a search performed using Spanish as the operative language, or using a different search engine? Was a telephone directory search performed? Were inquiries made of any neighbors, known associates or appropriate civil authorities who may have been aware of Ms. Mayea's whereabouts? Were any electronic communications (e.g., telephone calls or e-mails) attempted? In the absence of a complete showing of what efforts were undertaken to ascertain the whereabouts of Ms. Mayea, it would not be appropriate to conclude that she "could not be found or reached after diligent effort" within the meaning of 37 CFR 1.47(a).

and

Regarding requirement (4), the petition is accompanied by a declaration document signed by joint inventors Marrero Miragaya, Aguilera Barreto, Gonzalez Chavez,

Martinez Diaz, Torrez Cabrera, Cosme Diaz, Hernandez Marrero and Tamargo Santos on behalf of themselves and non-signing joint inventor Sarmiento-Mayea. However, further inspection reveals that the published international application nominates "Cosme Diaz, Carelia" as an inventor, whereas the declaration nominates "Karelia Cosme Diaz." The record appears to include no explanation of this discrepancy. In the absence of a suitable explanation and/or showing concerning this discrepancy, it would be inappropriate to conclude that the declaration filed on 20 January 2006 satisfies requirement (4). *See* MPEP 605.04(b) and 201.03(b).

Regarding **requirement (2)**, petitioner now presents a "Declaration" signed by Dr. Sonia Gonzáles Blanco, describing her renewed efforts to locate the whereabouts of Miliesa Yeni Sarmiento Mayea, along with copies of internet searches she performed and along with a copy of the relevant page from the Ciudad de la Habana telephone directory. This showing satisfies requirement (2).

Regarding **requirement (4)**, petitioner states that "The declaration contains a typographical error in the spelling of the joint inventor, Carelia Cosme Diaz. Ms. Diaz has corrected the spelling of her name in the declaration, and has initialed and dated the change. Enclosed is the corrected declaration executed by each 37 C.F.R. 1.47(a) applicant on his or her own behalf and on behalf of the non-signing inventor." In view of this explanation of the discrepancy in the spelling of the inventor's name, and pursuant to the practice described at MPEP 605.04(b), requirement (4) has now been satisfied.

DECISION

The petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at her last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **20 January 2006**.


George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459



02 APR 2007

Lic. Milesa Yeni Sarmiento Mayea
Josefina 221 apto # 1 e/ Jorge y Avellaneda
10 de Octubre
Ciudad Habana 10500
CUBA

In re Application of
Marrero Miragaya et al.
Application No.: 10/540,296
PCT No.: PCT/CU03/00020
Int. Filing Date: 22 December 2003
Priority Date: 27 December 2002
Attorney Docket No.: 976-28 PCT/US
For: Formulations For The Rectal Admini-
stration Of Thrombolytically-Active Agents

Dear Lic. Sarmiento:

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
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Office of PCT Legal Administration
Tel: (571) 272-3283
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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791



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 (Milesa Yeni SARMIENTO MAYEA) 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/CU03/00020 and was filed on December 22, 2003 in the names of Maria Acelia MARRERO MIRAGAYA, Ana AGUILERA BARRETO, Lisette GONZALEZ CHAVEZ, Eduardo MARTINEZ DIAZ, Beatriz TORREZ CABRERA, Carelia COSME DIAZ, Milesa Yeni SARMIENTO MAYEA, Luciano HERNANDEZ MARRERO and Beatriz TAMARGO SANTOS for the invention entitled FORMULATIONS FOR THE RECTAL ADMINISTRATION OF THROMBOLYTICALLY-ACTIVE AGENTS. The national stage application number is 10/540,296 and has a 35 U.S.C. 371(c)(1), (2) and (4) date of January 20, 2006.



TOWNSEND AND
TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Application of :
Gilles, et al. :
Application No. 10/540,306 : DECISION
Filed: 20 June, 2005 :
Attorney Docket No. 084329-000000US :

This is a decision on the petition filed on 6 September, 2006, under 37 C.F.R. §1.182.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.

The petition as considered under 37 C.F.R. §1.182 is **GRANTED in part** and **DISMISSED in part**.

NOTES: 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. §1.182."

BACKGROUND

The record reflects that:

- the instant application was filed on 20 June, 2005, and thereafter proceeded through initial application examination for formalities;

Application No. 10/540,306

- based upon the application data sheet (ADS) and the oath/declaration submitted by Petitioner on filing, the Office set out the names and order of inventors (of the inventive entity) as : Ronald Mark Gilles Peter Walsh, Jim Iliopoulos, Alberto Pompeo Avolio, William Walsh and Michael O'Rourke;
- in the petition filed on 6 September, 2006, Petitioner avers that:
 - (a) the foregoing listing on submission in fact “was in no particular order,” however, the order now needs to be corrected; and
 - (b) the identification of Ronald Mark Gilles was erroneous: while the inventor so signed the oath as “Ronald Mark Gilles” without change or alternation, his name in fact is “Mark Ronald Gilles,” and this, too, must be corrected.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation—since all owe to the Office the continuing duty to disclose.¹

ANALYSIS

Petitioner has sought relief under the provisions of 37 C.F.R. §1.182.

As to the Correction of the Order of Inventors

The commentary set forth at MPEP §605.04(f) indicates that

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).

Application No. 10/540,306

[T]he particular order in which the names appear is of no consequence insofar as the legal rights of the joint applicants are concerned, no changes will be made except when a petition under 37 C.F.R. §1.182 is granted. The petition should be directed to the attention of the Office of Petitions. The petition to change the order of names must be signed by either the attorney or agent of record or all the applicants. Applicants are strongly encouraged to submit an application data sheet showing the new order of inventor names to ensure appropriate printing of the inventor names in any patent to issue.”

This Petitioner has done.

As to the Correction
of the Inventor’s Name

The commentary set forth at MPEP §605.04(c) clearly indicates that a declaration attesting to the facts surrounding the error and to the truth of the correction is to be signed by the declarant under both the former name/alias/nickname and the proper legal name. (Emphasis supplied.)

This Petitioner has failed to do.

CONCLUSION

Thus, Petitioner appears to have satisfied his burdens herein only in part.

Accordingly, the petition as considered under 37 C.F.R. §1.182 to:

- set forth the order of inventors (as O’Rourke, (William) Walsh, Iliopoulos, Avolio, Gillies, and (Peter) Walsh) is **granted**; however,
- the petition to alter/correct the name first and second names of inventor Gilles is **dismissed**, pending determination following Petitioner’s submission of the statement/declaration by inventor Gillies and signed by him under both names (i.e., Ronald Mark Gillies and Mark Ronald Gillies) as discussed above.

Upon resubmission, Petitioner should reassert his request for relief as to both matters in order that the Office of Initial Patent Examination might address both matters at one time.

Further correspondence with respect to this matter should be addressed as follows:

Application No. 10/540,306

By mail: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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. §1.2²) 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

² 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.



08 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

Daniel J. Piotrowski
Corporate Patent Counsel
Phillips Electronic North American Corporation
P.O. Box 3001
Briarcliff Manor, NY 10510-8001

In re Application of :
SNIJDDER et al. :
U.S. App. No.: 10/540,313 :
PCT No.: PCT/IB03/06241 :
International Filing Date: 19 December 2003 :
Priority Date: 06 January 2003 :
Attorney's Docket No.: US030003 :
For: METHOD AND APPARATUS FOR SIMILAR :
CONTENT HOPPING :

DECISION

This application is before the Office of PCT Legal Administration for issues arising under 35 U.S.C. 371.

BACKGROUND

On 19 December 2003, applicants filed international application PCT/IB03/06241 which claimed a priority date of 06 January 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 22 July 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, 06 July 2005.

On 21 June 2005, applicants filed a Transmittal Letter (Form PTO-1390) for entry into the national stage in the United States which identified the international application as **PCT/IB04/00013**. Accompanied the transmittal letter, applicants included: (1) a preliminary amendment; (2) a copy of a Declaration of Inventorship under PCT Rules 4.17(iv) and 51bis.1(a)(iv) filed during the international phase; (3) an assignment; and (4) an authorization to charge deposit account no. 14-1270 the amount of \$1040 (\$300 for the basic national fee; \$200 for the examination fee; \$400 for the search fee; and \$40 for recordation of an assignment).

COMMUNICATION

A review of the international publication for PCT/IB03/06241 reveals that this is the international application corresponding to the application submitted here. **However, the Transmittal Letter submitted by applicants misidentified the international application**

number as PCT/IB04/00013. Based on applicant's error, a national stage application file was created for PCT/IB04/00013, rather than for PCT/IB03/06241.

In order to continue processing of the national stage application for PCT/IB03/06241, applicant must submit a petition under 37 CFR 1.182 to correct the error in the Transmittal Letter (Form PTO-1390) submitted on 21 June 2005. This petition must be accompanied by the \$400 petition fee and a corrected version of the Transmittal Letter (Form PTO-1390).

Applicant is given **TWO (2) MONTHS** from the mail date of this Communication to submit the required petition. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459



#5

30 DEC 2005

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

In re Application of
SNIJDER et al.
Application No.: 10/540,313
PCT No.: PCT/IB03/06241
Int. Filing Date: 19 December 2003
Priority Date: 06 January 2003
Attorney Docket No.: US030003
For: METHOD AND APPARATUS FOR
SIMILAR VIDEO CONTENT HOPPING

DECISION ON RESPONSE

This application is before the Office of PCT Legal Administration for issues arising under 35 U.S.C. 371. Applicant filed a petition under 37 CFR 1.182 requesting correction of the international application number in a Transmittal Letter filed in the United States Patent and Trademark Office (USPTO) on 21 June 2005.

On 19 December 2003, applicants filed international application PCT/IB03/06241 which claimed a priority date of 06 January 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 06 July 2005.

On 21 June 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/IB04/00013.

On 08 September 2005, a USPTO communication was mailed to applicant indicating that the Transmittal Letter filed on 21 June 2005 misidentified the international application number as PCT/IB04/00013. Applicant was advised to submit a petition under 37 CFR 1.182 to correct the error.

On 02 November 2005, in response to the USPTO communication, applicants filed the instant petition requesting rectification of incorrect international application number identifying the correct international application no. as PCT/IB03/06241.

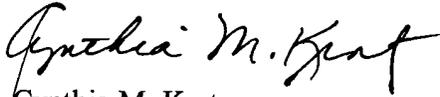
Applicant's request to correct the international application number on the transmittal letter is granted.

CONCLUSION

The application is being forwarded to the US Designated/Elected Office for further processing as the national stage of PCT/IB03/06241, assigned U.S. serial number 10/540,313.

The DO/EO/US will issue a Notification of Missing Requirements (FORM PCT/DO/EO

905) and Notification of Defective Oath or Declaration (FORM PCT/DO/EO 917) indicating that the oath or declaration is not in accordance with either 37 CFR §§ 1.66, 1.68 or 1.497 and that a new oath or declaration is required along with a surcharge for filing the oath or declaration after the thirty month period.



Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571)272-3286
Facsimile: (571)273-0459



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c/o Schering-Plough Corporation
2000 Galloping Hill Road
Mail Stop: K-6-1, 1990
Kenilworth, NJ 07033

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FEB 01 2010

In re Application of Timmers et al.	:	
Application No. 10/540,335	:	On Application For
Filing Date: January 10, 2006	:	Patent Term Adjustment
Attorney Docket No. 2002.749US	:	

This is in response to the "Request for Reconsideration of Patent Term Adjustment Determination Under 37 CFR §1.705(B)" filed November 12, 2009. Applicants submit the correct patent term adjustment to be indicated on the patent is eighty (80) days, not 0 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.

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 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 § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, an applicant

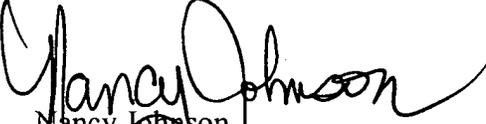
may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider 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 regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.


Nancy Johnson
Senior Petitions Attorney
Office of Petitions

¹ For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.



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THOMPSON HINE LLP
Intellectual Property Group
P.O. Box 8801
DAYTON, OH 45401-8801

Mail Date: 04/27/2010

Applicant : Robert Fernand Bujeau : DECISION ON REQUEST FOR
Patent Number : 7634992 : RECALCULATION of PATENT
Issue Date : 12/22/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/540,347 : OF WYETH AND NOTICE OF INTENT TO
Filed : 06/21/2005 : ISSUE CERTIFICATE OF CORRECTION
:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **526** 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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18 DEC 2007

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Alexandria, VA 22313-1450

BLAKELY SOKOLOFF TAYLOR & ZAFMAN/PDC
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SEVENTH FLOOR
LOS ANGELES, CA 90025

In re Application of:	:	
MOCHI, Gianni, et al.	:	DECISION ON PETITIONS
U.S. Application No.: 10/540,374	:	UNDER 37 CFR 1.137(b) AND
Int'l Application No: PCT/EP2003/014559	:	37 CFR 1.47(a)
Int'l Filing Date: 18 December 2003	:	
Priority Date: 23 December 2002	:	
Atty Docket No.: 6097P066	:	
For: SYSTEM FOR ESTIMATION AND	:	
CONTROL OF CONCENTRATIONS OF:	:	
POLLUTANT GASES AT THE	:	
DISCHARGE OF A GAS TURBINE	:	

This decision is issued in response to the Petition for Revival under 37 CFR 1.137(b) filed 19 October 2007 and the "Petition For Filing By Other Than All The Inventors Under 37 CFR 1.47(a)" filed 19 October 2007 and supplemented on 30 November 2007. Applicants have paid the required petition fees.

BACKGROUND

On 18 December 2003, applicants filed international application PCT/EP2003/014559. The application claimed an earlier priority date of 23 December 2002 and it designated the United States. On 08 July 2004, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for filing the basic national fee was thirty months from the priority date, i.e., 23 June 2005.

On 22 June 2005, applicants filed a Transmittal Letter requesting entry into the U.S. national stage, accompanied by, among other materials, payment of the basic national fee.

On 27 December 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date were required. The Notification set forth an extendable two month response period.

Applicants did not file a response to the Notification Of Missing Requirements during the extendable time period. Accordingly, this application became abandoned at midnight on 27 February 2006.

On 19 October 2007, applicants filed the Petition for Revival under 37 CFR 1.137(b) and the "Petition For Filing By Other Than All The Inventors Under 37 CFR 1.47(a)" considered herein. The petition under 37 CFR 1.47(a) seeks acceptance of the application without the signature of non-signing inventor Luciano BONCIANI, whom applicants assert cannot be located after diligent effort.

On 30 November 2007, applicants filed a supplement to the petition under 37 CFR 1.47(a) that included a declaration executed by the previously non-signing inventor.

DISCUSSION

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). It is noted that item (4) does not apply to the present application.

With respect to item (1), the "required reply" in this application is a proper response to the Notification Of Missing Requirements mailed 27 December 2005, that is, an acceptable oath or declaration and the required surcharge payment. Applicants' 19 October 2007 submission included the surcharge payment, a declaration executed by four of the five inventors, and the petition under 37 CFR 1.47(a) requesting acceptance of the declaration without the signature of the remaining inventor. Applicants' supplemental submission filed 30 November 2007 included a declaration executed by the previously non-signing inventor. The 30 November 2007 submission renders the previously filed petition under 37 CFR 1.47(a) moot.

Based on the above, applicants have now submitted the required surcharge payment and a declaration executed by all the inventors. The declaration satisfies the requirements of 37 CFR 1.497. Accordingly, applicants have provided the "required reply." Item (1) is satisfied.

With respect to item (2), applicants have submitted the required petition fee. Item (2) is therefore satisfied.

The present petition fails, however, to satisfy item (3) above. The petition includes general statements 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 that "[t]he delay in the reply by Applicant was unintentional." However, no petition under 37 CFR 1.137(b) was filed within one year of the date of abandonment of the present application; under such circumstances, there is a question whether the delay was unintentional. *See* MPEP section 711.03(c)(II)(D); *see also 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). Where there is a question whether the delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). See *In re Application of G*, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989). As set forth in MPEP section 711.03(c)(II)(D), there are three periods of delay to consider in determining whether the entire delay from the due date for the required reply until the filing of a grantable petition for revival was unintentional: (A) the delay in reply that resulted in the original abandonment; (B) the delay in filing an initial petition for revival; and (C) the delay in filing a grantable petition for revival.

In addition to the fact that the petition was filed more than one year after the date of abandonment, there are specific items in the present record that raise questions as to whether the entire relevant delay herein was unintentional. For example, an attached email from counsel's assistant dated 16 August 2006 indicates that applicant was aware at that time of being "up against" the extendable deadline to respond to the Notification Of Missing Requirements, yet the petitions under 37 CFR 1.137(b) and 1.47(a) were not filed until more than one year later.¹ In addition, an attached email from counsel dated 06 February 2007 indicates that counsel was aware at such time that the present application was abandoned, and it states that counsel was waiting until receiving signed forms before filing a petition for revival. This email implies that the delay from at least 06 February 2007 until the filing of the petition for revival more than eight months later was deliberate (see MPEP section 711.03(c)(II)(D): "where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as 'unintentional' within the meaning of 37 CFR 1.137(b)").

In view of the above, there is a question here whether the delay in prosecution, as well as the delay in seeking revival, was unintentional. Therefore, in addition to the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, applicants must provide a showing as to: (1) the date that applicants (or applicants' representative) first became aware of the abandonment of the application; (2) how any delay between the abandonment and applicants' (or applicants' representatives) discovery of the abandoned status of the application occurred; and (3) the cause of any delay between applicants' (or applicants' representatives) discovery of the abandoned status of the application and the filing of a petition to revive. See 37 CFR 1.137(b)(3).

Further, any renewed petition should include copies of any correspondence or communications between counsel and applicants and/or the assignee, which would rebut any inference that the filing of the petition to revive was intentionally delayed. This showing should include, but is not limited to, docket records, tickler reports, and file jacket entries for this application.

Based on the above, applicants have not, on the present record satisfied item (3) of a grantable petition for revival under 37 CFR 1.137(b). Accordingly, revival of the application is not appropriate at this time.

¹ It is noted that the extendable response period had already expired at the time of this email.

CONCLUSION

The petition for revival under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

The petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT** based on applicants' submission of a declaration executed by the previously non-signing inventor.

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 request for reconsideration should be entitled "Renewed Petition Under 37 CFR 1.137(b)" and it must include the materials required to satisfy the outstanding requirement of 37 CFR 1.137(b)(3), as discussed above and in the MPEP.

No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration



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05 JUN 2008

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN/PDC
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LOS ANGELES, CA 90025

In re Application of:	:	
MOCHI, Gianni, et al.	:	DECISION ON RENEWED
U.S. Application No.: 10/540,374	:	PETITION UNDER
Int'l Application No: PCT/EP2003/014559	:	37 CFR 1.137(b)
Int'l Filing Date: 18 December 2003	:	
Priority Date: 23 December 2002	:	
Atty Docket No.: 6097P066	:	
For: SYSTEM FOR ESTIMATION AND	:	
CONTROL OF CONCENTRATIONS OF	:	
POLLUTANT GASES AT THE	:	
DISCHARGE OF A GAS TURBINE	:	

This decision is issued in response to the "Renewed Petition Under 37 CFR 1.137(b)" filed 21 February 2008. No additional petition fee is required.

BACKGROUND

The procedural background for the present application was set forth in the decision mailed on 18 December 2007. In that decision, applicants' petition under 37 CFR 1.47(a) was dismissed as moot based on applicants' submission of a fully executed declaration and applicants' petition for revival under 37 CFR 1.137(b) was dismissed without prejudice for failure to satisfy all the requirements of a grantable petition. Specifically, the petition required applicants to provide further evidence to confirm that the entire delay in filing the petition for revival was unintentional.

On 21 February 2008, applicants filed the "Renewed Petition Under 37 CFR 1.137(b)" considered herein.

DISCUSSION

The renewed petition includes supplemental materials providing a detailed account of applicants' actions at the time the application became abandoned and up until the filing of the petition for revival. The present submission, in combination with the original petition for revival, provides an acceptable showing that the delay in filing the petition for revival was not deliberate and that entire delay in filing the required reply and the petition for revival was unintentional. Accordingly, the final requirement for a grantable petition for revival under 37 CFR 1.137(b) has now been satisfied.

CONCLUSION

The 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 30 November 2007.



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05 MAY 2006



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James

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HONEYWELL INTERNATIONAL
101 Columbia Road
Morristown, NJ 07962

In re Application of
SAUSSE *et al*
Application No.: 10/540,375 ←
PCT No.: PCT/IB2002/003589
Int. Filing Date: 05 September 2002
Priority Date: None —
Attorney's Docket No.: 930-99-002
For: TURBOCHARGER COMPRISING A
VARIABLE NOZZLE DEVICE

DECISION

This decision is in response to the papers submitted via facsimile on 02 May 2006.

BACKGROUND

On 04 March 2005, applicants filed via facsimile papers to enter the national stage of PCT/IB2002/003589. However, the transmittal letter indicated that the international application was PCT/US2002/003589. All other indications show that the papers were intended as the national stage of PCT/IB2002/003589. The papers were processed as the national stage of PCT/US2002/003589 and given U.S. application No. 10/528,857. Fees were charged to counsel's Deposit Account No. 01-1125 as authorized.

On 24 June 2005, applicants filed the same papers as filed 04 March 2006 using Express Mail service. These papers were processed as the national stage of PCT/IB2002/003589 despite the indication on the transmittal letter that the international application number was PCT/US2002/003589. The U.S. application number was 10/540,375.

On 02 May 2006, after a suggestion by the undersigned, applicants submitted a petition to amend the transmittal letter pursuant to 37 CFR 1.182.

DISCUSSION

Petition to Amend Transmittal Letter

Applicants request to amend "the National Stage request filed via facsimile in the above-referenced case on March 4, 2005." Applicants state that they "inadvertently

John
6/5/06

referred to the priority International Application No. as "PCT/US02/03589." The correct International Application No. is PCT/IB02/03589, as is also indicated on the attachment."

A review of all papers filed show that the application was clearly intended to be the national stage of PCT/IB2002/003589, not PCT/US2002/003589. The title, international filing date, and international papers correspond to PCT/IB2002/003589. Only the country code is incorrect.

The \$400.00 petition fee has been charged to Deposit Account No. 01-1125 as authorized. This is sufficient for a grantable petition.

Duplicate Applications

As previously noted, the papers filed 04 March 2004 were intended to be filed as the national stage application of PCT/IB2002/003589, however, they were processed as the national stage of PCT/US2002/003589 due to the error on the transmittal letter. The duplicate papers filed 24 June 2005 were processed as the national stage application of PCT/IB2002/003589.

The end result for an international application designating the United States of America is a single U.S. national stage application. In this case, the papers filed on 04 March 2005 and 24 June 2005 will be merged into one national stage application for PCT/IB2002/003589 and denoted U.S. application No. 10/540,375.

U.S. application No. 10/528,857 will no longer be an active U.S. application. Applicants must use U.S. application No. 10/540,375 for all future correspondence regarding the national stage of PCT/IB2002/003589.

The fees paid in U.S. application No. 10/528,857 have been credited back to Deposit Account No. 01-1125.

Papers Submitted Via Facsimile

The national stage papers submitted 04 March 2006 were submitted via facsimile. A national stage application may not be submitted via facsimile. Section 1893.01(a)(1) of the MPEP states, in part:

Facsimile transmission is not acceptable for submission of the basic national fee and/or the copy of the international application. See 37 CFR 1.6(d). Likewise, the certificate of mailing procedures of 37 CFR 1.8 do not apply to the filing of the copy of the international application and

payment of the basic national fee. See 37 CFR 1.8(a)(2)(i)(F). Applicants cannot pay the basic national fee with a surcharge after the 30 month deadline. Failure to pay the basic national fee within 30 months from the priority date will result in abandonment of the application. The time for payment of the basic fee is not extendable.

In addition, the thirty-month date for entering into the United States for PCT/IB2002/003589 expired on 05 March 2005. As such, the national stage papers filed 24 June 2005 were untimely resulting in the abandonment of the application.

CONCLUSION

Applicants' petition under 37 CFR 1.182 to amend the transmittal letter is hereby **GRANTED**. The subject application is the national stage of PCT/IB2002/003589 filed 05 September 2002.

However, the subject application is **ABANDONED** pursuant to 37 CFR 1.495(b)(2).

If reconsideration of this decision is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision.

Applicants may also wish to consider to revive the above-captioned application pursuant to 37 CFR 1.137(b).

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.


James Thomson
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14 SEP 2006

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In re Application of :
SAUSSE *et al* :
U.S. Application No.: 10/540,375 :
PCT No.: PCT/IB2002/003589 :
Int. Filing Date: 05 September 2002 :
Priority Date: None :
Attorney Docket No.: 930-99-002 :
For: TURBOCHARGER COMPRISING A :
VARIABLE NOZZLE DEVICE :

**DECISION ON
PETITION FOR REVIVAL
UNDER 37 CFR 1.137(b)**

Applicants' petition to revive under 37 CFR 1.137(b) filed on 13 July 2006 is hereby **GRANTED** as follows:

The basic national fee and the petition fee have been paid. Applicants make the required statement pursuant to 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration was not included with any of the papers submitted.

This application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a \$130.00 surcharge fee pursuant to 37 CFR 1.492(h) are required.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302



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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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HOWARD & HOWARD ATTORNEYS PLLC
450 West Fourth Street
Royal Oak, MI 48067

Mail Date: 04/21/2010

Applicant : Yoshiyuki Kawazoe : DECISION ON REQUEST FOR
Patent Number : 7658997 : RECALCULATION of PATENT
Issue Date : 02/09/2010 : TERM ADJUSTMENT IN VIEW
Application No : 10/540,379 : OF WYETH AND NOTICE OF INTENT TO
Filed : 06/23/2005 : ISSUE CERTIFICATE OF CORRECTION
:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1073** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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**WILLIAM J. SAPONE
COLEMAN SUDOL SAPONE P.C.
714 COLORADO AVENUE
BRIDGE PORT CT 06605**

COPY MAILED
NOV 06 2008
OFFICE OF PETITIONS

In re Application of :
Caponi et al. :
Application No. 10/540,382 : **ON PETITION**
Filed: June 23, 2005 :
Attorney Docket No. 376/9-2106 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 3, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to the Office of Data Management for processing into a patent.


Liana Walsh
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

02 JAN 2008

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

LIU & LIU
444 S. FLOWER STREET, SUITE 1750
LOS ANGELES CA 90071

In re Application of:	:	
SUMI, Naoki	:	DECISION ON PETITION
U.S. Application No.: 10/540,384	:	(37 CFR 1.137(b))
Int'l Application No: PCT/JP2003/016652	:	
Int'l Filing Date: 24 December 2003	:	
Priority Date: 27 December 2002	:	
Atty Docket No.: JP02 0029 US	:	
For: METHOD FOR MANUFACTURING	:	
ELECTRONIC DEVICE AND	:	
ELECTRONIC DEVICE	:	

This decision is issued in response to applicant's Petition for Revival under 37 CFR 1.137(b) filed 21 June 2007. Applicant has paid the required petition fee.

BACKGROUND

On 24 December 2003, applicant filed international application PCT/JP2003/016652. The application claimed an earlier priority date of 27 December 2002 and it designated the United States. On 22 July 2004, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for filing the basic national fee was thirty months from the priority date, i.e., 27 June 2005.

On 22 June 2005, applicant filed a Transmittal Letter requesting entry into the U.S. national stage accompanied by, among other materials, payment of the basic national fee.

On 22 December 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that a translation of the international application into English, an oath or declaration in compliance with 37 CFR 1.497, and the surcharge and processing fees for filing these materials later than thirty months after the priority date were required.

On 04 January 2006, applicant filed a response to the Notification Of Missing Requirements that included an executed declaration, payment of the required surcharge and processing fee, and an English translation of the specification, claims, and abstract. However, the submission did not include an English translation of the drawings.

On 31 July 2006, the DO/EO/US mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) indicating that applicant had complied with the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) as of 04 January 2006.

On 21 November 2006, the DO/EO/US mailed a "Withdrawal Of Previously Sent Notice" indicating that the Notification Of Acceptance mailed 31 July 2006 had been issued in error and was therefore withdrawn. Also on 21 November 2006, the DO/EO/US mailed a "Notification Of Defective Response" (Form PCT/DO/EO/916) indicating that the previously filed English translation of the international application was defective for failure to include a translation of the drawings. The Notification provided a non-extendable one-month response period.

Applicant did not file a response to the Notification Of Defective Response during the one-month response period. Accordingly, the present application became abandoned at midnight on 21 December 2006.

On 20 April 2007, the USPTO mailed an Office Action containing a restriction requirement.

On 21 June 2007, applicant filed the petition for revival considered herein accompanied by, among other materials, a purported translation of the drawings into English.

DISCUSSION

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). It is noted that item (4) does not apply to the present application.

With respect to item (1), the "required reply" is a proper response to the Notification Of Defective Response mailed 21 November 2006, that is, an English translation of the drawings. Applicant's petition includes an English translation of 99 out of the 100 drawings herein; however, applicant has not submitted a translated version of Figure 82. Applicant must submit an English translation of Figure 82 to complete the "required reply." Until such translation is submitted, item (1) above is not satisfied.

With respect to item (2), applicant has paid the required petition fee. Item (2) is therefore satisfied.

With respect to item (3), the petition includes the required 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. However, the statement of unintentional delay was executed by an attorney who was not of record at the time the application became

abandoned. Such attorney was appointed herein on 23 May 2007 by an assignee, TPO Hong Kong Holding Company ("TPO"), that took ownership of the application after the application became abandoned. Under these circumstances, it is not apparent that the person signing the statement of unintentional delay is in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue.

The statement in the present petition is sufficient to conclude that the delay in filing the petition from the time above-named counsel became responsible for the application in May 2007 until the filing of the present application on 21 June 2007 was unintentional. However, it is not sufficient to support a conclusion that the delay during the period between the mailing of the Notification Of Defective Response on 21 November 2006 and above-named counsel's acceptance of responsibility herein in May 2007, a period during which the application was owned by a different assignee and was being handled by separate counsel, was also unintentional.

Before it can be concluded that the entire delay herein was unintentional, applicant must provide additional materials confirming that the delay in filing the required reply between the mailing of the Notification Of Defective Response on 21 November 2006 and above-named counsel's acceptance of responsibility herein in May 2007 was unintentional. Such materials should include a statement from prior counsel explaining the delay during this period, since such person(s) would presumably have firsthand knowledge regarding the cause of delay during this time period.

Based on the above, applicant has not satisfied items (1) and (3) of a grantable petition for revival under 37 CFR 1.137(b). Accordingly, applicant's petition cannot be granted on the present record.

Finally, because the present application became abandoned as of 21 December 2006, the subsequent mailing of an Office Action on 20 April 2007 was inappropriate. The Office Action mailed 20 April 2007 is therefore properly vacated.

CONCLUSION

Applicants' petition for revival under 37 CFR 1.137(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 request for reconsideration should be entitled "Renewed Petition Under 37 CFR 1.137(b)" and it must include the materials required to satisfy items (1) and (3) of a grantable petition, as discussed above. No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

The Office Action mailed 20 April 2007 is hereby **VACATED**.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration



Leonard Smith
Legal Examiner
Office of PCT Legal Administration

LS/rmr



Richard M. Ross
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Office of PCT Legal Administration
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UNITED STATES PATENT AND TRADEMARK OFFICE

10 APR 2008

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

LIU & LIU
444 S. FLOWER STREET, SUITE 1750
LOS ANGELES CA 90071

In re Application of:	:	
SUMI, Naoki	:	DECISION ON RENEWED
U.S. Application No.: 10/540,384	:	PETITION
Int'l Application No: PCT/JP2003/016652	:	(37 CFR 1.137(b))
Int'l Filing Date: 24 December 2003	:	
Priority Date: 27 December 2002	:	
Atty Docket No.: JP02 0029 US	:	
For: METHOD FOR MANUFACTURING	:	
ELECTRONIC DEVICE AND	:	
ELECTRONIC DEVICE	:	

This decision is issued in response to applicant's "Renewed Petition Under 37 CFR 1.137(b) And Further Statement Of Unintentional Delay" filed 28 January 2008. No additional petition fee is required.

BACKGROUND

The procedural background for the present application was set forth in the previous Decision mailed herein on 02 January 2008. That decision dismissed applicant's original petition for revival based on the failure to satisfy all the requirements of a grantable petition. Specifically, applicant had failed to provide the complete "required reply" (i.e., an English translation of all the drawings), and applicant had not provided an acceptable showing that the entire delay was unintentional.

On 28 January 2008, applicant filed the "Renewed Petition Under 37 CFR 1.137(b) And Further Statement Of Unintentional Delay."

DISCUSSION

The renewed petition includes an English translation of Figure 82. This submission completes the "required reply," satisfying this element of a grantable petition.

The renewed petition also includes a further explanation regarding the delay that resulted in the abandonment herein. In this statement, petitioner confirms that the attorney signing the petition was in position to have firsthand knowledge of the facts and circumstances of the delay at issue in that such attorney was responsible for the present application at the time of abandonment. Petitioner goes on to again assert 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.” Based on the further explanation provided in the renewed petition, petitioner’s statements herein are accepted as satisfying the requirements of 37 CFR 1.137(b)(3).

Based on the above, applicant has now satisfied all the requirements for a grantable petition for revival under 37 CFR 1.137(b).

CONCLUSION

Applicants’ petition for revival under 37 CFR 1.137(b) is **GRANTED**.

This application is being referred to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 28 January 2008.



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22 AUG 2006

20583
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New York, NY 10017

In re Application of :
SCHADT *et al* :
U.S. Application No.: 10/540,405 :
PCT No.: PCT/US2003/041613 :
Int. Filing Date: 24 December 2003 :
Priority Date: 27 December 2002 :
Attorney's Docket No.: 9301-210-999 :
For: COMPUTER SYSTEMS AND :
METHODS FOR ASSOCIATING :
GENES WITH TRAITS USING CROSS :
SPECIES DATA :

DECISION

This is a decision on the request to add an inventor in the above-captioned application pursuant to 37 CFR 1.497(d) filed 30 June 2006.

BACKGROUND

On 03 January 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, 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 30 June 2006, applicants filed the subject petition which was accompanied by, *inter alia*, a four-month extension and fee; an executed declaration; the processing fee; a copy of an assignment; a "Statement of John Lamb Under 37 CFR § 1.497(d)(1)"; a "Consent of Assignee Under 37 CFR §1.497(d)(3) and Statement Under 37 CFR 3.73(b)."

DISCUSSION

Applicants request to add John Lamb as an inventor 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 John Lamb who requests to be added as an inventor in the above-captioned application. Mr. Lamb states that the "error in inventorship in the PCT application 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 Edward M. Yoshida, as Managing Counsel.

The Consent of Assignee is not accepted for the following reason.

MPEP § 324 states that: "[a] person having a title (manager, director, administrator; general counsel) that does not clearly set forth that person as an officer of the assignee is not presumed to be an officer of the assignee or to have authority to sign the statement on behalf of the assignee. Here, the consent of assignee was signed by Mr. Yoshida as Managing Counsel of Rosetta Inpharmatics LLC. This position is not presumed to have authority to sign the statement on behalf of the assignee. In addition, the submission does not set forth that Mr. Yoshida is authorized to act on behalf of the assignee.

Therefore, all the requirements of 37 CFR 1.497(d) are not yet complete.

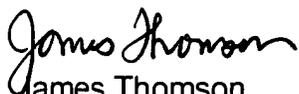
CONCLUSION

For the reason discussed above, applicants' request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter deposited with the United

States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



James Thomson
Attorney Advisor
Office of PCT Legal Administration

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05 JAN 2007

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222 East 41st Street
New York, NY 10017

In re Application of :
SCHADT *et al* :
U.S. Application No.: 10/540,405 :
PCT No.: PCT/US2003/041613 :
Int. Filing Date: 24 December 2003 :
Priority Date: 27 December 2002 :
Attorney's Docket No.: 9301-210-999 :
For: COMPUTER SYSTEMS AND :
METHODS FOR ASSOCIATING :
GENES WITH TRAITS USING CROSS :
SPECIES DATA :

DECISION

This is a decision on the renewed request to add an inventor in the above-captioned application pursuant to 37 CFR 1.497(d) filed 23 October 2006.

BACKGROUND

On 22 August 2006, a decision dismissing applicants' petition pursuant to 37 CFR 1.497(d) was mailed. Applicants were given two months to respond with extensions of time available.

On 23 October 2006, applicants filed the renewed petition along with, *inter alia*, a copy of an assignment and a "Consent of Assignee to Change of Inventorship Under 37 C.F.R. § 1.497(d)(3) and Statement Under 37 C.F.R. § 3.73(b)."

DISCUSSION

As previously indicated, 37 CFR 1.497(d) applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)). 37 CFR 1.497(d) states, in part:

- (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or a change to the inventive entity has been effected under PCT Rule 92 bis subsequent to the execution of any declaration which was filed under PCT Rule 4.17(iv), the oath or declaration must be accompanied by:

- (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
- (2) The processing fee set forth in § 1.17(i); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

Applicants previously completed items (1) and (2) of 37 CFR 1.497(d).

In the renewed petition, applicants provided a consent form signed by Edward M. Yoshida, as Managing Counsel of the assignee, Rosetta Inpharmatics LLC. The submission sets forth that Mr. Yoshida is authorized to act on behalf of the assignee. A copy of the assignment was also provided. This is sufficient to meet the requirements of § 324 MPEP and item (3) of 37 CFR 1.497(d).

All items of 37 CFR 1.497(d) are now complete.

CONCLUSION

Applicants' request to add John Lamb as an inventor in the above-captioned application pursuant to 37 CFR 1.497(d) is **GRANTED**.

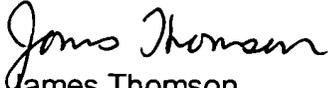
The declaration filed 30 June 2006 is now in compliance with 37 CFR 1.497(a) and (b).

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 24 December 2003, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 30 June 2006.

It is noted that applicants request to delete Stephanie A. Monks as an inventor pursuant to 37 CFR 1.48(b) will be decided by the Primary Examiner pursuant to MPEP § 1002.02(e).

This application is being forwarded to the National Stage Processing Division of

the Office of PCT Operations for continued processing.



James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302



UNITED STATES PATENT AND TRADEMARK OFFICE

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SUGHRUE MION, PLLC
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WASHINGTON DC 20037

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AUG 07 2008

In re Application of	:	
SETH, Pyare L.	:	
Application No. 10/540,422	:	DECISION ON PETITION
Filed: April 4, 2006	:	TO MAKE SPECIAL UNDER
Attorney Docket No. Q88273	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 28, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is GRANTED.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes the statement of inventor Pyare L. Seth, attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

Inquiries concerning either the examination or status of the application should be directed to the Technology Center 571-272-1600.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

The application is being forwarded to the Technology Center Art Unit 1612 for action on the merits commensurate with this decision.


Monica A. Graves
Petitions Examiner
Office of Petitions



21 FEB 2006

PATENT DOCKET CLERK
COWAN, LIEBOWITZ & LATMAN, P.C.
1133 AVENUE OF THE AMERICAS
NEW YORK NY 10036

In re Application of :
GALAN I LLANGUERAS :
Application No.: 10/540,429 : DECISION ON
PCT No.: PCT/ES03/00655 :
Int. Filing Date: 23 December 2003 : PETITION UNDER
Priority Date: 23 December 2002 :
Attorney Docket No.: 26740-000/MXM : 37 CFR 1.137(b)
For: FLUID SPINNING SYSTEM :

This decision is in response to applicants' submission filed 07 July 2005.

BACKGROUND

On 23 December 2003, applicants filed international application PCT/ES03/00655 which designated the U.S. and claimed a priority date of 23 December 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 08 July 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 23 June 2005.

On 07 July 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, an assertion of small entity status, a declaration of inventors, 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), applicants submitted the basic national fee on 07 July 2005.

As to item (2), applicants submitted the petition fee on 07 July 2005.

As to item (3), the requisite statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

Declaration of Inventors

The declaration of inventors filed 07 July 2005 is not in compliance with 37 CFR 1.497(a)-(b). First, there is a difference in names in the named inventor between the published international application (Albert GALAN I LLANGUERAS) and the declaration of inventors (Albert GALAN I LLONGUERAS). It is not clear if there was a typographical or transliteration error in the first name of the inventor as indicated in the international application or declaration (an acceptable explanation would be required), or if the inventor has changed his name (a petition under 37 CFR 1.182 (see MPEP § 605.04(c))) would be required), or if a change of inventorship is being made from the inventorship of the application as indicated in the international application (a petition under 37 CFR 1.497(d) would be required). Second, the declaration is not executed.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** 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. Regarding the name of Mr. Kwon, a proper response would be a new oath(s) or declaration(s) properly identifying the inventor and signed by the inventor, or an acceptable explanation of any typographical or transliteration error in the middle name of the inventor as indicated in the international application if this is the case, or a petition under 37 CFR 1.182 (see MPEP § 605.04(c)) if the inventor has changed his name, or a petition under 37 CFR 1.497(d) if a change of inventorship is being made from the inventorship of the application as indicated in the international application. The surcharge under 37 CFR 1.492(e) for providing the declaration later than thirty months from the priority date is also required. Extensions of time under 37 CFR 1.136(a) are available.

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

Application No.: 10/540,429

-3-

Office of Patent Cooperation Treaty

Legal Administration

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13 JUL 2006



UNITED STATES PATENT and TRADEMARK OFFICE

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COWAN, LIEBOWITZ & LATMAN, P.C.
1133 AVENUE OF THE AMERICAS
NEW YORK NY 10036

In re Application of : DECISION ON REQUEST
GALAN ILLANGUERAS :
Application No.: 10/540,429 :
PCT No.: PCT/ES03/00655 :
Int. Filing Date: 23 December 2003 : TO WITHDRAWAL AS
Priority Date: 23 December 2002 :
Attorney's Docket No.: 26740-00/MXM :
For: FLUID SPINNING SYSTEM : ATTORNEY OF RECORD

This is in response to the "REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS" filed 09 May 2006. No fee is required.

DISCUSSION

The criteria for effecting a proper withdrawal of attorney is spelled out in Section 402.06 of the Manual of Patent Examining Procedure (M.P.E.P.) which reads, in part, as follows:

"In the event that a notice of withdrawal is filed by an attorney or agent of record... appropriate procedure will be followed pertaining to the withdrawal. The **withdrawal is effective when approved** rather than when received.

To expedite the handling of requests for permission to withdraw as attorney, under 37 CFR 1.36, Form PTO/SB/83 may be used. Because the Office does not recognize law firms, each attorney of record must sign the notice of withdrawal, or the notice of withdrawal must contain a clear indication of one attorney signing on behalf of another.

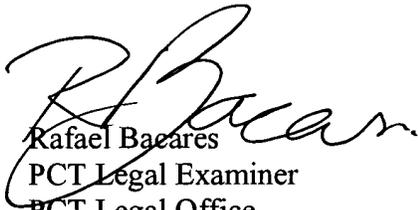
The Commissioner of Patents and Trademarks usually requires that there be at least 30 days between approval of withdrawal and the later of the expiration date of a time response period or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1,136(a). This is so that the applicant will have sufficient time to obtain other representation or take other action. If a period has been set for response and the period may be extended without a showing of cause pursuant to 37 CFR 1.136(a) by filing a petition for extension of time and fee, the practitioner will not be required to seek such extension of time for withdrawal to be approved. In such a situation, however, withdrawal will not be approved unless at least 30 days would remain between the date of approval and the last date on which such a petition for extension of time and fee could properly be filed."

Since all of the criteria delineated in Section 402.06 of the M.P.E.P. have been complied with and because there are no outstanding responses due, the request to withdraw as attorney of record is **GRANTED** and is effective as of the mail date of this communication.

Accordingly, all future correspondence will be mailed to Albert GALAN I LLONGUERAS.

DECISION

In view of the above discussion, counsel's Request for Withdrawal is **GRANTED**.



Rafael Bacares
PCT Legal Examiner
PCT Legal Office

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13 NOV 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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DEFILLO & ASSOCIATES INC.
4922 EAGLE COVE SOUTH DRIVE
PALM HARBOR, FL 34685

In re Application of	:	
GALAN I LLANGUERAS	:	
Application No.: 10/540,429	:	DECISION
PCT No.: PCT/ES03/00655	:	
Int. Filing Date: 23 December 2003	:	
Priority Date: 23 December 2002	:	
Attorney Docket No.: 26740-000/MXM	:	
For: FLUID SPINNING SYSTEM	:	

This decision is in response to applicants' submission filed 25 September 2006.

BACKGROUND

On 23 December 2003, applicants filed international application PCT/ES03/00655 which designated the U.S. and claimed a priority date of 23 December 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 08 July 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 23 June 2005.

On 07 July 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, an assertion of small entity status, a declaration of inventors, and a petition under 37 CFR 1.137(b) to revive the application.

On 21 February 2006, a decision was mailed granting applicant's petition under 37 CFR 1.137(b). The decision also noted that there was a difference in names in the named inventor between the published international application (Albert GALAN I LLANGUERAS) and the declaration of inventors (Albert GALAN I LLONGUERAS) and that applicant was required to provide a new oath(s) or declaration(s) properly identifying the inventor and signed by the inventor, or an acceptable explanation of any typographical or transliteration error in the middle name of the inventor as indicated in the international application if this is the case, or a petition under 37 CFR 1.182 (see MPEP § 605.04(c)) if the inventor has changed his name, or a petition under 37 CFR 1.497(d) if a change of inventorship is being made from the inventorship of the application as indicated in the international application. The decision set a two-month extendable time period for response.

On 09 May 2006, a request for withdrawal as attorney was submitted by the firm associated with Customer Number 32137.

On 13 July 2006, a decision was mailed granting the request to withdraw as attorney.

On 25 July 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) indicating that a translation of the application into English, the processing fee under 37 CFR 1.492(i) for providing the translation later than thirty months from the priority date, an executed oath or declaration of inventors in compliance with 37 CFR 1.497(a)-(b), and the surcharge under 37 CFR 1.492(h) were required.

On 25 September 2006, applicant filed a submission including, inter alia, a Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address, an executed declaration of the inventor, the surcharge under 37 CFR 1.492(h), a petition/fee for a five-month extension of time, a translation of the international application into English, the processing fee under 37 CFR 1.492(i), and a petition under 37 CFR 1.497(d).

DISCUSSION

Petition Under 37 CFR 1.497(d)

A petition under 37 CFR 1.497(d) is only required where the inventive entity in the national stage application is different than the inventive entity in the international application. Here, the inventive entities are the same. The petition filed 25 September 2006 concerns the correction of an inventor's name and notifies the Office that the correct translation of the inventor's name is as follows: **Albert Galan I Llongueras** as indicated in the declaration filed 25 September 2006 rather than Albert Galan I Llangueras, as is indicated in the international application. The petition explains that the international application contained a typographical error.

Applicants' explanation of the difference in the translation of Albert Galan I Llongueras's name is accepted and noted for the record.

Translation

The translation filed 25 September 2006 is not an accurate translation of the international application as filed. The translation of text matter in a drawing must be in the form of a copy of the original drawing with the translation pasted on the original text matter or in the form of a drawing executed anew. PCT Rules 76.5 and 49.5(d). The translation filed 25 September 2006 still contains foreign text in Figs. 1-4. Thus, the translation is defective. An accurate translation of the international application as filed is required in order to comply with 35 U.S.C. 371.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.497(d) is **DISMISSED** as

MOOT.

A proper response must be filed within a time limit of ONE MONTH from the date of this decision or within the time remaining in the response set forth in the NOTIFICATION mailed 25 July 2006, whichever is longer. No extension of this time limit may be granted under 37 CFR 1.136, but the period for response set in the NOTIFICATION mailed 25 July 2006 may be extended 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

11/13/2006 SBASHEIR 00000002 10540429

01 FC:2617
02 FC:1618

65.00 OP
130.00 OP



MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK NY, 10281-2101

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MAR 25 2008

OFFICE OF PETITIONS

Applicant: Nuber et al.
Appl. No.: 10/540,436
Filing Date: December 10, 2003
Title: METHOD AND APPARATUS FOR HEAT TREATMENT IN A FLUIDIZED BED
Attorney Docket No.: 4791-4011
Pub. No.: US 2006/0231466-A1
Pub. Date: October 19, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on March 1, 2007, for the above-identified application.

The request is DISMISSED.

Applicants request that the application be republished because Werner Stockhausen and Michael Stroder were not listed as inventors on the front page of the patent application publication.

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 or revised patent application publication other than 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 March 1, 2007, was not timely filed under 37 CFR 1.221(b).

Applicants are 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 in compliance with the Office 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.

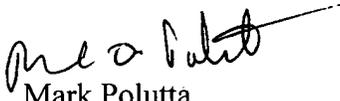
¹Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

Any request for republication under 37 CFR 1.221(a) must be submitted via the EFS system as a "Pre-Grant Publication" and any questions or request for reconsideration of the decision should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.



Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy



28 JUL 2006

Jones & Smith, LLP
The Riviana Building
2777 Allen Parkway, Suite 800
Houston, Texas 77019-2141

In re Application of	:	
KIEPE, Thomas	:	
Application No.: 10/540,442	:	DECISION ON PETITION
PCT No.: PCT/EP03/14301	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 16 December 2003	:	
Priority Date: 23 December 2002	:	
Attorney Docket No.: 016273-00500	:	
For: ROD-TYPE EXPULSION CAPSULE	:	

The petition to revive under 37 CFR 1.137(b) filed 10 July 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 returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office PCT Legal Administration
Tel.: 571-272-3298
Facsimile: 571-273-0459



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
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32ND FLOOR
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Christelle Marie Guittet	: DECISION ON REQUEST FOR
Patent Number	: 7646905	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/540,444	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **930** 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.



PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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APR 27 2009

OFFICE OF PETITIONS

In re Application of :
Frans Eduard Janssens et al :
Application No. 10/540,447 :
Filed: June 22, 2005 :
Attorney Docket No. JAB1731f :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 3, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 6, 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 November 7, 2008.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1624 for further processing.


Irvin Dingle
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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RAHWAY NJ 07065-0907

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JUL 17 2008

OFFICE OF PETITIONS

In re Application of :
CRESCENZI et al. :
Application No. 10/540,449 :
Filed: June 22, 2005 :
Attorney Docket No. ITR0046YP :

DECISION ON APPLICATION
FOR
PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)," filed March 17, 2008. Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from 177 days to 206 days.

The application for patent term adjustment is GRANTED.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **206 days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On January 23, 2008, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants were advised that the patent term adjustment to date is 177 days. In response, applicants timely¹ filed the instant request for reconsideration of the patent term adjustment.

¹ Office records indicate that the issue fee payment was received on March 17, 2008.

Applicants request that the patent term adjustment be corrected to 206 days. Applicants dispute the reduction pursuant to 37 CFR 1.704(b) of 29 days on the ground that they did not fail to engage in reasonable efforts to conclude prosecution of the application.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

The application history has been reviewed and it has been determined that the initial patent term adjustment of 177 days is incorrect. The Office mailed a nonfinal Office action on July 3, 2007, within four months after the date of the filing of applicants' reply on April 12, 2007. Although the nonfinal Office action of July 3, 2007, was mailed to the correct correspondence address of record, the Office action was returned by the United States Postal Service to the USPTO. Accordingly, a letter restarting the period for reply (and re-mailing the Office action) was mailed on August 3, 2007. Applicants' response filed November 2, 2007, was received within the three-month period after the date of the mailing of the Office action as re-mailed on August 3, 2007. Accordingly, a period of reduction of 29 days is not warranted and is being removed.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is 206 days.

The Office will charge the \$200.00 fee set forth in 37 CFR 1.18(e) to the Deposit Account as authorized. No additional fee is required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Kery A. Fries

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of updated PAIR screen

Day : Wednesday

Date: 7/16/2008

Time: 14:48:40

PALM INTRANET**PTA Calculations for Application: 10/540449**

Application Filing Date:	06/22/2005	PTO Delay (PTO):	206
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	29
Post-Issue Petitions:	0	Total PTA (days):	206
PTO Delay Adjustment:	29		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
52	07/16/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	29		
39	01/23/2008	MAIL NOTICE OF ALLOWANCE			
38	01/23/2008	ISSUE REVISION COMPLETED			
37	01/23/2008	DOCUMENT VERIFICATION			
36	01/23/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
35	01/23/2008	CASE DOCKETED TO EXAMINER IN GAU			
34	01/22/2008	EXAMINER'S AMENDMENT COMMUNICATION			
33	01/22/2008	NOTICE OF ALLOWABILITY			
28	11/17/2007	DATE FORWARDED TO EXAMINER			
27	11/01/2007	RESPONSE AFTER NON-FINAL ACTION		29	24
26	08/03/2007	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
25	08/01/2007	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
24	07/03/2007	MAIL NON-FINAL REJECTION			
23	06/25/2007	NON-FINAL REJECTION			
22	04/12/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	04/24/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	04/12/2007	REFERENCE CAPTURE ON IDS			
19.7	04/12/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	17
19	04/12/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	04/26/2007	DATE FORWARDED TO EXAMINER			
17	04/12/2007	RESPONSE TO ELECTION / RESTRICTION FILED			

16	03/16/2007	MAIL RESTRICTION REQUIREMENT	206		-1
15	03/14/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
14	06/19/2006	CASE DOCKETED TO EXAMINER IN GAU			
13	04/24/2006	REFERENCE CAPTURE ON IDS			
12.7	04/24/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	04/24/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	06/22/2005	PRELIMINARY AMENDMENT			
10	02/09/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	02/09/2006	CASE DOCKETED TO EXAMINER IN GAU			
8	11/21/2005	CLEARED BY OIPE CSR			
7	11/21/2005	CLEARED BY OIPE CSR			
6	06/27/2005	371 COMPLETION DATE			
5	10/25/2005	APPLICATION DISPATCHED FROM OIPE			
4	10/25/2005	NOTICE OF DO/EO ACCEPTANCE MAILED			
3	07/21/2005	PCT CLASSIFICATION			
2	07/21/2005	PCT CLASSIFICATION			
1	06/22/2005	INITIAL EXAM TEAM NN			

Search Another: Application#

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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27 OCT 2006

Marcus P Dolce
Price Heneveld Cooper DeWitt & Litton
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Post Office Box 2567
Grand Rapids MI 49501

In re Application of THASSU et al.
Application No.: 10/540,453
PCT No.: PCT/US03/38983
Int. Filing Date: 09 December 2003
Priority Date: 23 December 2002
Attorney's Docket No.: CEL01 P-303
For: ACID LABILE DRUG COMPOSITIONS

:
:
DECISION ON
:
:
PETITION
:
:
UNDER 37 CFR 1.181
:
:

This decision is in response to applicant's 19 October 2006 "Petition to Withdraw Holding of Abandonment under 37 CFR 1.181" requesting acceptance of a copy of the declaration in lieu of the original declaration filed United States Patent and Trademark Office (USPTO) on 21 February 2006. No petition fee is required.

BACKGROUND

On 22 June 2005, applicant filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO 1390) along with, *inter alia*, the basic national fee.

On 20 December 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) & (b), was required.

On 14 September 2006, a Notification of Abandonment was mailed to applicant indicating that applicant had failed to respond to the Notification of Missing Requirements mailed on 20 December 2005 within the time period set therein.

On 19 October 2006, in response to the Notification of Abandonment, applicant filed the instant response with, *inter alia*, a copy of 21 February 2006 declaration, and a copy of an itemized USPTO date-stamped postcard indicating that these papers were filed on 21 February 2006.

DISCUSSION

The original declaration filed on 21 February 2006 is now located in the application file. A review of the finance records for 10/540,453 indicates that on 21 February 2006, the \$130

surcharge for filing the declaration after the thirty month period was paid.

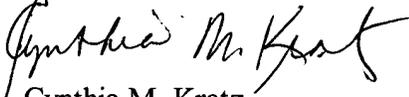
A review of the declaration reveals that the declaration identifies the inventors, and states the citizenship, residency and mailing address of the inventors. Thus, the declaration is acceptable and the requirements of 37 CFR 1.497 are met.

CONCLUSION

The petition under 37 CFR 1.181 is **DISMISSED AS MOOT**. The 14 September 2006 Notification of Abandonment is hereby **VACATED**.

The declaration originally submitted on 21 February 2006 is acceptable and meets the requirements of 37 CFR 1.497(a) & (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) & (c)(4) date is **21 February 2006**.



Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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