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ROTHWELL, FIGG, ERNST & MANBECK, P.C.
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WASHINGTON DC 20005

COPY MAILED
DEC 15 2009
OFFICE OF PETITIONS

In re Patent No. 7,550,497	:	DECISION ON REQUEST FOR
Almansa Rosales et al.	:	RECONSIDERATION OF
Issue Date: June 23, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/540,490	:	AND NOTICE OF INTENT TO ISSUE
Filed: January 20, 2006	:	CERTIFICATE OF CORRECTION
Docket No. 3494-107	:	

This is in response to the PETITION TO CORRECT PATENT TERM ADJUSTMENT, filed August 21, 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 two hundred twenty-six (226) days to five hundred ninety (590) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED** to the extent indicated herein.

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer**, from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **269 days**.

On June 23, 2009, the above-identified application matured into U.S. Patent No. 7,550,497. The patent issued with a revised patent term adjustment of 226 days. The present request for reconsideration of patent term adjustment was timely filed on

August 21, 2009, within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees aver that the correct number of days of patent term adjustment is 590 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q.2d 1538 (D.D.C. 2008). Patentees maintain that the total period of Office delay is the sum of the period of Three Year Delay[1] (364 days) and the period of examination delay[2] (321 days)[3] to the extent that these periods of delay are not

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[1] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides:

> Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:
>
> (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);
> (2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);
> (3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;
> (4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or
> (5) Any delay in the processing of the application by the Office that was requested by the applicant.

[2] 37 CFR 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
> (1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

[3] A Restriction Requirement was mailed on February 4, 2008, 14 months and 321 days after the date on which the requirements under 35 U.S.C. 371 were fulfilled on January 20, 2006.

overlapping. Patentees contend no periods of delay attributable to grounds specified under 35 U.S.C. 154(b)(1)(A) and 35 U.S.C. 154(b)(1)(B) overlap. Therefore, patentees assert that they are entitled to the sum of 321 days of examination delay - 95 days of applicant delay + 364 days of Three Year Delay, for a total patent term adjustment of 590 days.

At the outset, it is noted that patentees correctly state the Office did not use the correct 35 U.S.C. 371(b) national stage commencement date of June 24, 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. The date the national stage commenced under 35 U.S.C. 371(b), June 24, 2005, is used to determine the Three Year Delay under 37 CFR 1.703(b).

Pursuant to 37 CFR 1.703(b), the period of adjustment under 37 CFR 1.702(b) should be 364 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, June 25, 2008, and ending on the date the patent issued, June 23, 2009.

As to patentees' interpretation of the period of overlap, the Office finds it inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[4] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 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

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[4] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

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, June 24, 2005, the date of commencement under 35 USC 371(b), to June 23, 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), 321 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), 364 days of patent term adjustment accrued for Office issuance of the patent more than three years after the date the national stage commenced under 35 U.S.C. 371(b).

The 364 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 321 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 364 days and the 321 days is neither permitted nor warranted. 364 days is the actual number of days issuance of the patent was delayed. Accordingly, an additional period of adjustment of 43 days will be entered for the Office failing to issue the patent within three years after the application commenced under 35 U.S.C. 371(b).

In view thereof, the patent term adjustment indicated on the patent should be 269 days (364 Office delay - 95 for 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 application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 269 days.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7, 550,497 B2

DATED : Jun. 23, 2009

INVENTOR(S) : Rosales, 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" and insert – by 269 days--

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ROTHWELL, FIGG, ERNST & MANBECK, P.C.
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SUITE 800
WASHINGTON, DC 20005

Mail Date: 04/20/2010

Applicant	: Carmen Almansa Rosales	: DECISION ON REQUEST FOR
Patent Number	: 7550497	: RECALCULATION of PATENT
Issue Date	: 06/23/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/540,490	: 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 **633** 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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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/26/2010

Applicant	: Hideki Fujikura	: DECISION ON REQUEST FOR
Patent Number	: 7655633	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/540,519	: 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 **992** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

Mail Date: 05/05/2010

Applicant	: Akihisa Inoue	: DECISION ON REQUEST FOR
Patent Number	: 7622011	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/540,527	: 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 **895** 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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STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON DC 20036

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JUN 01 2010

OFFICE OF PETITIONS

In re Application of	:	
Niven et al.	:	
Application No. 10/540,538	:	DECISION ON PETITION
Filed: July 7, 2006	:	
Attorney Docket No. 15521.0001	:	

This is a decision on the petition under 37 CFR 1.59(b), filed June 15, 2007, to expunge information from the above identified application. The delay in rendering this decision is regretted.

The petition is **GRANTED**.

Petitioner requests that a document filed June 7, 2007, be expunged from the record. Petitioner states that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(g) has been paid.

The information in question has been determined by the undersigned to not be material to the examination of the instant application.

Expungement of information that was inadvertently submitted to the Office is appropriate provided that items (A)-(F) set forth in MPEP §724.05, paragraph II, are satisfied. See also MPEP §724.

In view of the above, the document that was requested to be removed has been expunged from the instant application. As of mailing date of this decision, the corresponding images of the expunged documents in Image File Wrapper (IFW) have been "closed" thereby removing them from a list of publicly available documents associated with this application.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

Telephone inquiries concerning this decision should be directed to Ramesh Krishnamurthy at (571) 272-4914.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

15 JUN 2006

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In re Application of KOBAYASHI et al. Application No.: 10/540,563 PCT No.: PCT/JP03/16359 Int. Filing Date: 19 December 2003 Priority Date: 24 December 2002 Attorney Docket No.: Q88775 For: IMAGE DISPLAY DEVICE	:	DECISION ON SUBMISSION

This application is before the PCT Legal Office for consideration of matters arising under 35 U.S.C. 371. This decision is in response to applicant's Petition under 37 CFR 1.182 to Correct Inventor's Name filed in the United States Patent and Trademark Office on 07 December 2005. Applicant submitted a $400 petition fee, which is not required and credited to his deposit account.

BACKGROUND

On 24 June 2005, applicants filed a transmittal letter concerning a filing under 35 U.S.C. 371 accompanied by the basic national fee and an English translation of the international application.

On 22 November 2005, a Notification of Missing Requirements was mailed to applicants 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 07 December 2005, applicants filed a Response to the Notification of Missing Requirements along with an executed declaration of the inventors. The published international application identified the fourth inventor as **Mitsuharu** Takagi. The declaration identified the fourth inventor as **Koji** Takagi and was executed as Koji Takagi.

DISCUSSION

A review of the application file reveals that the given name of the applicant is listed in the international application as " **Mitsuharu** Takagi"; however, the declaration is signed by "Koji Takagi". Applicant explains that Inventor Takagi explains that the error in the first name misspelling occurred due to "an error in translation". The correction of a transliteration error in the first name of inventor Koji Takagi is accepted and noted in the record.

The declaration executed by the inventors is in compliance with 37 CFR 1.497(a) and (b) and thus, satisfies the requirements of 35 U.S.C. 371 (c)(4) for entrance into the national stage in the United States.

CONCLUSION

The declaration of inventors submitted by applicants on 07 December 2005 is in compliance with 37 CFR 1.497(a) and (b).

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **07 December 2005.**

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

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

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JOHN ALEXANDER GALBREATH
2516 CHESTNUT WOODS CT
REISTERSTOWN MD 21136

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AUG 10 2007

OFFICE OF PETITIONS

Applicant: Pietrzyk, Andrzej
Appl. No.: 10/540,587
International Filing Date: November 12, 2003
Title: SYSTEM OF THREE-DIMENSIONAL MULTIPURPOSE ELEMENTS
Pub. No.: US 2006/0155388 A1
Pub. Date: July 13, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on July 27, 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 in paragraph 18, line 5 wherein "walls 6" is misprinted as "waits 6".

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 noted by requestor wherein the term "walls 6" has been misprinted as "waits 6" in paragraph 18, line 5 may be an Office error, but it is not a material Office error under 37 CFR 1.221. The error is a typographical error, which is clearly understandable to one of ordinary skill in the art in reading the specification as the element 6 "walls" is repeated four times in the paragraph. The mistake is a minor typographical, which 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 the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

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

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

07 APR 2006

#9

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Michael Best & Friedrich
100 East Wisconsin Avenue, Suite 3300
Milwaukee WI 53202-4108

In re Application of	:	
SUN et al.	:	
Application No.: 10/540,599	:	DECISION ON PETITION
PCT No.: PCT/CN03/01110	:	
Int. Filing Date: 24 December 2003	:	UNDER
Priority Date: 24 December 2002	:	
Attorney Docket No.: NTD/9004	:	37 CFR 1.497(d)
For: A TWO-COMPONENT WET CEMENT,	:	
PROCESS AND APPLICATION THEREOF	:	

This decision is in response to applicants' "REQUEST TO CORRECT INVENTORSHIP UNDER 37 C.F.R. §1.48(a)" filed in the United States Patent and Trademark Office (USPTO) on 16 January 2006, which has properly been treated as a petition under 37 CFR 1.497(d). (The submission filed 08 February 2006 providing duplicate copies of the submission filed 16 January 2006 has been placed in the file but will not be acted upon as the original papers filed 16 January 2006 have been matched with the file.)

BACKGROUND

On 24 December 2003, applicants filed international application PCT/CN03/01110, which designated the United States and claimed a priority date of 24 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 24 June 2005.

On 24 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 an assertion of small entity status.

On 21 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, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 16 January 2006, applicants submitted the instant "REQUEST TO CORRECT INVENTORSHIP UNDER 37 C.F.R. §1.48(a)", which has properly been treated as a petition under 37 CFR 1.497(d). The petition was accompanied by a declaration of inventors and statements from each person being removed as an inventor.

On 26 January 2006, the DO/EO/US mailed a second NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required.

DISCUSSION

The second NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 mailed 26 January 2006 was mailed in error 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 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 Sec. 1.17(I); and
> (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see Sec. 3.73(b) of this chapter); and
> (4) Any new oath or declaration required by paragraph (f) of this section.

Applicants have satisfied items (1) and (2).

As to item (4), a new declaration is not required by 37 CFR 1.497(f) in the instant situation.

Applicants have not satisfied item (3). 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).

CONCLUSION

The request under 37 CFR 1.497(d) is **DISMISSED** for the reasons set forth above.

The second NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 mailed 26 January 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

#5

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29 DEC 2005

SCHIFF HARDIN LLP
Patent Department
6600 Sears Tower
Chicago, Illinois 60606-6473

In re Application of: HOIJER, Carl-Johan U.S. Application No.: 10/540,604 PCT No.: PCT/SE2003/001289 International Filing Date: 19 August 2003 Priority Date: 30 September 2002 Attorney's Docket No.: P05,0232 For: HEART STIMULATOR DETECTING ATRIAL ARRHYTHMIA BY DETERMINING WALL DISTENSION BY IMPEDANCE MEASURING	DECISION ON PETITION FOR REVIVAL OF ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

The petition for revival under 37 CFR 1.137(b) filed 27 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, including the mailing of a Notification Of Missing Requirements (Form PCT/DO/EO/905) requiring submission of 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.

RMR

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

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E I Du Pont De Nemours and Company
Legal Patents
Wilmington DE 19805

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DEC 03 2007
OFFICE OF PETITIONS

In re Application of	:	
THIELE et al.	:	
Application No. 10/540,605	:	DECISION ON PETITION
Filed: 06/27/2005	:	
Attorney Docket No. CH2856USPCT	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 14, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed December 26, 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 March 27, 2007. A Notice of Abandonment was mailed on July 9, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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) 272-3211.

This application is being referred to Technology Center AU 1755 for appropriate action by the Examiner in the normal course of business on the reply received on August 14, 2007.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MARK D. SARALINO (PAN)
RENNER, OTTO, BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE
19TH FLOOR
CLEVELAND, OH 44115

Mail Date: 04/21/2010

Applicant	: Takanori Okada	: DECISION ON REQUEST FOR
Patent Number	: 7613379	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/540,631	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

02 MAY 2006

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7278
DARBY & DARBY
P.O. Box 5257
New York, NY 10150-5257

In re Application of	:	
NAKAYAMA *et al*	:	
U.S. Application No.: 10/540,655	:	
PCT No.: PCT/JP03/16698	:	
Int. Filing Date: 25 December 2003	:	**DECISION**
Priority Date: 27 December 2002	:	
Attorney Docket No.: 09859/0202500-US0	:	
For: PROCESS FOR PRODUCING MEAT	:	
EXTRACT	:	

Applicants' "Request for Corrected Filing Receipt" filed via facsimile on 18 April 2006 is treated as a petition under 37 CFR 1.181 and hereby **GRANTED** as follows:

The filing receipt mailed 13 December 2005 displayed an incorrect title. The title should be recorded as "PROCESS FOR PRODUCING MEAT EXTRACT."

Accordingly, the filing receipt mailed 13 December 2005 is hereby **VACATED**.

A corrected filing receipt will be mailed with this decision. This application will then be forwarded to Technology Center 1700 for examination.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

08 SEP 2006

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ALFRED J MANGELS
4729 CORNELL ROAD
CINCINNATI, OH 45241-2433

In re Application of LEWIN	:	
U.S. Application No.: 10/540,678	:	
PCT Application No.: PCT/SE03/01887	:	
Int. Filing Date: 04 December 2003	:	DECISION
Priority Date Claimed: 23 December 2002	:	
Attorney Docket No.: 1815	:	
For: METHOD AT A GAS BURNER AND A	:	
COMBINED GAS BURNER AND COOLER	:	

This is in response to applicant's "Petition to Withdraw Holding of Abandonment" filed 17 August 2006, which is being treated under 37 CFR 1.10(e). No petition fee is due.

BACKGROUND

On 04 December 2003, applicant filed international application PCT/SE03/01887, which claimed priority of an earlier Sweden application filed 23 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 23 June 2005.

On 23 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 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 an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 18 February 2006, applicant purportedly filed an executed declaration.

On 07 August 2006, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely respond to the Notification of Missing Requirements.

On 17 August 2006, applicant filed the present petition under 37 CFR 1.10(e).

DISCUSSION

37 CFR 1.10(e) states,

> Any person mailing correspondence addressed as set out in 1.1(a) to the Office with sufficient postage utilizing the Express Mail Post Office to Addressee service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
>
> (2) The number of the Express Mail mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by Express Mail;
>
> (3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the Express Mail mailing label thereon, a copy of any returned postcard receipt, a copy of the Express Mail mailing label showing the date-in, a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the date-in on the Express Mail mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the Express Mail Post Office to Addressee service prior to the last scheduled pickup for that day; and
>
> (4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the Express Mail mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original Express Mail mailing label, returned postcard receipt, and official notation entered by the USPS.

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

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

With regard to item (3) above, applicant has provided a copy of the originally deposited papers and a copy of the Express Mail label showing a "date-in" of 18 February 2006.

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

CONCLUSION

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

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 07 August 2006 is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 04 December 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 18 February 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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2 9 SEP 2008

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Alfred J. Mangels
4729 Cornell Road
Cincinnati, OH 45241-2433

In re Application of:	:	
Thomas Lewin	:	DECISION ON
Application No.: 10/540,679	:	
PCT Application No.: PCT/SE03/01886	:	PETITIONS UNDER
Int. Filing Date: 04 December 2003	:	
Priority Date: 23 December 2002	:	37 CFR 1.137(b) and
Atty Docket No.: 1814	:	
For: METHOD TO SUPPLY ELECTRIC		37 CFR 1.181
CURRENT TO A TUBE FURNACE	:	

Applicant's "Reply to Notification of Abandonment" and "Petition For Revival Of An International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR §1.137(b)" filed in the United States Patent and Trademark Office (PTO) on 25 March 2008 is have been received. Applicant's "Reply to Notification of Abandonment" which is being treated as a petition under 37 CFR §1.181 to have the Notification of Abandonment withdrawn is **GRANTED**. The petition to revive under 37 CFR §1.137(b) is **DISMISSED AS MOOT**.

BACKGROUND

On 04 December 2003, applicant filed international application PCT/SE03/01886. The international application claims a priority date of 23 December 2002 and designates the United States. The deadline for entry into the United States National Stage was thirty months from the priority date, that is 23 June 2005. Applicant missed the deadline by failing to pay the appropriate national fee and the application became abandoned at midnight 23 June 2005.

On 23 June 2005, applicant filed a transmittal letter requesting entry into the national phase under 35 U.S.C. 371 and an authorization to charge a deposit account for the requisite national stage fee as required by 35 U.S.C. 371(c)(1). An oath or declaration of the inventor as required by 35 U.S.C. 371(c)(4) was not submitted.

On 17 January 2008, the Office mailed applicant a Notification of Abandonment for failing to respond to the Notification of Missing Requirements mailed 19 December 2005.

On 25 March 2008, applicant filed the instant petition for revival accompanied by, *inter alia*, a declaration of the inventor as required by 35 U.S.C. 371(c)(4) and the petition fee as required by 37 CFR 1.17(m).

DISCUSSION

The Notification of Abandonment mailed 17 January 2008 indicates that the instant application is abandoned for failure to timely respond to the Notification of Missing Requirements dated 19 December 2005. However, the Notification of Missing Requirements under 35 U.S.C. 371 mailed on 19 December 2005 and present in the instant application is not related to this application. It refers to a different U.S. application number, different counsel, different international application, etc. Thus, failure to respond to that Notice cannot lead to abandonment of the instant application. Accordingly, the Notification of Abandonment mailed on 17 January 2008 is **VACATED**. The aforementioned misdirected Notification of Missing Requirements will be removed from the instant application.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

The petition to withdraw the Notification of Abandonment under 37 CFR 1.181 is **GRANTED**.

The application has an international filing date of 04 December 2003 under 35 U.S.C. 363 and a date of 25 March 2008 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4). The application is being returned to the National Stage Processing Division of the Office of PCT Operations for continued processing.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

Patrick Lewis
Detailee
PCT Legal Administration

Telephone: (571) 272-6094

24 JUN 2010

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ALFRED J MANGELS
4729 CORNELL ROAD
CINCINNATI, OH 45241-2433

In re Application of	:	
LEWIN, THOMAS	:	
Application No.: 10/540,679	:	DECISION
PCT No.: PCT/SE2003/001886	:	
Int. Filing Date: 04 December 2003	:	
Priority Date: 23 December 2002	:	
Attorney Docket No.: 1814	:	
For: METHOD TO SUPPLY CURRENT TO	:	
A TUBE OF FURNACE	:	

This decision is in response to applicant's "RENEWED REQUEST FOR FEE REFUND" filed 25 March 2010 to request the refund of the petition fee that accompanied the petition to revive the instant application filed on 25 March 2008. No petition fee is due.

BACKGROUND

On 04 December 2003, applicant filed international application PCT/SE2003/001886, which claimed priority of an earlier application filed 23 December 2002. The thirty-month period for paying the basic national fee in the United States expired on 23 June 2005.

On 23 June 2005, applicant filed national stage papers in the United States Designated/Elected (DO/EO/US). The submission was accompanied by, inter alia, an authorization to charge applicant's deposit account for the basic national fee required by 35 U.S.C. 371 (c)(1).

On 17 January 2008, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that applicant failed to respond to Notification of Missing Requirements (PCT/DO/EO/905).

On 25 March 2008, applicant filed a reply to the abandonment, a petition to revive the application and an authorization to charge the petition fee.

Application No.: 10/540,679

On 29 September 2008, a petition decision was issued to vacate the Notification of Abandonment and dismissed the petition to revive the application as Moot.

On 25 March 2010, applicant filed the present petition to request for refund of the petition fee.

DISCUSSION

A review of the file indicated that the petition fee was charged to the deposit account on 25 March 2008. However, the charge has not been refunded to applicant's account. Accordingly, a refund of $1540 is appropriate.

CONCLUSION

For the reason detailed above, applicant's petition for refund is **GRANTED**.

As such, applicant is due a refund of $1540. Accordingly, applicant's deposit account No. 50-1300 has been credited in the amount of $1540.

Bryan Lin

Shian Luong
Special Programs Examiner
Office of PCT Legal Administration
Tel: (571) 272-4557

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

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OFFICE OF PETITIONS

In re Patent No. 7,402,004	:	
Application No. 10/540,681	:	
Filed: June 23, 2005	:	ON PETITION
Issued: July 22, 2008	:	
Attorney Docket No. 09852/0203065-US0	:	

This is a decision on the petition filed October 20, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to delete the name of the second assignee from the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Liana Walsh
Petitions Examiner
Office of Petitions

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

24 JAN 2007

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

In re Application of STEWART et al	:	
U.S. Application No.: 10/540,718	:	
PCT Application No.: PCT/CA2003/002007	:	
Int. Filing Date: 24 December 2003	:	
Priority Date Claimed: 24 December 2002	:	DECISION
Attorney Docket No.: 3998-051954	:	
For: METHODS OF DIAGNOSING,	:	
PREVENTING, AND TREATING EARLY	:	
ONSET OF PULMONARY	:	
HYPERTENSION	:	

This is in response to applicant's "Petition to Revive" filed 21 December 2006, which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

BACKGROUND

On 24 December 2003, applicant filed international application PCT/CA2003/002007, which claimed priority of an earlier United States application filed 24 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 on 24 June 2005.

On 24 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 17 January 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 21 December 2006, applicant filed the present petition under 37 CFR 1.181.

On 27 December 2006, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909).

DISCUSSION

The petition states that the Notification of Missing Requirements mailed 17 January 2006 was never received.

According to the Official Gazette at 1156 OG 53 and MPEP 711.03(c), a petition to withdraw a holding of abandonment based on failure to receive an Office communication must include: (1) a statement by the practitioner that the Office communication was not received by the practitioner, (2) a statement by the practitioner that he searched the application file jacket and docket records and that the search indicates that the Office communication was not received, and (3) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

With regard to item (1) above, applicant's representative has provided the required statement.

With regard to item (2) above, applicant's representative has not provided the required statement.

With regard to item (3) above, applicant's representative has not supplied the required docket record. Such docket record should list responses due to the USPTO on 17 March 2006 for all cases handled by the representative's firm or for all cases handled by the representative if the record for the entire firm is not available. This docket record must illustrate the absence of any listing of a response due to a Notification of Missing Requirements.

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
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2 0 MAR 2007

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In re Application of STEWART et al	:	
U.S. Application No.: 10/540,718	:	
PCT Application No.: PCT/CA2003/002007	:	
Int. Filing Date: 24 December 2003	:	
Priority Date Claimed: 24 December 2002	:	DECISION
Attorney Docket No.: 3998-051954	:	
For: METHODS OF DIAGNOSING, PREVENTING, AND TREATING EARLY ONSET OF PULMONARY HYPERTENSION	:	

This is in response to applicant's "Renewed Petition 37 CFR 1.181" filed 02 March 2007.

BACKGROUND

On 24 December 2003, applicant filed international application PCT/CA2003/002007, which claimed priority of an earlier United States application filed 24 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 on 24 June 2005.

On 24 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 17 January 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 21 December 2006, applicant filed a petition under 37 CFR 1.181.

On 27 December 2006, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909).

On 24 January 2007, this Office mailed a decision dismissing the 21 December 2006 petition.

On 02 March 2007, applicant filed the present renewed petition under 37 CFR 1.181.

DISCUSSION

The petition states that the Notification of Missing Requirements mailed 17 January 2006 was never received.

According to the Official Gazette at 1156 OG 53 and MPEP 711.03(c), a petition to withdraw a holding of abandonment based on failure to receive an Office communication must include: (1) a statement by the practitioner that the Office communication was not received by the practitioner, (2) a statement by the practitioner that he searched the application file jacket and docket records and that the search indicates that the Office communication was not received, and (3) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

With regard to item (1) above, applicant's representative has provided the required statement.

With regard to item (2) above, applicant's representative has provided the required statement.

With regard to item (3) above, applicant's representative has supplied the required docket record. Such docket record lists responses due to the USPTO on 17 March 2006 for all cases handled by the representative's firm and illustrates the absence of any listing of a response due to a Notification of Missing Requirements for the present application.

CONCLUSION

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

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 27 December 2006 is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 24 December 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 21 December 2006.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision and to await the submission of the remaining requirements set forth in the Notification of Missing Requirements.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

3 1 MAR 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ronald R. Santucci
FROMMER LAWRENCE & HAUG
745 Fifth Avenue
New York, NY 10151

In re Application of :
LUO *et al* :
U.S. Application No.: 10/540,725 :
PCT No.: PCT/US03/040529 :
Int. Filing Date: 19 December 2003 :
Priority Date: 31 December 2002 : **DECISION**
Docket No.: 930037-2008.A.0.14.US :
For: SHAPED MONOFILAMENTS WITH :
GROOVES AND THE FABRICS MADE :
THEREOF :

This decision is in response to applicants' "Request for Correction to Filing Receipt" filed on 13 September 2007 which is treated under 37 CFR 1.181 and hereby **DISMISSED** without prejudice.

Applicants claim that the filing date listed on the filing receipt and Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) is incorrect. The correct filing date should be 17 May 2006 as a declaration was filed in the above-captioned application on that date.

A review of the application verifies that a declaration was submitted on 17 May 2006. Applicants resubmitted the declaration on 16 March 2007 in response to the Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) mailed 09 March 2007. However, neither declaration is in compliance with 37 CFR 1.497(a) and (b) for the following reasons.

First, both declarations contain noninitialed changes with regard to the address of co-inventor Shuiyuan Luo. Any changes made in ink must 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).

Moreover, both declarations are composite declarations consisting of one Page 1 and two Page 2's. This is not acceptable. Applicants must submit a complete copy of each declaration signed by each inventor and each declaration must identify the correct inventive entity.

The Form PCT/DO/EO/903 and filing receipt mailed 20 August 2007 both contain erroneous information and are hereby **VACATED**.

10/540,725

Applicants must provide a new declaration in compliance with 37 CFR 1.497(a) and (b) within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). **Failure to submit a proper response will result in the abandonment of the above-captioned application.**

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

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MARK D. SARALINO (MEI)
RENNER OTTO BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE, 19TH FLOOR
CLEVELAND, OH 44115

COPY MAILED

JUN 11 2008

OFFICE OF PETITIONS

In re Application of :
Yoshihisa Takahashi et al :
Application No. 10/540,728 : ON PETITION
Filed: May 3, 2006 :
Attorney Docket No. YAMAP0985US

This is a decision on the petition, filed June 9, 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 June 4, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2627 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA GA 30309

MAILED
JUL 14 2010
OFFICE OF PETITIONS

In re Application of	:	
Taunier et al.	:	
Application No. 10/540,729	:	ON APPLICATION FOR
Filed: June 24, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 16721-0290	:	
(42528-317078)	:	

This is in response to the COMMUNICATION REGARDING PATENT TERM ADJUSTMENT (PTA) INDICATED IN NOTICE OF ALLOWANCE, filed April 30, 2010. The communication will be treated as a petition under 37 C.F.R. § 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is at least one thousand one hundred eighty-eight (1188) days, not eight hundred twenty-one (821) 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 patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of

issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, 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 $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) will be charged to deposit account no. 11-0855.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

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

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) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

06 JAN 20

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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA, GA 30309

In re Application of	:	
DALE, Nicholas Egerton et al.	:	DECISION
Application No.: 10/540,730	:	
PCT No.: PCT/GB03/04984	:	ON PETITION UNDER
Int. Filing Date: 18 November 2003	:	
Priority Date: 25 November 2002	:	37 CFR 1.137(b)
Docket No.: 46309-315846	:	
For: COATINGS	:	

Applicants' "Petition For Revival of an International Application For Patent Designating the United States Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 24 June 2005 is **GRANTED**.

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

A signed oath or declaration has not yet been submitted.

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

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

UNITED STATES PATENT and TRADEMARK OFFICE

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07 JUL 2008

Alfred A. Fressola
Ware, Fressola, Van Der Sluys &
Adolphson LLP
Bradford Green, Building 5
755 Main Street, P.O. Box 22
Monroe, CT 06468-0224

In re Application of	:	DECISION ON
GRANCHAROV et al	:	
Application No.: 10/540,741	:	
PCT No.: PCT/SE2003/001657	:	
Int. Filing Date: 24 October 2003	:	PETITION UNDER
Priority Date: N/A	:	
Attorney's Docket No.: 915-008.037	:	
For: Noise-Dependent Postfiltering	:	37 CFR 1.10 (c)

This decision is in response to applicants' "REQUEST FOR CORRECTED FILING RECEIPT," filed 11 June 2008, which is being treated as a petition under 37 CFR 1.10(c) requesting that the filing date of 24 June 2005 to 23 June 2005 for the national stage submission for the above identified application. No fee is required for this petition.

BACKGROUND

On 24 June 2005, petitioner purportedly filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), and an executed declaration.

On 24 June 2007, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495" which informed applicants that the 371(c)(1), (c)(2) and (c)(4) and that the date of completion of all 35 U.S.C. 371 is 24 June 2006.

On 03 March 2008, applicants filed the present petition stating that the application was in fact deposited with the USPS on June 23, 2005 as evidenced by the "Express Mail" label indicating a date of 23 June 2005.

DISCUSSION

37 CFR 1.10(c) provides:

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

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

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

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

The petition was filed promptly. 37 CFR 1.10(c)(1). A review of the application papers reveals that "Express Mail" Label No. EV 562516889 US was placed on the "National stage Express Mail Certificate" prior to the original mailing by "Express Mail." CFR 1.10(c)(2). Finally, the copy of the customer receipt of "Express Mail" Label No. 562516889 US filed with the present petition identifies the day of deposit in the "Date In" box, as "23 June 2005." 37 CFR 1.10(c)(3). Accordingly, the requirements under 37 CFR 1.10(c) have been satisfied.

CONCLUSION

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

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 14 February 2006 is **VACATED** with the mailing of this decision.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371 including the preparation and mailing of a New Notification of Acceptance (Form PCT/DO/EO/903) and filing receipt. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **23 June 2005.**

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

03 OCT 2005

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Calfee, Halter & Griswold LLP
800 Superior Avenue, Suite 1400
Cleveland, Ohio 44114-2688

In re Application of Cerreto Serial No.: 10/540,744 PCT No.: PCT/US03/07414 Int. Filing Date: 11 March 2003 Priority Date: 13 March 2002 Attorney's Docket No.: 12873.05197 For: ADJUSTABLE SEATING SYSTEM	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This decision is responsive to the "PETITION FOR REVIVIAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(b)" filed 24 June 2005.

BACKGROUND

On 11 March 2003, applicants filed international application PCT/US03/07414, which claimed priority of an earlier United States provisional application filed 13 March 2002. Accordingly, the thirty-month period for paying the basic national fee for the national expired at midnight on 13 September 2004.

On 24 June 2005, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, a copy of the international application, an executed declaration, the petition to revive, the petition fee, the basic national fee, the search fee, the examination fee, the surcharge for filing the declaration later that 30 months, and the recordation fee. These papers were assigned Application No. 10/540,744.

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.

A review of the application reveals that all of the requirements for revival under 37 CFR 1.137(b) have been satisfied. With respect to (1), applicant filed the proper statement. With respect to (2), applicant filed the transmittal letter, an executed declaration and a check for the basic national fee. With respect to (3), applicant filed the proper petition fee.

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.

This application is being forwarded to the national stage office for preparation of a "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) showing a 35 U.S.C. 371 date of **24 June 2005**.

Debra Brittingham
PCT Special Programs Examiner
Office of PCT Legal Administration

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

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OFFICE OF PETITIONS

In re Application of	:	
Filippo Bastia et al	:	
Application No. 10/540,764	:	DECISION ON PETITION
Filed: November 14, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 38328	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR §1.102(d), filed June 8, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

> (A) That there is an infringing device or product actually on the market or method in use;
>
> (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
>
> (C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.
>
> Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 2854 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

In re Patent No. 7,452,329	:	
Issue Date: November 18, 2008	:	
Application No. 10/540,764	:	NOTICE
Filed: November 14, 2005	:	
Attorney Docket No. BUG8-38328		

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

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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SYNGENTA CROP PROTECTION , INC.
PATENT AND TRADEMARK DEPARTMENT
410 SWING ROAD
GREENSBORO, NC 27409

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JUL 06 2010

OFFICE OF PETITIONS

In re Application of
Renaud BEAUDEGNIES, et *al.*
Application No. 10/540,769
Filed: June 24, 2005
Attorney Docket No. **70204**

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 14, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before June 3, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed March 3, 2010. Accordingly, the date of abandonment of this application is June 4, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

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

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: **WILLIAM A. TEOLI, JR.**
410 SWING ROAD
GREENSBORO, NC 27409

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MCCARTER & ENGLISH LLP
CITYPLACE I
185 ASYLUM STREET
HARTFORD CT 06103

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NOV 27 2007
OFFICE OF PETITIONS

In re Application of	:	
Dominique Dupuis et al.	:	
Application No. 10/540,783	:	ON PETITION
Filed: June 23, 2005	:	
Attorney Docket No. 99342.00063US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 2, 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 July 3, 2007, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on October 4, 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 Bucci
Petitions Examiner
Office of Petitions

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P.O. Box 1450
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Date : August 7, 2009

Patent No. :7550470
Inventor(s) :Mark E. Fraley
Issued :June 23, 2009
Title :TYROSINE KINASE INHIBITORS

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.

Applicants' proposed request to change data on the Title Page; Item (54) Title data is not warranted. The changes as presented in the Letters Patent is the result of a decision made by attorneys office in amendment filed March 4, 2008 and is hereby considered in accordance with the records of the Patent and Trademark Office.

In view of the forgoing applicants' request in this matter is hereby denied.

Further consideration may be obtained with the submission of a new request filed under 37 CFR 1.323, together with the required certificate of correction fee of $100.

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-1541.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756-1541

Sylvia A. Ayler
Attorney for Applicant
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/arg

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OFFICE OF PETITIONS

JOSEPH J. LAKS
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2 INDEPENDENCE WAY, PATENT OPERATIONS
PO BOX 5312
PRINCETON, NJ 08543

In re Application of
Jean-Yves Le Naour, et al.
Application No. 10/540,824
Filed: June 23, 2005
Attorney Docket No. PF030002

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed May 13, 2008.

The petition is **GRANTED**.

The application became abandoned for failure s to timely pay the issue and publication fees on or before May 7, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed February 7, 2008, which set a statutory period for reply of three (3) months. A Notice of Abandonment was subsequently mailed on May 21, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,440 issue fee and the $300 publication fee; (2) the petition fee of $1,540; 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

31 MAY 2006

#7

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of :
YAMADA et al. :
Application No.: 10/540,882 :
PCT No.: PCT/JP03/16683 : DECISION ON REQUEST
Int. Filing Date: 25 December 2003 :
Priority Date: 25 December 2002 :
Attorney Docket No.: 274391US26XPCT :
For: LINEAR ACUTUATOR

This decision is in response to applicants' "Response to Notification of Missing Requirements under 35 U.S.C. 371" filed 09 March 2006 notifying the Office that the correct spelling of the third inventor's name is Motohiro IGARASI as indicated on the declaration rather than Motohiro Igarashi as indicated on the published international application. Applicants' request has been treated under 37 CFR 1.181. No petition fee is due.

The declaration of Motohiro Igarasi avers that "[i]t has been brought to my attention that my last name was spelled incorrectly in the international application due to an error in translation. . .My true and correct name is Motohiro Igarasi, which is set forth on Declaration, Power of Attorney, and Petition filed herewith." 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 third 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 09 March 2006.

Anthony Smith

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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Pearl Cohen Zedek Latzer, LLP
1500 Broadway
12th Floor
New York, NY 10036

Mail Date: 07/02/2010

Applicant	: Gavriel J Iddan	: DECISION ON REQUEST FOR
Patent Number	: 7637865	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/540,888	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1220** 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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NOVARTIS VACCINES AND DIAGNOSTICS, INC.
CORPORATE INTELLECTUAL PROPERTY
P.O. BOX 8097
EMERYVILLE, CA 94662-8097

COPY MAILED

OCT 27 2008

OFFICE OF PETITIONS

In re Application of Morris et al. Application No. 10/540,898 Filed: December 13, 2005 Attorney Docket No. PP23367.0003/20366-020US1	: : : : :	DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 14, 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 February 28, 2008 , which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 29, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election of the invention to be examined, (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.

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

This application is being referred to Technology Center AU 1642 for further examination on the merits.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: GWILYM O. ATTWELL
FISH & RICHARDSON
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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Novartis Vaccines and Diagnostics, Inc.
Corporate Intellectual Property
P.O. Box 8097
Emeryville, CA 94662-8097

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MAY 21 2009

OFFICE OF PETITIONS

In re Application of Malandro et al. :
Application No. 10/540,903 :
Filing Date: January 20, 2006 :
Attorney Docket No. PP23369.0003 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed March 17, 2009, to revive the above-identified application.

The petition is **granted**.

The Office mailed a Notice to Comply on April 9, 2008. The Notice set an extendable time period of one (1) month or thirty (30) days (whichever is later). An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on May 10, 2008. A Notice of Abandonment was mailed December 24, 2008.

The instant petition requests revival of the application.

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

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

Petitioner has submitted a reply to the outstanding Notice to Comply. Petitioner has submitted the required petition fee. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

The petition is signed by David Gay. Attorney Gay was not an attorney of record at the time the application became abandoned and is not currently an attorney of record. Therefore, it appears Attorney Gay may not have been in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, the statement by Attorney Gay that the entire delay was unintentional is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that a portion of the delay from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was intentional, petitioner must notify the Office.

The petition states, "Please recognize our Customer No. 83729 as our correspondence address." Since the petition is signed by Attorney Gay, and Attorney Gay is not an attorney of record, the Office will not change the correspondence address of record. 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.

Petitioner submitted $2,350 for a five-month extension of time. However, payment for an extension of time is unnecessary when reviving an application. Therefore, $2,350 has been credited back to Deposit Account No. 502624.

Technology Center Art Unit 1637 will be informed of the instant decision and the application, including the papers filed March 17, 2009, will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

cc: McDermott Will & Emery LLP
Suite 400
11682 El Camino Real
San Diego, CA 92130-2047

[1] See Changes to Patent Practice and Procedure, 62 *Fed. Reg.* at 53160 and 53178; 1203 *Off. Gaz. Pat. Office* at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

0 9 FEB 2007

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BUTZEL LONG
350 SOUTH MAIN STREET
SUITE 300
ANN ARBOR, MI 48104

In re Application of LI et al	:	
U.S. Application No.: 10/540,908	:	
PCT Application No.: PCT/CN2003/000095	:	
Int. Filing Date: 28 January 2003	:	DECISION
Priority Date Claimed: 27 December 2002	:	
Attorney Docket No.: 13369701-0001	:	
For: TRIPTOLIDE DERIVATIVES AND THEIR USE	:	

This is in response to applicant's "Petition to Withdraw Holding of Abandonment Under 37 CFR §1.137(a) and §1.181" filed 29 January 2007.

BACKGROUND

On 28 January 2003, applicant filed international application PCT/CN2003/000095, which claimed priority of an earlier China application filed 27 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 on 27 June 2005.

On 27 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 12 January 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 13 March 2006, applicant purportedly filed an executed declaration.

On 27 December 2006, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely respond to the Notification of Missing Requirements.

On 29 January 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 13 March 2006 is not present.

MPEP 503 states,

> If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. . . . The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. The identifying data on the postcard should be so complete as to clearly identify the item for which a receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application). The postcard receipt will not serve as prima facie evidence of receipt of any item which is not adequately itemized on the postcard.

A review of the postcard receipt filed with the present petition reveals that a document entitled "Response to Notification of Missing Requirements Under 35 USC 371 in the U.S. Designated/Elected Office-Submission of Executed Declaration (2 pgs)" is listed in the itemized contents. A copy of this document has been supplied with the petition. However, the declaration itself, which consists of 3 pages, is not listed in the itemized contents. Thus, the postcard receipt does not serve as *prima facie* evidence of receipt of the declaration.

Applicant may wish to make a showing under 37 CFR 1.8(b). Applicant is advised that the statement referred to in 37 CFR 1.8(b)(3) must be signed by the person who actually mailed the correspondence.

CONCLUSION

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

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

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

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

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27 APR 2007

BUTZEL LONG
350 SOUTH MAIN STREET
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ANN ARBOR, MI 48104

In re Application of LI et al	:	
U.S. Application No.: 10/540,908	:	
PCT Application No.: PCT/CN2003/000095	:	
Int. Filing Date: 28 January 2003	:	DECISION
Priority Date Claimed: 27 December 2002	:	
Attorney Docket No.: 13369701-0001	:	
For: TRIPTOLIDE DERIVATIVES AND THEIR USE	:	

This is in response to applicant's "Renewed Petition to Withdraw Holding of Abandonment Under 37 CFR §1.137(a) and §1.181" filed 09 April 2007.

BACKGROUND

On 28 January 2003, applicant filed international application PCT/CN2003/000095, which claimed priority of an earlier China application filed 27 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 on 27 June 2005.

On 27 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 12 January 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 13 March 2006, applicant purportedly filed an executed declaration.

On 27 December 2006, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely respond to the Notification of Missing Requirements.

On 29 January 2007, applicant filed a petition under 37 CFR 1.181.

On 09 February 2007, this Office mailed a decision dismissing the 29 January 2007 petition.

On 09 April 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 13 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 petition was promptly filed.

With regard to item (2) above, the requisite copy of the previously mailed correspondence and certificate has been provided.

With regard to item (3) above, the requisite firsthand statement has been provided.

CONCLUSION

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

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 27 December 2006 is hereby VACATED.

The application has an international filing date of 28 January 2003 and a date under 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) of 29 January 2007.

The application is being forwarded to the DO/EO/US for processing in accordance with this decision.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

01 DEC 2005

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Heller Ehrman LLP
275 Middlefield Road
Menlo Park, CA 94025-3506

In re Application of	:	
FREEMAN et al.	:	
Application No.: 10/540,912	:	DECISION ON PETITION
PCT No.: PCT/US03/40095	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 15 December 2003	:	
Priority Date: 13 December 2002	:	
Attorney Docket No.: 38187-2783	:	
For: METHOD AND APPARATUS FOR MEASURING ANALYTES		

The petition to revive under 37 CFR 1.137(b) filed 27 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 forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration along with the $65 surcharge for filing the oath or declaration after the thirty-month period is required.

Anthony Smith

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

29 JUN 2006

#7

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

In re Application of	:	
KIM et al.	:	
Application No.: 10/540,919	:	DECISION
PCT No.: PCT/KR03/02744	:	
Int. Filing Date: 13 December 2003	:	
Priority Date: 30 December 2002	:	
Attorney Docket No.: Q88281	:	
For: ELECTRIC ENERGY STORAGE DEVICE AND METHOD OF CHARGING AND DISCHARGING THE SAME	:	

This is a decision on applicants' "Petition Under 37 CFR §1.47(a)" filed 13 March 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 13 December 2003, applicants filed international application PCT/KR03/02744, which designated the United States and claimed a priority date of 30 December 2002. A copy of the international application was communicated from the International Bureau to the USPTO on 15 July 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 30 June 2005.

On 29 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 an assertion of small entity status.

On 12 January 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) 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 13 March 2006, applicants filed the instant petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors signed by six of the seven joint inventors and a declaration of facts by Lee Si Hyung.

DISCUSSION

The declaration of facts by Lee Si Hyung states that he was told by the nonsigning inventor's family "that she was abroad and no definite dates of return were known to the family." MPEP § 409.03(d), item I, states that 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." In this instance, the nonsigning inventor Hee Young Lee is out of town and thus a petition under 37 CFR 1.47 is not applicable. Also, the last attempt to contact Hee Young Lee was eleven months ago.

CONCLUSION

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

Since the reply filed 13 March 2006 appears to have been bona fide, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to provide an oath or declaration in compliance with 37 CFR 1.497(a)-(b). Extensions of this time period may be granted under 37 CFR 1.136(a).

Failure to timely file a proper response will result in **abandonment** of the application.

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

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

1 2 APR 2007

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SUGHRUE MION, PLLC
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SUITE 800
WASHINGTON DC 20037

In re Application of	:	
KIM et al.	:	
Application No.: 10/540,919	:	DECISION
PCT No.: PCT/KR03/02744	:	
Int. Filing Date: 13 December 2003	:	
Priority Date: 30 December 2002	:	
Attorney Docket No.: Q88281	:	
For: ELECTRIC ENERGY STORAGE DEVICE AND METHOD OF CHARGING AND DISCHARGING THE SAME:	:	

This is a decision on applicants' submission filed via facsimile transmission on 30 March 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 13 December 2003, applicants filed international application PCT/KR03/02744, which designated the United States and claimed a priority date of 30 December 2002. A copy of the international application was communicated from the International Bureau to the USPTO on 15 July 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 30 June 2005.

On 29 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 an assertion of small entity status.

On 12 January 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) 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 13 March 2006, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors signed by six of the seven joint inventors and a declaration of facts by Lee Si Hyung.

On 29 June 2006, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a).

On 30 March 2007, applicants filed the instant submission which includes, *inter alia*, a copy of an itemized postcard receipt date-stamped by the USPTO and a copy of a declaration of inventors signed by joint inventor Hee-Young Lee. The request that the copy of the declaration of inventors filed 30 March 2007 be accepted as having been filed on 27 October 2006 has been treated as a petition under 37 CFR 1.181.

DISCUSSION

Petition Under 37 CFR 1.181

Applicants have provided sufficient evidence to establish that on 27 October 2006 applicants filed a declaration of the inventors. The proof is in the form of the copy of the receipt for the above-identified application which bears a USPTO date stamp of 27 October 2006 and which itemizes an "executed Declaration and Power of Attorney" and identifies the above-captioned application number, docket number, and title. Further, practitioner states that the copy of the declaration filed 30 March 2007 is a true copy of the declaration originally filed 27 October 2006. Therefore, in view of the date-stamped receipt and practitioner's statement, the declaration received on 30 March 2007 may properly be accepted as originally received in the USPTO on 27 October 2006.

Submission Filed 27 October 2006

Since a 37 CFR 1.497 declaration has been executed by all the joint inventors, the petition for status under 37 CFR 1.47(a) is moot. The application need not be returned to the Office of PCT Legal Affairs for any further consideration of the status under 37 CFR 1.47 and no such status should be indicated on this application file.

The declaration of inventors filed 27 October 2006 is not in compliance with 37 CFR 1.497(a)-(b). There is a difference in names in the first-named inventor between the published international application (Seong-Min Kim) and the declaration of the inventor (Sung-Min Kim). It is not clear if there was a typographical error in the first name of the inventor as indicated in the international application (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).

CONCLUSION

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

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

Since the reply filed 27 October 2006 appears to have been bona fide, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to provide a proper response in compliance with 37 CFR 1.497(a)-(b). Regarding the name of the first-named inventor, a proper response would be a new oath(s) or declaration(s) properly identifying the first-named inventor (as well as all of the other inventors) and signed by the first-named inventor, or an acceptable explanation of any typographical or transliteration error in the last 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. Extensions of time under 37 CFR 1.136(a) are available.

Failure to timely file a proper response will result in **abandonment** of the application.

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

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

28 AUG 2006

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COHEN, PONTANI, LIEBERMAN & PAVANE
551 FIFTH AVENUE
SUITE 1210
NEW YORK NY 10176

In Re Application of Etienne ANNIC Application No.: 10/540,953 PCT No.: PCT/FR03/03947 Int. Filing Date: 22 December 2003 Priority Date: 26 December 2002 Attorney Docket No.: 5284-61PUS For: SYSTEM AND METHOD FOR RESOURCE MANAGEMENT IN A TERMINAL CONNECTED TO A COMMUNICATION NETWORK	DECISION

This is a decision on applicant's PETITION UNDER 37 CFR 1.181, requesting withdrawal of the Notification of Missing Requirements. The petition was filed in the United States Patent and Trademark Office (USPTO) on 22 May 2006.

On 22 December 2003, applicant filed international application No. PCT/FR03/03947 with an executed declaration under PCT Rule 4.17, which claimed a priority date of 26 December 2002 and which designated the United States. Thereafter, on 27 June 2005, before the expiration of the thirty month period, applicant filed, *inter alia*, a transmittal letter for entry into the national stage and the basic national stage filing fee.

On 30 December 2005, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required.

On 22 May 2006, applicant filed the instant petition indicating that the declaration was filed with the international application on 22 December 2003. Applicant urges that the Form PCT/DO/EO/905 be vacated.

DISCUSSION

A review of the international application, and by confirmation of the International Bureau, indicates that the executed declaration was filed in the Receiving Office with the filing of the international application on 22 December 2003.

A review of the declaration reveals that the declaration identifies the inventor, and states the citizenship and mailing address of the inventor. Thus, the declaration is acceptable and the requirements of 37 CFR 1.497(a) and (b) are met.

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED**. The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed on 30 December 2005 is hereby **VACATED.**

The declaration originally submitted on 22 December 2003 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 27 June 2005.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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

1 1 FEB 2008

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00530
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK
600 South Avenue West
Westfield, NJ 07090

In re Application of :
HASSANIEN *et al* :
U.S. Application No.: 10/540,955 :
PCT No.: PCT/EG03/00014 :
Int. Filing Date: 27 December 2003 : **DECISION**
Priority Date: 28 December 2002 :
Attorney Docket No.: DAVIDK 3.3-011 :
For: DISPOSABLE DEVICE FOR MULTI- :
LITIGATION OF BLEEDING :
ESOPHAGEAL VARICES :

This decision is in response to the papers filed 13 March 2006 which are treated under 37 CFR 1.181. No fee is required.

BACKGROUND

On 27 June 2005, applicants filed papers to enter the national stage of PCT/EG03/00014 claiming priority to 28 December 2002.

On 03 February 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 and 1.495 (Form PCT/DO/EO/903) indicating that the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements was 27 June 2005. The date of completion of all 35 U.S.C. 371 requirements was recorded as 28 June 2005. A filing receipt indicating a "Filing or 371(c) Date" of 27 June 2005 was also mailed.

On 13 March 2006, applicants submitted the subject petition.

On 01 May 2007, the DO/EO/US mailed a Withdrawal of Previously Sent Notice vacating the papers mailed 03 February 2006. A new Form PCT/DO/EO/903 and filing receipt was also mailed. However, the date of completion of all 35 U.S.C. 371 requirements was recorded again on the Form PCT/DO/EO/903 as 28 June 2005.

DISCUSSION

Applicants filed a request on 13 March 2006 to change the date of completion of all 35 U.S.C. 371 requirements on the Form PCT/DO/EO/903 to 28 June 2005. A review of the subject application shows that the international application claimed priority to an Egyptian patent application 2002121401 filed 28 December 2002.

Section 1893.03(b) of the MPEP explains that the date of completion recorded on a Form PCT/DO/EO/903 and states, in part:

> The "Date of Completion of all 35 U.S.C. 371 Requirements" included on the NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495 (Form PCT/DO/EO/903) is relevant for purposes of patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)(II) . . . This date is the **latest** of:
>
> > (E) the earlier of **30 months from the priority date** or the date of request for early processing under 35 U.S.C. 371(f) if requested prior to 30 months from the priority date (Form PCT/DO/EO/903 will indicate the date early processing was requested);

Here, applicants did not request early processing upon entering the national stage on 27 June 2005. As such, the "Date of Completion of all 35 U.S.C. 371 Requirements" is thirty months from the priority date of 28 December 2002.

Thus, the date of 28 June 2005 noted on the Form PCT/DO/EO/903 mailed 01 May 2007 is correct.

CONCLUSION

For the reason noted above, applicants' petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

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

This application is being forwarded to Technology Center 3700 for further processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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

Mail Date: 04/21/2010

Applicant	: Kumar Akhilesh Tyagi	: DECISION ON REQUEST FOR
Patent Number	: 7576263	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/540,956	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/13/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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19 DEC 2005

Michael J. Musella
Dilworth & Barrese, LLp
333 Earle Ovington Blvd., Suite 702
Uniondale, NY 11553

In re Application of KOFMAN, et al. Application No.: 10/540,957 PCT No.: PCT/US02/26384 Int. Filing Date: 20 August 2002 Priority Date: None Atty. Docket No.: 1208-2 PCT US For: GUIDE UNIT FOR POSITIONING TRAYS IN EDIBLE INK PRINTER	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 29 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. 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 20 August 2002 under 35 U.S.C. 363 and will be given a date of **29 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
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Fax: (571) 273-0459

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20 JAN 2006

Stephen B. Salai, Esq.
Harter, Secrest & Emery LLP
1600 Bausch & Lomb Place
Rochester NY 14604-2711

In re Application of	:	
PASQUARELLA et al.	:	
Application No.: 10/540,969	:	DECISION ON
PCT No.: PCT/US03/22287	:	
Int. Filing Date: 17 July 2003	:	PETITION UNDER
Priority Date: 29 July 2002	:	
Attorney Docket No.: 89200.000007	:	37 CFR 1.137(b)
For: DAMPING SYSTEM FOR MECHANICAL	:	
SHUTTER	:	

This decision is in response to applicants' submission filed 29 June 2005.

BACKGROUND

On 17 July 2003, applicants filed international application PCT/US03/22287 which designated the U.S. and claimed a priority date of 29 July 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 05 February 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 31 January 2005 (29 January 2005 being a Saturday).

On 29 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 29 June 2005.

As to item (2), applicant submitted the petition fee on 29 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.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
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UNITED STATES PATENT AND TRADEMARK OFFICE

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Stephen B. Salai, Esq.
Harter Secrest & Emery LLP
1600 Bausch & Lomb Place
Rochester, NY 14604-2711

Mail Date: 04/20/2010

Applicant	: Stephen Pasquarella	: DECISION ON REQUEST FOR
Patent Number	: 7614806	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/540,969	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/29/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **927** 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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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

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FEB 12 2010

In re Application of	:	
Kenichi Ishiga	:	
Application No. 10/540,972	:	DECISION GRANTING PETITION
Filed: August 31, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 124436	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 12, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 8, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2624 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

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

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NEW YORK, NY 10017

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JAN 07 2009

OFFICE OF PETITIONS

In re Application of :
Frank Hofmann :
Application No. 10/540,988 : DECISION ON PETITION
Filed: June 28, 2005 :
Attorney Docket No. HOFMANN-5 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 24, 2008, to revive the above-identified application. This is also a decision on the Request for Refund pursuant to 37 CFR 1.26 filed on December 8, 2008

The petition is **GRANTED**.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the Final Office Action of May 14, 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). A 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 November 15, 2008.

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

Petitioner requests a refund of $1,110 for a three month extension of time submitted on November 12, 2008. However, the three month extension of time fee was required in order to make the amendment submitted on November 12, 2008 timely filed within the six month statutory period. Petitioner should note that pursuant to 37 CFR 1.26(a), "[t]he Director may refund any fee paid by mistake or in excess of that required." A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was

paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee". Therefore, the $1,110 fee submitted on November 12, 2008 will not be refunded.

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

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.

Andrea Smith
Petitions Examiner
Office of Petitions

09 NOV 2005

#3

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Mark A. Farley
OSTROLENK, FABER, GERB & SOFFEN, LLP
1180 Avenue Of The Americas
New York, New York 10036-8402

In re Application of: NEUBERG, William U.S. Application No.: 10/540,994 PCT No.: PCT/US2003/031264 International Filing Date: 01 October 2003 Priority Date: 01 October 2002 Attorney's Docket No.: P/4661-100 For: METHOD OF MAKING SYNTHETIC MELT SPUN FIBRES WITH POLY-TETRAFLUOROETHYLENE	DECISION ON PETITION FOR REVIVAL OF ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

The petition for revival under 37 CFR 1.137(b) filed 28 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.

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 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

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LAW OFFICE OF DAVID MCEWING
P.O. BOX 231324
HOUSTON TX 77023

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OFFICE OF PETITIONS

In re Application of	:	
Hesham **MORSI**	:	
Application No. 10/540,999	:	DECISION ON PETITION
Filed: June 28, 2005	:	TO WITHDRAW
Attorney Docket No. Morsi-01	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 20, 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 David McEwing, the sole attorney of record. David McEwing 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 sole named inventor Hesham Morsi at the address indicated below.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **HESHAM MORSI**
2058 SOUTHGATE BOULEVARD
HOUSTON, TX 77030

07 NOV 2005

#3

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

In re Application of	:	
NEUBERG, William	:	
Application No.: 10/541,000	:	DECISION
PCT No.: PCT/US03/31263	:	
Int. Filing Date: 01 October 2003	:	ON PETITION UNDER
Priority Date: 01 October 2002	:	
Docket No.: P/4661-99	:	37 CFR 1.137(b)
For: PROCESS OF MAKING CELLULOSIC	:	
FIBERS INCLUDING PTFE	:	

Applicant's "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 28 June 2005 is **GRANTED**.

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

A signed oath or declaration has not yet been submitted.

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

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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HAHN LOESER & PARKS LLP
ONE GOJO PLAZA
SUITE 300
AKRON, OH 44311-1076

In re application of Heiko Schleucher Application No. 10/541,015 Filed: June 02, 2006 For: COIL COMPRISED OF A METAL STRAND HAVING PROJECTIONS	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the petition filed on June 26, 2006 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

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

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

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

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

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

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/slb: 08/06/2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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ONE HEALTH PLAZA 104/3
EAST HANOVER NJ 07936-1080

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SEP 19 2006

OFFICE OF PETITIONS

In re Application of	:	
ASCHER, et al.	:	
Application No. 10/541,017	:	DECISION ON PETITION
Filed: June 28, 2005	:	TO WITHDRAW
Attorney Docket No. 32539A	:	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 16, 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, "file transfer" does not meet any of the conditions set forth in 37 CFR 10.40.

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

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

Denise Pothier
Petitions Examiner
Office of Petitions

cc: **D. Peter Hochberg Co., LPA**
1940 East 6th Street, 6th Floor
Cleveland, OH 44114-2294

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NOV 28 2006

OFFICE OF PETITIONS

In re Application of	:	
ASCHER, et al.	:	
Application No. 10/541,017	:	DECISION ON PETITION
Filed: June 28, 2005	:	TO WITHDRAW
Attorney Docket No. IB/G-32539A	:	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 27, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of 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 D. Thallemer 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: **GERD ASCHER**
DAXERFELD 3
KUNDL, AUSTRIA 6250

cc: **D. PETER HOCHBERG CO, LPA**
1940 EAST 6TH STREET, 6TH FLOOR
CLEVELAND, OH 44114-2294

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ELI LILLY & COMPANY
PATENT DIVISION
P.O. BOX 6288
INDIANAPOLIS IN 46206-6288

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OFFICE OF PETITIONS

In re Application
Weichert, et al.
Application No. 10/541,047
Filed: June 29, 2005
Dkt. No.: X-16029

: PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE SUBMITTED UNDER 37 C.F.R. § 1. 705," filed April 27, 2009. This matter is being properly treated under 37 CFR 1.705(b), the request for reconsideration of patent term having been submitted prior to issuance of a patent. Applicants submit that the correct patent term adjustment to be indicated on the patent is 446 days, not 238 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is

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

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

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

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

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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

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FORD GLOBAL TECHNOLOGIES, LLC
FAIRLANE PLAZA SOUTH, SUITE 800
330 TOWN CENTER DRIVE
DEARBORN, MI 48126

Mail Date: 04/26/2010

Applicant	: Tony Grabowski	: DECISION ON REQUEST FOR
Patent Number	: 7608011	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/541,055	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/06/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **749** 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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SANTA MONICA, CA 90404

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OFFICE OF PETITIONS

In re Application of
Eduardo-Alexander VAN DEN BERG
Application No. 10/541,077
Filed: June 29, 2005
Attorney Docket No. 72998-013000/US

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 06, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed April 10, 2007, which set a shortened statutory period for reply of three (3) months. 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). 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 three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is October 11, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office Action of April 10, 2007 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 the undersigned at (571)-272-4231.

This application is being referred to Technology Center AU 3651 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

18 SEP 2006

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

In re Application of	:	
TEMPLE, Kit	:	
Application No.: 10/541,090	:	DECISION ON
PCT No.: PCT/EP03/51065	:	
Int. Filing Date: 18 December 2003	:	PETITION UNDER
Priority Date: 30 December 2002	:	
Attorney Docket No.: 878A.0011.U1(US)	:	37 CFR 1.47(b)
For: DISTRIBUTING CONTENT DATA	:	

This is a decision on applicant's "Petition Under 37 CFR §1.47(b)," filed in the United States Patent and Trademark Office (USPTO) on 14 April 2006.

BACKGROUND

On 18 December 2003, applicant filed international application PCT/EP03/51065, claiming a priority date of 30 December 2002. A copy of the international application was transmitted to the Office on 10 January 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 30 June 2005.

On 29 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 13 December 2005, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the search fee, examination fee, or oath or declaration were required.

On 14 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 $200 petition fee has been paid. (3) The last known address for inventor Kit Temple is listed as Iris House, Pyrford Road, Woking, Surrey GU22 8UQ, United Kingdom. (4) The declaration executed by the 1.47(b) applicant complies with 37 CFR 1.497(a)-(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 they have been unable to reach inventor Temple, but have not established the basis for this belief. Applicant alleges that a complete copy of the application papers was mailed to Mr. Temple and does not allege that the documents were returned as undeliverable. This does not suggest that the inventor is unavailable. Copies of documentary evidence such as returned mail receipts should be submitted. MPEP 409.03(d).

However, the declaration in support of this petition is entirely lacking in firsthand knowledge of the facts recited therein. Each section, other than the paragraph setting out declarant's name is prefaced with "based upon information and belief". The statement of facts should be made by someone with firsthand knowledge, where possible.

Item (5) has not been met. Applicant has not provided evidence of proprietary interest in the application. Applicant has not provided an assignment or a work agreement in which the inventor agreed to assign the invention to applicant. The declaration is not sufficient to qualify as a legal memorandum of applicable law as set out 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, 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: 571-272-3455
Facsimile: 571-273-0459

#9

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HARRINGTON & SMITH, LLP
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SHELTON, CT 06484-6212

In re Application of TEMPLE, Kit Application No.: 10/541,090 PCT No.: PCT/EP03/51065 Int. Filing Date: 18 December 2003 Priority Date: 30 December 2002 Attorney's Docket No.: 884A.0119.U1(US) For: DISTRIBUTING CONTENT DATA	DECISION ON PETITION UNDER 37 CFR 1.47(b)

This is a decision on applicant's "Renewed Petition Under 37 C.F.R. 1.47(b)," filed in the United States Patent and Trademark Office on 20 November 2006 on behalf of the assignee and the non-signing inventor Kit Temple. The petition under 37 CFR 1.47(b) is DISMISSED.

BACKGROUND

On 18 December 2003, applicant filed international application PCT/EP03/51065, claiming a priority date of 30 December 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 30 June 2005.

On 29 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.

On 13 December 2005, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 14 April 2006, applicant submitted the declaration, the surcharge for late filing of the declaration, a two-month extension fee, a petition under 37 CFR 1.47(b) requesting acceptance of the application without the signature of the applicant and, a "Statement of Facts" to support the petition including, a declaration by Mr. James Seymour, copies of the letters mailed to inventor Kit Temple and, a statement by Ms. Becky Green, a Human Resources administrator, regarding the employment period of inventor Kit Temple with Nokia (UK) Ltd.

On 18 September 2006, the Office dismissed applicant's petition because the "Statement of Facts" in support of the petition was found lacking in firsthand knowledge of the facts recited therein. The decision further indicated that applicant had not provided evidence of proprietary interest in the application as required under 37 CFR 1.47(b).

On 20 November 2006 applicant filed the present petition under 37 CFR 1.147(b) requesting acceptance of the application without the signature of inventor Kit Temple, a declaration by Mr. James Seymour that inventor Kit Temple was employed by Nokia (UK) Ltd. when the claimed invention of the instant application was made and a copy of inventor Kit Temple's employment agreement.

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.

As presented in the Decision mailed 18 September 2006 items (1), (3), (4) and (6) have been met.

With regard to item (2), petitioner explains that the letters mailed to inventor Kit Temple were the letters of Mr. James Seymour, hence concluding that Mr. James Seymour had firsthand knowledge. However, a review of the letters mailed to inventor Kit Temple shows that a person different than Mr. James Seymour signed the letters. Therefore, petitioner's position that Mr. James Seymour had firsthand knowledge cannot be sustained because it appears that someone else signed the letters for Mr. James Seymour.

With regard to item (5), the copy of inventor Kit Temple's employment agreement does not fully satisfy the requirements of 37 C.F.R. 1.47(b). As set out in MPEP 409.03(f), when an employment agreement is relied upon to satisfy the requirements of 37 C.F.R. 1.47(b), a statement by a person having firsthand knowledge must be included to show that that the invention was made by the employee while employed by the 37 C.F.R. 1.47(b) applicant. The declaration of Mr. James Seymour is lacking in firsthand knowledge because it does not describe the circumstances that led to Mr. Seymour knowing that the invention was made by inventor Kit Temple while employed by the 37 C.F.R. 1.47(b) applicant. It is noted that the statement of Ms. Becky Green, a Human Resources administrator, filed on 14 April 2006, also does not satisfy the requirements of 37 C.F.R. 1.47(b) because it merely indicates the employment period of inventor Kit Temple with Nokia (UK) Ltd. and does not show firsthand knowledge that the invention was made by inventor Kit Temple while employed by the 37 C.F.R. 1.47(b) applicant.

Based on the totality of the evidence currently of record, it would not be appropriate to consider the requirements of 37 CFR 1.47(b) to have been satisfied.

CONCLUSION

Applicant's petition requesting acceptance of the application without the signature of the inventor is **DISMISSED**, without prejudice, for the reasons described *supra*.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(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, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.

Leonard Smith
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Office of PCT Legal Administration
Telephone: (571) 272-3297
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Stefan Staicovici
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (571) 272-1208

#11

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09 AUG 2007

HARRINGTON & SMITH, LLP
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SHELTON, CT 06484-6212

In re Application of TEMPLE, Kit Application No.: 10/541,090 PCT No.: PCT/EP03/51065 Int. Filing Date: 18 December 2003 Priority Date: 30 December 2002 Attorney's Docket No.: 884A.0119.U1(US) For: DISTRIBUTING CONTENT DATA	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(b)

This is a decision on applicant's "Renewed Petition Under 37 C.F.R. 1.47(b)," filed in the United States Patent and Trademark Office on 11 June 2007 on behalf of the assignee and the non-signing inventor Kit Temple.

BACKGROUND

On 18 December 2003, applicant filed international application PCT/EP03/51065, claiming a priority date of 30 December 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 30 June 2005.

On 29 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.

On 13 December 2005, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 14 April 2006, applicant submitted the declaration, the surcharge for late filing of the declaration, a two-month extension fee, a petition under 37 CFR 1.47(b) requesting acceptance of the application without the signature of the applicant and, a "Statement of Facts" to support the petition including, a declaration by Mr. James Seymour, copies of the letters mailed to inventor Kit Temple and, a statement by Ms. Becky Green, a Human Resources administrator, regarding the employment period of inventor Kit Temple with Nokia (UK) Ltd.

On 18 September 2006, the Office dismissed applicant's petition because the "Statement of Facts" in support of the petition was found lacking in firsthand knowledge of the facts recited therein. The decision further indicated that applicant had not provided evidence of proprietary interest in the application as required under 37 CFR 1.47(b).

On 20 November 2006 applicant filed a renewed petition under 37 CFR 1.147(b) requesting acceptance of the application without the signature of inventor Kit Temple, a declaration by Mr. James Seymour that inventor Kit Temple was employed by Nokia (UK) Ltd. when the claimed invention of the instant application was made and a copy of inventor Kit Temple's employment agreement.

On 17 April 2007, the Office mailed "Decision on Petition under 37 CFR 1.47(b)" dismissing applicants' petition without prejudice. The Decision stated that the evidence provided does not support the conclusion that Mr. James Seymour has firsthand knowledge that Mr. Kit Temple refuses to execute the declaration or cannot be reached after a diligent effort and that, the invention was made by Mr. Kit Temple while employed by the 37 CFR 1.47(b) applicant.

On 11 June 2007, applicant field the instant renewed petition under 37 CFR 1.147(b) on behalf of the assignee and the non-signing inventor Kit Temple including, a declaration by Ms. Angela Brain and, a copy of an "NOKIA Invention Report" dated July 17, 2002 and signed by Mr. Kit Temple.

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.

With the filing of applicant's renewed petition, applicant has satisfied items (1) through (6) above. Specifically, the declaration of Ms. Angela Brain is a statement by a person having firsthand knowledge that a copy of the application papers was presented to non-signing inventor Kit Temple. Also, the copy of the "NOKIA Invention Report," which bears the signature of Mr. Kit Temple and is dated 17 July 2002, together with the declaration of Mr. James Seymour and the statement of Ms. Becky Green, filed 14 April 2006, are sufficient evidence to show that the invention described in the instant application was made by Mr. Kit Temple while employed by the 37 CFR 1.47(b) applicant.

Hence, based on the totality of the evidence currently of record, it is appropriate to consider the requirements of 37 CFR 1.47(b) to have been satisfied.

CONCLUSION

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

This application has an International Filing Date of 18 December 2003 and a date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) of 14 April 2006.

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

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

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

Leonard Smith
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0 9 AUG 2007

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

In re Application of TEMPLE, Kit Application No.: 10/541,090 PCT No.: PCT/EP03/51065 Int. Filing Date: 18 December 2003 Priority Date: 30 December 2002 Attorney's Docket No.: 884A.0119.U1(US) For: DISTRIBUTING CONTENT DATA	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(b)

This is a decision on applicant's "Renewed Petition Under 37 C.F.R. 1.47(b)," filed in the United States Patent and Trademark Office on 11 June 2007 on behalf of the assignee and the non-signing inventor Kit Temple.

BACKGROUND

On 18 December 2003, applicant filed international application PCT/EP03/51065, claiming a priority date of 30 December 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 30 June 2005.

On 29 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.

On 13 December 2005, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 14 April 2006, applicant submitted the declaration, the surcharge for late filing of the declaration, a two-month extension fee, a petition under 37 CFR 1.47(b) requesting acceptance of the application without the signature of the applicant and, a "Statement of Facts" to support the petition including, a declaration by Mr. James Seymour, copies of the letters mailed to inventor Kit Temple and, a statement by Ms. Becky Green, a Human Resources administrator, regarding the employment period of inventor Kit Temple with Nokia (UK) Ltd.

On 18 September 2006, the Office dismissed applicant's petition because the "Statement of Facts" in support of the petition was found lacking in firsthand knowledge of the facts recited therein. The decision further indicated that applicant had not provided evidence of proprietary interest in the application as required under 37 CFR 1.47(b).

On 20 November 2006 applicant filed a renewed petition under 37 CFR 1.147(b) requesting acceptance of the application without the signature of inventor Kit Temple, a declaration by Mr. James Seymour that inventor Kit Temple was employed by Nokia (UK) Ltd. when the claimed invention of the instant application was made and a copy of inventor Kit Temple's employment agreement.

On 17 April 2007, the Office mailed "Decision on Petition under 37 CFR 1.47(b)" dismissing applicants' petition without prejudice. The Decision stated that the evidence provided does not support the conclusion that Mr. James Seymour has firsthand knowledge that Mr. Kit Temple refuses to execute the declaration or cannot be reached after a diligent effort and that, the invention was made by Mr. Kit Temple while employed by the 37 CFR 1.47(b) applicant.

On 11 June 2007, applicant field the instant renewed petition under 37 CFR 1.147(b) on behalf of the assignee and the non-signing inventor Kit Temple including, a declaration by Ms. Angela Brain and, a copy of an "NOKIA Invention Report" dated July 17, 2002 and signed by Mr. Kit Temple.

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.

With the filing of applicant's renewed petition, applicant has satisfied items (1) through (6) above. Specifically, the declaration of Ms. Angela Brain is a statement by a person having firsthand knowledge that a copy of the application papers was presented to non-signing inventor Kit Temple. Also, the copy of the "NOKIA Invention Report," which bears the signature of Mr. Kit Temple and is dated 17 July 2002, together with the declaration of Mr. James Seymour and the statement of Ms. Becky Green, filed 14 April 2006, are sufficient evidence to show that the invention described in the instant application was made by Mr. Kit Temple while employed by the 37 CFR 1.47(b) applicant.

Hence, based on the totality of the evidence currently of record, it is appropriate to consider the requirements of 37 CFR 1.47(b) to have been satisfied.

CONCLUSION

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

This application has an International Filing Date of 18 December 2003 and a date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) of 14 April 2006.

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

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

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

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

Mail Date: 04/22/2010

Applicant	: Toshiyuki Fujine	: DECISION ON REQUEST FOR
Patent Number	: 7609243	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/541,093	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/29/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **758** 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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13 FEB 2006

THE DOW CHEMICAL COMPANY
INTELLECTUAL PROPERTY SECTION
P. O. BOX 1967
MIDLAND MI 48641-1967

In re Application of DION Application No.: 10/541,103 PCT No.: PCT/US03/40722 Int. Filing: 30 June 2005 Priority Date: 23 December 2002 Attorney Docket No.: 62955A For: ELECTRICALLY CONDUCTIVE POLYMERIZED MACROCYCLIC OLIGOMER CARBON NANOFIBER COMPOSITIONS	DECISION ON PETITION TO REVIVE UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 17 August 2005 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that the basic national fee of $300 has been provided. The required petition fee of $1500 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 17 August 2005.

Cynthia M. Kratz

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

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28 FEB 2006

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Ronald W. Citkowski
GIFFORD, KRASS, GROH, SPRINKLE, ANDERSON & CITKOWSKI, P.C.
P.O. Box 7021
Troy, MI 48007-7021

In re Application of	:	
SONDERGAARD, Jorgen Christian	:	
Application No.: 10/541,105	:	
PCT No.: PCT/DK2003/00891	:	
Int. Filing Date: 18 December 2003	:	
Priority Date: 8 January 2003	:	**DECISION**
Attorney Docket No.: HOI-13402/16	:	
For: ELECTRO-THERAPEUTIC DEVICE	:	
AND METHOD OF ELECTRO-	:	
THERAPEUTIC TREATMENT	:	

This is a decision on the declaration filed on 19 August 2005 which has been treated as a petition under 37 CFR 1.42. No fee is required.

BACKGROUND

On 30 June 2005, applicant filed papers to enter the national stage of PCT/DK2003/00891 which was accompanied by, *inter alia*, an unexecuted declaration.

On 19 August 2005, applicant filed a declaration executed by the legal representative of the deceased sole inventor, Jorgen Christian Sondergaard).

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.

Birthe Sondergaard executed the declaration as the legal representative of the deceased inventor. However, this declaration does not meet the requirements of 37 CFR 1.497(a) and (b).

The citizenship, residence and address of the legal representative must be recorded on the declaration pursuant to 37 CFR 1.497(b)(2), along with the required information for the deceased inventor. Here, the citizenship, residence and address information is listed once and it is not clear whether this information is for the legal

representative or the deceased inventor. Regardless, this information must be recorded separately on the declaration for each. It is also noted that it is irrelevant whether the citizenship, residence and address information is the same for the deceased inventor and legal representative.

CONCLUSION

For the reason listed above, applicants' petition under 37 CFR 1.42 is **DISMISSED** without prejudice.

Applicant is required to provide an oath or declaration in compliance with 37 CFR 1.497(a) and (b) within a time limit of **TWO (2) MONTHS** from the mail date of this decision. Extension of time may be granted under 37 CFR 1.136(a).

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

03 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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Ronald W. Citkowski
GIFFORD, KRASS, GROH, SPRINKLE, ANDERSON & CITKOWSKI, P.C.
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Troy, MI 48007-7021

In re Application of	:	
SONDERGAARD, Jorgen Christian	:	
Application No.: 10/541,105	:	
PCT No.: PCT/DK2003/00891	:	
Int. Filing Date: 18 December 2003	:	
Priority Date: 8 January 2003	:	**DECISION**
Attorney Docket No.: HOI-13402/16	:	
For: ELECTRO-THERAPEUTIC DEVICE	:	
AND METHOD OF ELECTRO-	:	
THERAPEUTIC TREATMENT	:	

This is a decision on the declaration filed on 28 April 2006 which has been treated as a renewed petition under 37 CFR 1.42. No fee is required.

BACKGROUND

On 28 February 2006, a decision dismissing applicant's petition under 37 CFR 1.42 was mailed. The declaration was regarded as not to contain all of the information required by 37 CFR 1.497(a) and (b). Applicants were given two months to respond.

On 28 April 2006, applicants filed the instant response which was accompanied by a declaration executed by the legal representative of the deceased sole inventor.

DISCUSSION

In response to the decision dated 28 February 2006, applicant has furnished another declaration signed by Birthe Sondergaard as legal representative of deceased sole inventor, Jorgen Christian Sondergaard.

The new declaration records the citizenship, residence, and mailing address of the legal representative as required by 37 CFR 1.497(b)(2). The declaration also lists the citizenship, former residence, and mailing address of the deceased inventor and meets the requirements of 37 CFR 1.497(a) and (b).

CONCLUSION

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

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 18 December 2003, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 28 April 2006.

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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Patent No. : **7670709**
Ser. No. : **10/541119**
Inventor(s) : **KOCH, STEVE GEORGE**
Issued : **03/02/2010**
Title : **FUEL CELL SEAL WITH INTEGRAL BRIDGE**
Docket No. : **01-0063/US1 (8470-0089NPB**

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.

In regards to the alleged error(s) in the Abstract, the patent is printed in accordance with the Abstract filed by the Applicant/Attorney on 6-30-05.

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

A Certificate of Correction will be issued to correct the remaining error(s) noted in your request.

Omega Lewis
For Mary Diggs
Decisions & Certificates
Of Correction Branch
(703)756-1575 or (703) 756-1814

Connie McLean, Freudenberg North America
47690 East Anchor Court
Plymouth, Michigan 48170

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The Dow Chemical Company
P.O. BOX 1967
Midland, MI 48641

Mail Date: 04/21/2010

Applicant	: Renate Patrascu	: DECISION ON REQUEST FOR
Patent Number	: 7594979	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/541,171	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/30/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **906** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

28 FEB 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

LADAS & PERRY
26 West 61st Street
New York, NY 10023

In re Application of	:	
VAN RENSBURG, Frederick, Roelof	:	
U.S. Application No.: 10/541,185	:	
PCT No.: PCT/IB02/02923	:	**DECISION ON**
Int. Filing Date: 26 July 2002	:	**PETITION FOR REVIVAL**
Priority Date: 31 July 2001	:	**UNDER 37 CFR 1.137(b)**
Attorney Docket No.: U 015834-0	:	
For: AN INSURANCE PRODUCT	:	

Applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed on 29 June 2005 is hereby **GRANTED** as follows:

The basic national fee and petition fee for a small entity has been paid. Applicant's statement in support of the petition is sufficient to show that the entire delay was unintentional as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a) and (b) was provided with the national stage papers on 29 June 2005.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing including charging all appropriate fees.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

17 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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LADAS & PERRY
26 West 61st Street
New York, NY 10023

In re Application of	:	
VAN RENSBURG, Frederick, Roelof	:	
U.S. Application No.: 10/541,185	:	
PCT No.: PCT/IB02/02923	:	
Int. Filing Date: 26 July 2002	:	**DECISION**
Priority Date: 31 July 2001	:	
Attorney Docket No.: U 015834-0	:	
For: AN INSURANCE PRODUCT	:	

Applicant's "Request for Corrected Filing Receipt" filed via facsimile on 14 April 2006 is treated as a petition under 37 CFR 1.181 and hereby **GRANTED** as follows:

The filing receipt mailed 23 March 2006 incorrectly entered applicant's address.

The correct city is "Centurion" not "Centurior."

Accordingly, the filing receipt mailed 23 March 2006 is **VACATED**.

A corrected filing receipt will be mailed with this decision.

James Thomson
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PEARL COHEN ZEDEK, LLP
1500 BROADWAY 12TH FLOOR
NEW YORK, NY 10036

17 AUG 2006

In re Application of	:	DECISION ON
ADLER, Sam et al	:	
Int. Application: PCT/IL03/01117	:	
Application No.: 10/541,191	:	REQUEST UNDER
Int. Filing Date: 30 December 2003	:	
Priority Date: 30 December 2002	:	
Attorney's Docket No.: P-5608-US	:	
For: UNIVERSAL RETICLE TRANSFER SYSTEM	:	37 CFR 1.497(d)

This is a decision on petitioner's "PETITION TO ADD AN INVENTORS 37 CFR 1.324" filed on 14 June 2006, which is being treated as a request under 37 CFR 1.497(d) to add joint inventor Daniel Gat in the executed declaration. A petition fee of $130.00 as been charged to petitioner's Deposit Account No. 50-3355 as authorized in the petition.

BACKGROUND

On 30 December 2003, applicants filed international application No. PCT/IL2003/01117 and claiming a priority date of 30 December 2002.

On 30 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, but no executed declaration was submitted at such time.

On 22 February 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. The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it: is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68. The notice also indicated that the items set forth above must be submitted within two (2) months from date of this Notice or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 18 April 2006, applicants filed, inter alia, an executed declaration but it did not include joint inventor Daniel Gat in the executed declaration.

On 14 June 2006, applicants filed, inter alia, a request under 37 CFR 1.497(d) to add joint inventor Daniel Gat 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 item (2) under 37 CFR 1.497(d), but not items (1) and (3).

With respect to item (1), the statement submitted on 14 June 2006 by Daniel Gat is sufficient because the statements state that the error in inventorship occurred without a deceptive intent in the national stage application. However, the executed declaration filed on 18 April 2006 is defective because it does not list alleged co-inventor Daniel Gat, which makes the statements moot as there is no support for his co-inventorship in the declaration.

With respect to item (2), the processing fee of $130.00 has been charged to the Deposit Account No.: 50-3355.

With respect to item (3), Given Imaging, Ltd., the assignee, consents to the correction of inventorship to the above application and it has filed in the requisite papers establishing its right to take action under 37 CFR §3.73(b), since the assignment has been recorded in USPTO at Reel/Frame 017494/0862. However, this statement is moot because no executed declaration including alleged co-inventor Daniel Gat has been submitted.

Accordingly, the requests are deemed to satisfy requirements (1), (2), and (3) under 37 CFR 1.497(d).

Accordingly, the request does not meet the requirements under 37 CFR 1.497(d).

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.497(d)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

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

Rafael Bacares
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0 5 DEC 2007

PEARL COHEN ZEDEK, LLP
1500 BROADWAY 12TH FLOOR
NEW YORK, NY 10036

In re Application of	:	DECISION ON RENEWED
ADLER, Sam et al	:	
Int. Application: PCT/IL03/01117	:	
Application No.: 10/541,191	:	REQUEST UNDER
Int. Filing Date: 30 December 2003	:	
Priority Date: 30 December 2002	:	
Attorney's Docket No.: P-5608-US	:	
For: UNIVERSAL RETICLE TRANSFER SYSTEM	:	37 CFR 1.497(d)

This is a decision on petitioner's "RESPONSE TO DECISION ON REQUEST UNDER 37 CFR 1.497(d)" filed on 15 February 2007, which is being treated as a renewed request to add joint inventor Daniel Gat in the executed declaration.

BACKGROUND

In a decision from this Office mailed on 17 August 2006, the decision indicated that the request was dismissed because the request did not satisfy items (1) and (3) of 37 CFR 1.497(d).

On 08 January 2007, the DO/EO/US mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909), which indicated that applicant has failed to properly respond to Decision on Request Under 37 CFR 1.497(d), dated August 17, 2006.

On 15 February 2007, applicant filed the current communication, which included, *inter alia*, an executed composite declaration.

DISCUSSION

The renewed request reveals that applicant has satisfied items (1) and (3) of 37 CFR 1.497(d). In regard to item (1), Daniel Gat has been included and has signed the composite Declaration. With respect to item (3), Given Imaging, Ltd., the assignee, consents to the correction of inventorship to the above application and it has filed in the requisite papers establishing its right to take action under 37 CFR §3.73(b). Also, the assignment has been recorded in USPTO at Reel/Frame 017494/0862.

A review of the "NOTIFICATION OF ABANDONMENT" mailed on 08 January 2007, shows that it was mailed in error since applicant filed a petition for a four (4) month extension of time so there was time to respond the decision mailed on 18 August 2006.

Accordingly, the request does meet the requirements under 37 CFR 1.497(d).

CONCLUSION

For the reasons above, the renewed request under 37 CFR 1.497(d) is **GRANTED.** The Notification of Abandonment (PCT/DO/EO/909) mailed 08 January 2007 was in error and is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing consistent with this decision. The 35 USC 371 (c)(1), (c)(2), and (c)(4) date of this application is **15 February 2007**.

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

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DECHERT LLP
P.O. BOX 390460
MOUNTAIN VIEW CA 94039-0460

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MAR 29 2010

OFFICE OF PETITIONS

In re Application
Patricia Salvati et al.
Application No. 10/541,195
Filed: June 30, 2005
Attorney Docket No. **373987-004US (396982)**

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 CFR § 1.705(b) filed January 15, 2010. Applicant requests that the determination of patent term adjustment be corrected from 259 days to 697 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Kappos, No. 2009-1120 (Jan. 7, 2010).

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 patent term adjustment relating to those provisions 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]

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 Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

[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.

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11 DEC 2006

Jeffrey D. Sanok
Crowell & Moring, LLP
Intellectual Property Group
P.O. Box 14300
Washington, DC 20044-4300

In re Application of	:	
BIEKER, et al.	:	
Application No.: 10/541,197	:	DECISION ON PETITIONS
PCT No.: PCT/EP03/14726	:	
Int. Filing Date: 22 December 2003	:	UNDER 37 CFR 1.181
Priority Date: 02 January 2002	:	
Attorney Docket No.: 037068.56495US	:	AND 37 CFR 1.42
For: ELECTROMOTIVELY ADJUSTED DISC BRAKE	:	

This decision is in response to applicant's "Request For Reinstatement" filed 16 November 2006 in the United States Patent and Trademark Office (USPTO). The request is being treated as a petition under 37 CFR 1.181. Applicant's submission of a declaration identifying a deceased inventor is being treated as a request for status under 37 CFR 1.42. No petition fees are required

BACKGROUND

On 22 December 2003, applicant filed international application PCT/EP03/14726, which claimed priority of an earlier application filed 02 January 2002. 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, 02 July 2005.

On 05 July 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 information disclosure statement and an application data sheet.

On 15 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; as well as an English translation of the international application. 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 30 October 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 15 March 2006 within the time period set therein and that above-identified application was abandoned as to the United States.

On 16 November 2006, applicant filed the present petition under 37 CFR 1.181 requesting withdrawal of the abandonment arguing that a response and a petition for a four-month extension of time was filed on 13 September 2006.

DISCUSSION

I. Petition Under 37 CFR 1.181

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. Here, applicant has provided a copy of the date-stamped postcard receipt. The postcard identifies the application by applicant, serial number, filing date and docket number. Among the items listed on the receipt is "Executed Declaration and Power of Attorney (Two (2) pages)" and "English Translation including Twenty (20) Claims and Abstract...." The receipt is stamped "OIPE IAP99 Patent and Trademark Office SEP 13 2006" across its face. Thus, it is clear that applicant filed an executed combined declaration and power of attorney and English translation of the international application on 13 September 2006. Although applicant's present filing includes a credit card payment form for the four-month extension of time, a review of the fee for this application finds that this fee was not charged. Therefore, as authorized, the $1590.00 extension of time fee will be charged to deposit account number 05-1323. For the reasons stated above, it is proper to grant applicant's petition at this time and accept the copy of the combined declaration and power of attorney filed 16 November 2006 as a substitute for the combined declaration and power of attorney originally filed 13 September 2006.

II. Request For Status Under 37 CFR 1.42

Pursuant to 37 CFR 1.42, first sentence:

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

The presently filed combined declaration and power of attorney is executed by joint inventors Johann Baumgartner and Robert Trimpe. In addition, the declaration is executed by Luise Ulrike Bieker as legal representative to the estate of deceased joint inventor, Dieter Bieker. The declaration identifies Ms. Bieker as the legal representative and lists her address and citizenship. In addition, the declaration provides the citizenship of all three inventors and applicant has previously filed an application data sheet. As such, the declaration is in compliance

with 37 CFR 1.497(a)-(b) and it is proper to grant applicant's request for status under 37 CFR 1.42.

CONCLUSION

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

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

The NOTIFICATION OF ABANDONMENT mailed 30 October 2006 is hereby **VACATED**.

The application has an international filing date of 22 December 2003 under 35 U.S.C. 363 and will be given a date of **13 September 2006** under 35 U.S.C. 371(c).

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

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

12/11/2006 SWASHEIR 00000001 051323 10541197
01 FC:1254 1590.00 DA

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WASHINGTON SQUARE, SUITE 1100
1050 CONNECTICUT AVE. N.W.
WASHINGTON, DC 20036-5304

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In re Application of	:	
You et al.	:	
Application No. 10/541,198	:	ON PETITION
Filed: July 5, 2005	:	
Attorney Docket No. 87408.2000	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 20, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 17, 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 June 18, 2008. A Notice of Abandonment was mailed October 24, 2008.

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

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

This application is being referred to Technology Center 3742 for further examination on the merits.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Dirk Weber	: DECISION ON REQUEST FOR
Patent Number	: 7636625	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/541,207	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **58** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/20/09

TO SPE OF : ART UNIT **3741 (3700)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/541,223** Patent No.: **7,174,863**
Attn: Noah Kamen

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
South Tower - 9A22
Palm Location 7580

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

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

/Michael Cuff/ SPE, AU 3741

14 MAR 2006

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Stephen A. Soffen
DICKSTEIN, SHAPIRO, MORIN & OSHINSKY
2101 L Street NW
Washington, DC 20037-1526

In re Application of:	:	
NIELSEN, Poul, Erik, Hojlund; et al.	:	DECISION ON PETITION FOR
U.S. Application No.: 10/541,224	:	REVIVAL OF ABANDONED
PCT No.: PCT/EP2003/013942	:	APPLICATION UNDER
International Filing Date: 09 December 2003	:	37 CFR 1.137(b)
Priority Date: 21 December 2002	:	
Attorney's Docket No.: H0610.0385/P385	:	
For: PROCESS FOR SYNTHESIS OF	:	
METHANOL	:	

The petition for revival under 37 CFR 1.137(b) filed 01 July 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.

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 executed declaration in compliance with 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date.

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

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SUITE 600
WASHINGTON DC 20004

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JUN 19 2009

OFFICE OF PETITIONS

In re Application of :
Zarowski, et al. : DECISION ON PETITION
Application No. 10/541,226 :
Filed: February 13, 2006 :
Docket No.: P70692US0 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed May 5, 2009.

The Notice of Abandonment mailed April 28, 2009 indicates that the application is abandoned for failure to timely reply to the non-final Office action mailed October 27, 2008.

Petitioner asserts that a reply to the non-final Office action and petition for extension of time were timely submitted April 27, 2009. Petitioners have provided a copy of the reply as well as a return postcard acknowledging USPTO receipt of the reply.

The reply to the non-final Office action filed April 27, 2009 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**.

The application file is being forwarded to Technology Center 3738 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

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FALLS CHURCH, VA 22040-0747

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Masahiro Shioi et al
Application No. 10/541,232
Filed: April 24, 2006
Attorney Docket No. 1152-0321PUS1

This is a decision on the petition, filed April 12, 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 26, 2010 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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

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JAN 30 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

In re Application of	:	
OUCHI, TOSHIHIKO	:	DECISION ON REQUEST TO
Application No. 10/541,240	:	PARTICIPATE IN PATENT
Filed: July 1, 2005	:	PROSECUTION HIGHWAY
Attorney Docket No. 035.018212.	:	PILOT PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed December 19, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

18 JUL 2006

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

In re Application of EL-BAROUDI	:	
U.S. Application No.: 10/541,250	:	
PCT Application No.: PCT/FR03/03943	:	
Int. Filing Date: 30 December 2003	:	DECISION
Priority Date Claimed: 30 December 2002	:	
Attorney Docket No.: 0617-1004	:	
For: METHOD FOR BIOMECHANICAL SIMULATION OF A SET OF OSSEOUS JOINTS	:	

This is in response to applicant's "Petition to Revive Unintentionally Abandoned Application Under 37 CFR 1.137(b)" filed 01 July 2005.

BACKGROUND

On 30 December 2003, applicant filed international application PCT/FR03/03943, which claimed priority of an earlier France application filed 30 December 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 22 July 2004. The thirty-month period for paying the basic national fee in the United States expired on 30 June 2005.

International application PCT/FR03/03943 became abandoned as to the United States for failure to timely pay the basic national fee.

On 01 July 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 and a translation of the international application into English must be filed.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

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OFFICE OF PETITIONS

In re Application of :
Fung-Lung CHUNG et al. :
Application No. 10/541,256 : DECISION ON PETITION
Filed: April 17, 2006 :
Attorney Docket No. 11015-008 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 30, 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 12, 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 15, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of October 12, 2007 is accepted as having been unintentionally delayed.

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

The application file is being referred to Technology Center AU 1614 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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FOLEY AND LARDNER LLP
Suite 500
3000 K Street NW
Washington DC 20007

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OFFICE OF PETITIONS

In re Application of	:	
Li Mo, et al.	:	
Application No. 10/541,325	:	DECISION ON PETITION
Filed: November 2, 2005	:	TO WITHDRAW
Attorney Docket No. 051082-0104	:	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 8, 2009.

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 April 7, 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 Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **CONNOLLY BOVE LODGE & HUTZ, LLP**
P.O. Box 2207
Wilmington, DE 19899

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 05/14/2010

Applicant	: Daniel Vandyck	: DECISION ON REQUEST FOR
Patent Number	: 7617974	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/541,326	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/09/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **138** 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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BUTZEL LONG
IP DOCKETING DEPT
350 SOUTH MAIN STREET
SUITE 300
ANN ARBOR, MI 48104

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JUN 04 2009

OFFICE OF PETITIONS

In re Application of	:	
Toshimasa Sagawa, et al.	:	
Application No. 10/541,330	:	ON PETITION
Filed: July 1, 2005	:	
Attorney Docket No. 121036-0086	:	

This is a decision in response to the petition under 37 CFR 1.137(b), filed April 13, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action of April 7, 2008. A Notice of Abandonment was mailed on November 18, 2008. On April 14, 2009, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, including the fee of $810; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 1796 for processing of the RCE and for appropriate action by the Examiner in the normal course of business in accordance with 37 CFR 1.114.

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

06 APR 2006

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Nath & Associates PLLC
1030 15th Street, NW - 6th Floor
Washington, DC 20005

In re Application of	:	
RADFORD, Wayne Michael	:	
Application No.: 10/541,342	:	DECISION ON PETITION
PCT No.: PCT/AU02/00789	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 17 June 2002	:	
Priority Date: None	:	
Attorney Docket No.: 26857U	:	
For: ROPE HITCH	:	

The petition to revive under 37 CFR 1.137(b) filed 05 July 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

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

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PATRICIA GRANADOS
ARENT FOX LLP
1050 CONNECTICUT AVENUE, NORTHWEST
WASHINGTON, DC 20036--533

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JUN 11 2009

OFFICE OF PETITIONS

In re Application of	:	
Sato et al.	:	DECISION ON PETITION
Application No. 10/541,361	:	TO WITHDRAW
Filed: July 6, 2005	:	FROM RECORD
Attorney Docket No. 37808-0011	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 9, 2005.

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

A review of the file record indicates that all previous powers of attorney were revoked by the assignee of the patent application on May 18, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6059.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: MOTS LAW, PLLC
1629 K STREET N.W.
SUITE 602
WASHINGTON, DC 20006-1635

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MICHAEL BUCHENHORNER, P.A.
8540 SW 83 STREET
MIAMI, FL 33143

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JUL 12 2010

OFFICE OF PETITIONS

In re Application of	:	
Wang et al.	:	
Application No. 10/541,368	:	ON PETITION
Filed: July 24, 2006	:	
Attorney Docket No. CN920020015US1	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 29, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Pre-Interview Communication mailed, November 18, 2008, which set a period for reply of one (1) month or thirty (30) days (whichever is later). Accordingly, the application became abandoned on December 19, 2008. A Notice of Abandonment was mailed October 16, 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.

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

This application is being referred to Technology Center 2161 for further examination on the merits

Carl Friedman
Petitions Examiner
Office of Petitions

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WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington, DC 20005-1503

Mail Date: 04/20/2010

Applicant	: Masashi Hoshino	: DECISION ON REQUEST FOR
Patent Number	: 7599563	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/541,371	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/03/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **884** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

0 5 MAR 2007

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Smith Gambrell & Russell
Suite 800
1850 M Street N W
Washington DC 20036

In re Application of	:	
TANAKA	:	
Application No.: 10/541,379	:	
PCT No.: PCT/JP2005/005797	:	NOTIFICATION
Int. Filing Date: 29 March 2005	:	
Priority Date: 11 August 2004	:	
Attorney's Docket No.: 033082 M 259	:	
For: PROCESS SYSTEM, PROCESS METHOD, AND	:	
COMPUTER READABLE STORAGE MEDIUM	:	
AND COMPUTER PROGRAM	:	

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

On 29 March 2005, applicant filed international application PCT/JP2005/005797, which designated the United States and claimed a priority date of 11 August 2004. A copy of the international application was communicated to the USPTO from the International Bureau on 16 February 2006. The thirty-month period for paying the basic national fee in the United States expires at midnight on 12 February 2007 (11 February 2007 being a Sunday).

On 06 November 2006, 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, a declaration of the inventor, a translation of the international application into English and a check for $2,590.00. The Transmittal Letter also authorized charging of any additional fees which may be required to Deposit Account No. 02-4300.

On 09 November 2005, the United States Designated/Elected Office mailed a Notification of Insufficient Fees (Form PCT/DO/EO/923) indicating that the surcharge under 37 CFR 1.492(h) was required.

The surcharge under 37 CFR 1.492(h) is not required in the instant application. The Notification of Insufficient Fees mailed 09 November 2005 was sent in error and is hereby **VACATED**.

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

Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

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30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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APR 14 2006

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Akitoshi YAMADA, et al.
Application No. 10/541,381
Filed: July 1, 2005
For: **IMAGE SUPPLY DEVICE, RECORDING APPARATUS, RECORDING SYSTEM, AND CONTROL METHOD THEREFOR**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed March 24, 2006 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

571-273-0454

66722-076-7

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	PATENT
Jes OLSEN	GROUP: 3736
Serial No.: 10/541,439	EXAMINER:
Filed: October 6, 2005	CUSTOMER NO.: 25269
METHOD AND DEVICE FOR IMPROVING HEARING AID FITTING	

RECEIVED
19 APR 2006
Legal Staff
International Division

* * * * * * * * *

REQUEST FOR CORRECTED FILING RECEIPT

April 19, 2006

PCT LEGAL OFFICE
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The official filing receipt (1) incorrectly identifies the filing date of this application as 07/05/2005, whereas it should be 10/06/2005 (this is the date the executed Declaration was filed), (2) incorrectly includes Robert Roithinger as an inventor (Jes Olsen is the sole inventor), and (3) incorrectly identifies the PCT number (should be PCT/DK04/000003). See corrected copy of filing receipt attached.

An inspection of the file wrapper for this application on PAIR reveals that a Declaration in the name of Robert Roithinger that applies to application Serial No. 10/546,244 (also filed on October 6, 2005) has been incorrectly placed in this file. It should be transferred to the proper application file.

The issuance of a corrected filing receipt for this application is requested.

Respectfully submitted,

DYKEMA

By: _____

Richard H. Tushin
Registration No. 27,297
Franklin Square, Third Floor West
1300 I Street N.W.
Washington, DC 20005-3353
(202) 906-8600

DC01\99543.1
ID\ABH

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APR 18 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

DYKEMA GOSSETT

UNITED STATES DEPARTMENT OF COMMERCE
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
10/541,439	~~07/05/2005~~ 10/06/2005	3736	1080	66722-076-7	2	21	3

CONFIRMATION NO. 6378

CORRECTED FILING RECEIPT

OC000000018499517

25269
DYKEMA GOSSETT PLLC
FRANKLIN SQUARE, THIRD FLOOR WEST
1300 I STREET, NW
WASHINGTON, DC 20005

Date Mailed: 04/11/2006

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)

~~Robert Reithinger, Valentin, AUSTRIA;~~
Jes Olsen, Hellerup, DENMARK;

Power of Attorney: The patent practitioners associated with Customer Number **25269**.

Domestic Priority data as claimed by applicant

This application is a 371 of ~~PCT/DK04/00003~~ 01/06/2004
PCT/DK04/000003

Foreign Applications

DENMARK PA 2003-00006 01/06/2003

If Required, Foreign Filing License Granted: 04/10/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/541,439

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

DUE
BY 4/19/06

Title

Method and device for improving heaing aid fitting

Preliminary Class

600

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).

****
*** RX REPORT ***
****

RECEPTION OK

TX/RX NO	5565
RECIPIENT ADDRESS	202 906 8671
DESTINATION ID	
ST. TIME	04/19 16:04
TIME USE	03'02
PGS.	5
RESULT	OK

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17 JUL 2006

Dykema Gossett, PLLC
Franklin Square, Third Floor West
1300 I Street, NW
Washington, D.C. 20005

In re Application of
OLSEN, Jes
Application No.: 10/541,439
PCT No.: PCT/DK04/00003
Int. Filing Date: 06 January 2004
Priority Date: 06 January 2003
Atty. Docket No.: 66722-07-7
For: METHOD AND DEVICE FOR IMPROVING HEARING AND FITTING

DECISION

This decision is issued in response to applicant's "Request for Corrected Filing Receipt" dated 19 April 2006 which is being treated as a Request for a Notice of Acceptance of Application and Corrected Official Filing Receipt. Applicant's request is being treated as a Petition under 37 CFR 1.181.

BACKGROUND

On 05 July 2005, applicant filed a Transmittal Letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, *among others*, the requisite basic national fee; an application data sheet; and a preliminary amendment.

On 06 October 2005, applicant filed an executed declaration of inventorship.

On 15 November 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification of Acceptance of Application under 35 U.S.C. 371 AND 37 CFR 1.495" (Form PCT/DO/EO/903) which set forth the date of receipt 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements as 05 July 2005 and a 35 U.S.C. 371 completion date of 06 October 2005.

On 19 April 2006, applicant filed Request for Corrected Filing Receipt.

DISCUSSION

Applicant requests a corrected filing date (or 371(c) date) from 05 July 2005 to 06 October 2005. The actual filing date of the present application is the international filing date, i.e., 06 January 2004. (See 35 U.S.C. 363) The date in the filing date portion on the filing receipt of a national stage application is the date upon which the requirements set forth in 35 U.S.C. 371(c) for entry into the national stage were completed. (See MPEP §1895.01) A review of the application file reveals that the declaration was filed with the USPTO on 06 October 2005, the date which the requirements set forth in 35 U.S.C. 371(c) for entry into the national stage were completed. Therefore, the correction of the 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date on the Notification of Acceptance and Official Filing Receipt to indicate a date of 06 October 2005 is proper since applicant completed the requirements set forth in 35 U.S.C. 371(c) on 06 October 2005. (See MPEP section 1893.03(b)).

Additionally, applicant indicates that Robert Roithinger has been improperly named as an applicant/inventor for the above-identified application. A review of the published international application reveals that Robert Roithinger is not an applicant/inventor for the above-identified application. The declaration executed by Robert Roithinger will be forwarded to the appropriate application.

The above-identified application is the national stage application of PCT/DK04/00003 (PCT/DK2004/000003). For USPTO purposes, the international application number will be indicated as PCT/DK04/00003.

CONCLUSION

Applicant's request for issuance of a corrected filing receipt is **GRANTED**.

The Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) mailed on 15 November 2005 is hereby **VACATED**.

The application has an international filing date of 06 January 2004 under 35 U.S.C. 363 and a date of **06 October 2005** under 35 U.S.C. 371(c).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision, that is, for mailing of a NOTIFICATION OF ACCEPTANCE OF APPLICATION (Form PCT/DO/EO/903) which identifies a date of **06 October 2005** U.S.C. 371(c) and preparation and mailing of a corrected Filing Receipt in accordance with this decision, that is a filing receipt that identifies a filing date of **06 October 2005**.

Anthony Smith

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

09 JUN 2006

UNITED STATES PATENT and TRADEMARK OFFICE

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Finnegan, Henderson, Farrow,
Garrett & Dunner, LLP
901 New York Avenue, N.W.
Washington, DC 20001-4413

In re Application of	:	DECISION ON
Han-Jie ZHOU et al	:	
PCT No.: PCT/US2004/001279	:	
Application No.: 10/541,441	:	
Int. Filing Date: 20 January 2004	:	PETITION UNDER
Priority Date: 17 January 2003	:	
Attorney's Docket No.: 09367.0046-00000	:	
For: COMPOUNDS, COMPOSITIONS,	:	
AND METHODS	:	37 CFR 1.47(a)

This is in response to the "PETITION FOR FILING DECLARATION UNDER 37 C.F.R. 1.47(a)- NON-SIGNING INVENTOR" filed on 17 January 2006. The $200.00 petition fee has been charge to the Deposit Account No. 06-0916.

BACKGROUND

On 20 January 2004, applicants filed international application PCT/US2004/001279, which claimed priority of an earlier U.S. application filed 17 January 2003.

On 05 July 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 from the inventors accompanied the Transmittal Letter at such time.

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 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a), and (b), identifying the application by International application number and international filing date" must be submitted within two months from its date of mailing or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 17 January 2006, petitioner filed the present petition accompanied, inter alia, an executed Declaration without the signature of one of the seven inventors, i.e., without the signature of Andrew I. McDonald.

DISCUSSION

Petitioner's petition under 37 CFR 1.47(b) is improper because this petition is for the circumstance when all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort. In this situation two of the four inventors signed the declaration. Accordingly, the petition has been treated under 37 CFR 1.47(a).

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

> (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § **1.17(h)**, and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with § **1.63**.

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

Furthermore, section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.) **Proof of Unavailability or Refusal**, the relevant sections states, in part:

> **REFUSAL TO JOIN:**
>
> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the **37 CFR 1.47** applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See **MPEP § 106**. It is reasonable to require that the inventor be presented with the application papers before a petition under **37 CFR 1.47** is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956).

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
> Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the **37 CFR 1.47** applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Petitioner has satisfied requirements (1), and (4) of 37 CFR 1.47(a). However, requirements (2) and (3) have not been satisfied.

Regarding item (2) it is unclear if the mailed documents were actually received by the non-signing inventor, Andrew I. McDonald, the signature section of the Certified Mail Receipt of the mailed letter on December 22, 2005 is signed by "J. Wright," (on December 23, 2005) not Andrew I. McDonald. It is unclear why the letters were not mailed to Mr. McDoanld's last known address but instead mailed to ThinkEquity Partners LLC. In addition, petitioner has not offered any evidence or any affirmative statement that petitioner knows that Mr. McDonald is currently working at ThinkEquity Partners LLC. A quick cursory check at its website by the legal examiner was unable to locate his name. Accordingly, it is unclear if he actually received the documents or even if Mr. McDonald works at ThinkEquity Partners LLC and that he would have received the letters mailed and received there.

Regarding item (3), petitioner has not provided a statement of the last known address of the missing inventor.

Consequently, the current record does not support the premise that Mr. McDonald's conduct constitutes refusal because no evidentiary documents have been submitted to show that the complete application was deliver to them and that he refused to sign the required papers.

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

CONCLUSION

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

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

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

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

#8

UNITED STATES PATENT and TRADEMARK OFFICE

02 OCT 2006

COMMISSIONER FOR PATENTS
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www.uspto.gov

Finnegan, Henderson, Farrow,
Garrett & Dunner, LLP
901 New York Avenue, N.W.
Washington, DC 20001-4413

In re Application of	DECISION ON
Han-Jie ZHOU et al	
PCT No.: PCT/US2004/001279	
Application No.: 10/541,441	
Int. Filing Date: 20 January 2004	PETITION UNDER
Priority Date: 17 January 2003	
Attorney's Docket No.: 09367.0046-00000	
For: COMPOUNDS, COMPOSITIONS,	
AND METHODS	37 CFR 1.47(a)

This is in response to the "RENEWED PETITION UNDER 37 C.F.R. §1.47(a)" filed on 02 August 2006.

BACKGROUND

In a decision from this Office on 09 June 2006, the initial petition under 37 CFR 1.47(a) was dismissed. The decision stated that items (2) and (3) had not been satisfied.

On 02 August 2006, petitioner submitted a "Renewed Petition Under 37 CFR 1.47(a)" requesting reconsideration of the Office's decision of 09 June 2006 with respect to accepting the above application without the signature of nonsigning inventor Mr. Dr. Andrew McDonald. Filed with the renewed petition, *inter alia*, is further documentary evidence of mailing the applications to Dr. Andrew and a statement of his last known 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 the 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

The renewed petition of 02 August 2006 has satisfied items 2 and 3 under 37 CFR 1.47(a). Thus satisfying all the items under 37 CFR 1.47(a).

Lauren Steven's averments do sufficiently demonstrate that a *bona fide* attempt was made to obtain the signature of Dr. McDonald and that he refused to sign the required papers. The declaration and application papers were mailed to him on July 17, 2006, to his work and on July 18, 2006 to his home address but he has not returned the required papers. Accordingly, the conduct of Dr. McDonald is interpreted based on the evidence of the papers submitted as a refusal to sign the required papers. Consequently, the current record does sufficiently establish Dr. McDonald refusal to join in the application.

In addition, petitioner has provided the last known address of Dr. Andrew McDonald

187 Elsie
San Francisco, CA 94110

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

CONCLUSION

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

The Application Division and the International Division are authorized to accept the application as a 37 CFR 1.47(a) application and to mail a filing receipt. The application will be given a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **17 January 2006.**

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

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-6312
Facsimile: (571) 273-0459

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Christensen O'Connor Johnson Kindness PLLC
1420 Fifth Avenue
Suite 2800
Seattle, WA 98101-2347

Mail Date: 04/21/2010

Applicant	: Pek-Yew Tan	: DECISION ON REQUEST FOR
Patent Number	: 7610038	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/541,447	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/07/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **873** 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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COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

Mail Date: 04/21/2010

Applicant	: Ulrich Rohs	: DECISION ON REQUEST FOR
Patent Number	: 7654930	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/541,448	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/27/2006	: 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.

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

Mail Date: 04/21/2010

Applicant	: John Sydney Robinson	: DECISION ON REQUEST FOR
Patent Number	: 7575736	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/541,471	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/15/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **182** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/05/09

TO SPE OF : ART UNIT 3725

SUBJECT : Request for Certificate of Correction for Appl. No.: 10541478 Patent No.: 7451946 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

_____
Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

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

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

Comments: _____

[signature] SPE AU 3725

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9 FEB 2006

C. Larry Kyle
Paul Smith Intellectual Property Law
330 - 1508 West Broadway
Vancouver, British Columbia
CANADA V6J 1W8

In re Application of	:	
WALKER, et al.	:	
PCT No.: PCT/CA03/00021	:	DECISION ON PETITION
Application No.: 10/541,487	:	
Int. Filing Date: 08 January 2003	:	UNDER 37 CFR 1.47(a)
Priority Date: None	:	
Atty. Docket No.: 8019P18	:	
For: SCREW-IN POST SUPPORT	:	

This decision is in response to applicant's "Petition to Accept Application Under 37 C.F.R. §1.47(a)" filed 07 October 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 08 January 2003, applicant filed international application PCT/CA02/01787. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 29 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 08 July 2005.

On 07 July 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 declaration signed by co-inventor Simon Walker.

On 07 October 2005, applicant filed the present petition under 37 CFR 1.47(a) to accept the previously filed declaration without the signature of co-inventor Jenkin Suen.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. With the filing of the present petition and accompanying papers, applicant has satisfied all four items and it is appropriate to grant the

petition under 37 CFR 1.47(a).

Regarding item (1), applicant has provided payment of the appropriate petition fee.

As to item (2), applicant has provided a signed statement from counsel detailing the efforts to obtain the signature of the non-signing inventor Jenkin Suen. Specifically, the email communication between counsel and the inventor show that Jenkin Suen was sent a complete set of the application papers for the present U.S. National stage application on 08 July 2005 and confirmed receipt by voicemail on 09 July 2005. Thus, it is clear that the Mr. Suen had a clear understanding of the particular application to which his signature was requested. Mr. Suen's subsequent non-response and non-execution of the declaration constitutes a refusal for the purposes of 37 CFR 1.47(a).

Regarding item (3), applicant has supplied a statement of the last known address of Jenkin Suen.

As to item (4), applicant has provided a declaration executed by the co-inventor on his own behalf and on the behalf of the non-signing co-inventor, Jenkin Suen. Accordingly, applicant has satisfied all four items detailed above and it is proper to grant applicant's petition at this time.

CONCLUSION

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

The application has an international filing date of 08 January 2003 under 35 U.S.C. 363, and will be given a date of **07 July 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

This application is being returned to the DO/EO/US for processing in accordance with this decision.

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

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.:	10/541,496	Patent No:	7,528,191
Confirmation No.:	2016	Issue Date:	May 5, 2009
Filed:	January 12, 2006	Atty. Dkt. No:	5628-26320
First Named Inventor: Heinz-Dieter Metzemacher			

CERTIFICATE OF ELECTRONIC TRANSMISSION UNDER 37 C.F.R. §1.8

DATE OF DEPOSIT: May 20, 2009

I hereby certify that this correspondence is being deposited with the United States Patent Office electronic filing system on the date indicated above.

Jackie L. Pitre

Title: COMPOSITION BASED ON PRE-EXFOLIATED NANOCLAY AND USE THEREOF

OK TO ENTER: /D.R./

OK TO ENTER: /D.R./ 08/27/2009

REQUEST FOR CERTIFICATE OF CORRECTION

Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Transmitted herewith for filing in the captioned case are the following:

(1) Form PTO-1050. Errors which occur at important points in the captioned patent or which may otherwise affect the understanding or interpretation of the patent are thereon corrected.

All of the errors shown in PTO-1050 are either typographic in nature or of minor character. Applicant submits that the requested corrections do not constitute new matter and do not require re-examination of the application. A Certificate of Correction is requested under 35 U.S.C. § 255.

A fee authorization in the amount of $100.00 is being submitted concurrently via EFS-Web for the request for Certificate of Correction. If any fees are inadvertently omitted or if any additional fees are required or have been overpaid, please appropriately charge or credit those fees to Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C. Deposit Account No. 50-1505/5628-26320/EBM.

Respectfully submitted,

Eric B. Meyertons
Reg. No. 34,876

Attorney for Applicant

MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398
(512) 853-8800 (voice)
(512) 853-8801 (facsimile)

Date: May 30, 2008

03 MAR 2006

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ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON DC 20006

In re Application of	:	
HOJO et al.	:	
Application No.: 10/541,499	:	DECISION ON
PCT No.: PCT/JP03/09555	:	
Int. Filing Date: 28 July 2003	:	PETITION UNDER
Priority Date: 31 July 2002	:	
Attorney Docket No.: 050412	:	37 CFR 1.137(b)
For: FOOD ADDITIVE COMPOSITION, AND	:	
FOOD COMPOSITION CONTAINING SAME	:	

This decision is in response to applicants' submission filed 07 July 2005.

BACKGROUND

On 28 July 2003, applicants filed international application PCT/JP03/09555 which designated the U.S. and claimed a priority date of 31 July 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 05 February 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 31 January 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, a declaration of the inventor, 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 07 July 2005.

As to item (2), applicant submitted the petition fee on 07 July 2005.

As to item (3), the required statement has been provided.

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

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,501	07/07/2005	Phaedria Marie St. Hilaire	ST.HILAIRE1A	4075

1444 7590 09/16/2008
BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303

EXAMINER
WESSENDORF, TERESA D

ART UNIT	PAPER NUMBER
1639	

MAIL DATE	DELIVERY MODE
09/16/2008	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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SEP 1 6 2008

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

In re Application of:	:
St. Hilaire et al.	:
Serial No.: 10/541,501	: PETITION DECISION
Filed: July 07, 2005	:
Attorney Docket No.: **ST.HILAIRE1A**	:

This is in response to the petition filed August 7, 2008, presumably under 37 CFR § 1.181, requesting that the finding of non-responsiveness by the examiner as communicated in the letter of June 11, 2008 be overturned in favor of applicants.

BACKGROUND

The examiner mailed a non-final Office action November 7, 2007. At the time this Office action was mailed, claims 3, 4, 6-7, 16, 22, 26, 29-31, 35-36, 43, 44, 46, 49, 50, 77, 78 and 88-90 were pending and claims 3, 4, 6, 7, 16, 22, 26, 29-31, 35, 36, 46, 49, 50, 77, 78, 89 and 90 were withdrawn from examination on their merits as being directed toward a non-elected species of Invention, leaving claims 43, 44 and 88 to be examined. In this Office action, *inter alia*, the examiner instituted a rejection of claims 43 and 90 under 35 U.S.C.§ 112, first paragraph, for lacking written description, rejected claims 43, 88 and 90 under 35 U.S.C.§ 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, rejected claim 88 under 35 under 35 U.S.C. 102 (b) as being anticipated by or, in the alternative, under 35 U.S.C. 103§ (a) as obvious over St. Hilaire et al. (1998), as well as Lohse (US 6,602,685). The examiner also rejected claim 88 under 35 U.S.C. 102 (a) as being anticipated by Tomlinson et al. (US 2002/0115068). The examiner objected to claim 44 for being dependent upon a rejected base claim and indicated that clam 44 would be allowable if rewritten in independent form. Here, there is some confusion to what claims were actually examined. The PTOL-326 form which accompanied the non-final Office action indicates that claims 43, 88 and 90 were rejected, and claim 44 was objected to. However, the PTOL-326 form also indicates that claim 90 was withdrawn from consideration. Since claims

43, 88 and 90 were rejected, and claim 44 was objected to, it appears that claims 43, 44, 88 and 90 were, in fact, examined.

On March 6, 2008, in reply to the non-final Office action of November 7, 2007, applicants submitted remarks and arguments as well as amendments to claims 43, 44, 46 and 89, and presented new claims 91-101.

On June 11, 2008 the examiner mailed a letter to applicants indicating that their response filed on March 6, 2008 was non-responsive to the non-final Office action mailed November 7, 2007. In this non-responsive letter, the examiner specifically stated:

> The reply filed on 3/6/08 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): the amendments to the claims which added new claims and amended e.g., claim 43 is non-responsive. The added claims also introduce new subject matter that has not been considered and examined before. For example, the prior Office action indicated the allowability of the elected species, HY6. However, the amendments to generic claim 43, for example, were such that the additional limitations introduced new subject matter not corresponding with the indicated allowable subject matter.
> The 35 USC 112, second paragraph rejection regarding the used [*sic*]of the Tables in the claims introduced compounds such as protecting groups, which are not amino acids, [*sic*]are non-responsive amendments. Applicants used [*sic*] of the Tables is not an "exceptional case" as clearly the Tables recite each of the naturally occurring amino acids, for example. See 37 CFR 1.111. Also several independent claims for which no fees have been filed had been introduced in the present amendments. See MPEP 714.10. Since the above- mentioned reply appears to be bona fide, applicant is given ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a)

In response thereto, applicants filed this petition on August 7, 2008, presumably under 37 CFR § 1.181, requesting that the finding of non-responsiveness by the examiner as communicated in the letter of June 11, 2008 be overturned in favor of applicants.

It is noted that applicants additionally filed an amendment with remarks on August 7, 2008.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition filed on August 7, 2008, applicants requested relief from the examiner's refusal to resume prosecution of this case. Specifically, applicants argue that the non-responsive letter mailed on June 11, 2008 was improper, and contend that the amendment submitted on March 3, 2008 was sufficient to appropriately respond to the non-final Office action mailed on November 7, 2007:

> The test for whether an amendment is fully responsive to a nonfinal action is whether it (I) substantially responds to each rejection, objection and requirement, and (2) is a bona fide attempt to advance the case to final action. See MPEP 714.03. The applicant need not adopt the examiner's suggestion for amending the claims to overcome a particular rejection or objection; the applicant may instead contend that the rejection or objection is wrong as a matter of law or inappropriate in view of the particular facts. The applicant may add claims, or amend claims, even if that might raise new issues, so long as the applicant has responded, at least by argument, to all outstanding issues.
> Hence, the holding of non-responsiveness should be vacated and the case returned to the examiner for the preparation of a new action on the merits.

Applicants' arguments continue:

> ...the amendment to claim 43 was actually a narrowing amendment, as the now-eliminated dependency on 88 didn't structurally limit the ligand, and we limited the allowed amino acids to those of tables 1, 2, 3, 7 and 9...even if claim 43 had been amended to include previously unclaimed subject matter, such an amendment is allowed as of right, provided that there has been no final rejection or Ex parte Quayle action...MPEP 714.19(A) and 714.20(C). The Examiner can limit examination of the amended claim to the elected species, but can't refuse to enter the amendment. Amendments in a nonfinal case, which comply with formalities...are entered as a matter of right. See MPEP 714(I)(A).

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' response submitted on March 6, 2008 is fully responsive to the non-final Office action mailed by the examiner on November 7, 2007 because said response specifically replied to every objection and rejection instituted by the examiner in the non-final Office action. Thus, the reasons set forth in the letter for holding the reply submitted by applicants filed on March 6, 2008 non-responsive were in error. As correctly pointed out by applicants in the petition of August 7, 2008, claim 43 was merely narrowed to include certain amino acids which does not depart from the scope of claim 44 which was determined, by the examiner in the non-final Office action as being allowable. The amendment to claim 43 by applicants was in-part, an attempt to overcome the rejection of claim 43 made by the examiner under 35 U.S.C. 112, first paragraph. While the examiner indicated in the non-final Office action that claim 44 was objected to, but allowable, applicants are not required in response to the non-final Office action to acquiesce to the examiner's initial proposal of allowance by rewriting claim 43 to include only the examiner's identified allowable subject matter of claim 44. On the contrary, the record of this case

establishes that the election of species instituted by the examiner was set forth over the Markush group of potential embodiments of species present in claim 43. Applicants specifically elected the species of HY6 for examination in the response filed August 27, 2007. With regard to examination of Markush claims upon instituting an election of species, the MPEP § 803.02 states:

> ...*should the examiner determine that the elected species is allowable, the examination of the Markush-type claim will be extended.* If prior art is then found that anticipates or renders obvious the Markush-type claim with respect to a nonelected species, the Markush-type claim shall be rejected and claims to the nonelected species held withdrawn from further consideration. The prior art search, however, will not be extended unnecessarily to cover all nonelected species. Should applicant, in response to this rejection of the Markush-type claim, overcome the rejection, as by amending the Markush-type claim to exclude the species anticipated or rendered obvious by the prior art, the amended Markush-type claim will be reexamined. *The examination will be extended to the extent necessary to determine patentability of the Markush-type claim.* In the event prior art is found during the reexamination that anticipates or renders obvious the amended Markush-type claim, the claim will be rejected and the action can be made final unless the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p). See MPEP § 706.07(a). (emphasis added)

Newly amended claim 43 should be fully examined on its merits. Should claim 44 still be deemed allowable in the examiner's opinion, the search of the Markush group of claim 43 should be extended to non-elected species of claim 43 as a matter of right, according to the MPEP § 803.02. Accordingly, any new claims presented by applicants in the response submitted on March 6, 2008 which are directed toward the species chosen for examination should be joined with the chosen species and those claims which are not specifically directed toward the species newly chosen by the examiner may be withdrawn from consideration on their merits.

The examiner further stated in the non-responsive letter of June 11, 2008 that "[t]he 35 USC 112, second paragraph rejection regarding the used [*sic*] of the Tables in the claims introduced compounds such as protecting groups, which are not amino acids, are non-responsive amendments." However, applicants' amendment to insert limitations which read on tables is not in itself non-responsive considering that applicants have fully responded to the non-final Office action mailed November 7, 2007. It is plainly evident that applicants responded to the examiner's rejection of claim 90 under 35 U.S.C. 112, 2nd paragraph by rebutting said rejection (see p. 15, Remarks of March 6, 2008). Additionally, it can be seen in an amendment filed by applicants on August 7, 2008, subsequent to the filing of the Petition, that applicants have amended claims 43 and 90 to specifically recite species of ligands, hence rendering any point relating to the reference to tables in the claims moot.

It is decided that applicants' response filed March 6, 2008 is fully responsive because the reply satisfies the provisions of 37 C.F.R. 1.114 by specifically responding to each individual rejection set forth by the examiner in the non-final Office action mailed on November 7, 2007. It is noted that applicants are not precluded from submitting arguments in traversal of rejections rather than acquiescing to the examiner's initial findings of rejection by amending the claims. As a matter

of right, applicants are permitted, in lieu of making specific claim amendments, to traverse the examiner's finding of rejection as they deem appropriate.

Considering that applicants' response submitted March 3, 2008 was fully responsive to the non-final Office action of November 7, 2007, the Non-responsive letter mailed by the examiner on June 11, 2008 is hereby VACATED. Accordingly, any formal or informal matters relating to the claims or any matters relating to the merits of the claims may be addressed in a subsequent Office action by the examiner.

DECISION

The petition is **GRANTED.**

This application will be forwarded to the examiner to act on the amendment submitted on March 6, 2008 and to consider applicants' arguments presented therein. Because the reply submitted on March 6, 2008 was fully responsive to the non-final Office action mailed November 7, 2007, the reply filed August 7, 2008 should be treated as a supplemental response to be acted on by the examiner as well.

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

George Elliott
Director, Technology Center 1600

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05 JUL 2006

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

In re Application of	:	
MERLE, Gilles et al.	:	
Application No.: 10/541,510	:	DECISION ON
PCT No.: PCT/FR03/50202	:	
Int. Filing Date: 22 December 2003	:	PETITION UNDER
Priority Date: 24 December 2002	:	
Attorney Docket No.: 274880US2PCT	:	37 CFR 1.137(b)
For: METHOD AND SYSTEM FOR	:	
SECURING SCRAMBLED DATA	:	

This decision is in response to applicant's notation listing the fee for a petition to revive under 37 CFR 1.137(b) on the transmittal letter submitted to the United States Patent and Trademark Office on 08 July 2005.

BACKGROUND

On 22 December 2003, applicant filed an international application number PCT/FR03/50202. A copy of the international application was transmitted to the Office by the International Bureau on 15 July 2004. The thirty month period for entering the national stage in the United States expired at midnight on 24 June 2005.

On 08 July 2005, applicants filed transmittal letter for entry into the national phase in the United States accompanied by the basic national fee and the fee for revival of an unintentionally abandoned application.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) the required reply, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995). Pursuant to 37 CFR 1.137(b)(3), additional information may be required where there is a question whether the delay was unintentional.

Items (2), (3) and (4) have been satisfied. The basic national fee and petition fee have been paid. A terminal disclaimer is not required as the application was filed on or after 08 June 1995.

Item (1) has not been satisfied. Applicant has not made the required statement of unintentional delay.

CONCLUSION

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

The application remains **ABANDONED**.

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

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

Erin P. Thomson

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11 DEC 2006

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

In re Application of	:	
MERLE, Gilles et al.	:	
Application No.: 10/541,510	:	DECISION ON
PCT No.: PCT/FR03/50202	:	
Int. Filing Date: 22 December 2003	:	PETITION UNDER
Priority Date: 24 December 2002	:	
Attorney Docket No.: 274880US2PCT	:	37 CFR 1.137(b)
For: METHOD AND SYSTEM FOR	:	
SECURING SCRAMBLED DATA	:	

This decision is in response to applicant's renewed petition to revive under 37 CFR 1.137(b) filed in the United States Patent and Trademark Office on 29 August 2006.

BACKGROUND

On 05 July 2006, the Office mailed Decision On Petition Under 37 CFR 1.137(b), dismissing applicants' petition without prejudice.

On 29 August 2006, applicants filed this renewed petition under 37 CFR 1.137(b), accompanied by a copy of the earlier 08 July 2005 submission and a date-stamped postcard receipt.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) the required reply, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995). Pursuant to 37 CFR 1.137(b)(3), additional information may be required where there is a question whether the delay was unintentional.

Items (2), (3) and (4) were previously satisfied. The basic national fee and petition fee have been paid. A terminal disclaimer is not required as the application was filed on or after 08 June 1995.

Item (1) has now been satisfied. Applicants have filed a copy of what applicants claim was submitted on 08 July 2005, namely a petition under 37 CFR 1.137(b) and a postcard receipt date stamped by the Office, listing the petition. The petition includes the required statement of unintentional delay. Though the copy submitted is unsigned, this 29 August 2006 submission is submitted by the counsel listed in the petition's signature block. It is accepted that counsel is ratifying the submission.

An oath or declaration in compliance with 37 CFR 1.497(a)-(b) and an English translation of the application have not yet been furnished.

CONCLUSION

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

This application is being referred to the National Phase Processing Branch of the Office of PCT Operations for further action consistent with this decision, including mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and an English translation of the international application are required.

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KENYON & KENYON LLP
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NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Oskar Torno	: DECISION ON REQUEST FOR
Patent Number	: 7613562	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/541,517	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/01/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **917** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

18 OCT 2006

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In re Application of GOTO et al	:	
U.S. Application No.: 10/541,518	:	
PCT Application No.: PCT/JP2003/015731	:	
Int. Filing Date: 09 December 2003	:	DECISION
Priority Date Claimed: 15 January 2003	:	
Attorney Docket No.: 81864.0064	:	
For: PATTERN FORMATION DEVICE,	:	
PATTERN FORMATION METHOD AND	:	
PATTERN FORMATION SYSTEM	:	

This is in response to applicant's "Petition Under 37 C.F.R. § 1.47(a) for Filing on Behalf of a Joint Inventor Who Refuses to Sign" filed 13 July 2006.

BACKGROUND

On 09 December 2003, applicant filed international application PCT/JP2003/015731, which claimed priority of an earlier Japan application filed 15 January 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 29 July 2004. The thirty-month period for paying the basic national fee in the United States expired on 15 July 2005.

On 07 July 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 13 July 2006, applicant filed the present petition under 37 CFR 1.47(a).

On 24 August 2006, the DO/EO/US mailed a Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903).

DISCUSSION

The Notice of Acceptance of Application Under 35 U.S.C. 371 was sent in error.

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

With regard to item (1) above, the declaration submitted with the petition does not satisfy 37 CFR 1.69(b).

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.

The declaration does not use an official form provided by the USPTO, i.e. USPTO Form PTO/SB/106. Applicant must submit either: (1) a declaration using USPTO Form PTO/SB/106 or (2) a statement that the translation contained in the submitted declaration is accurate.

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

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

The petition states that joint inventor Hideki Kishi refuses to sign the application papers. Although the petition sufficiently establishes that a bona fide attempt was made to present a copy of the application papers to Kishi for signature (see affidavit of Miyuki Horikawa, ¶2), it cannot be determined whether Kishi actually received the correspondence that was sent to him. Petitioner is advised that Exhibits B, C, and D will not be considered until an English language translation is provided. Until it can be shown that Kishi in fact received the mailings, it would not be reasonable to conclude that his purported failure to reply constitutes a refusal to cooperate. In the event that it is determined that the letters sent to Kishi were not received, petitioner may consider a claim that Kishi cannot be reached after diligent effort.

With regard to item (3) above, applicant is advised that effective 22 November 2004, the fee for a petition under 37 CFR 1.47 increased to $200.00. Any deficiency in the petition fee will be charged to Deposit Account No. 50-1314 as authorized by applicant.

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

CONCLUSION

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

The Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) mailed 24 August 2006 is hereby VACATED.

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

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

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10/19/2006 SBASHEIR 00000001 501314 10541518
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10 JAN 2007

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In re Application of GOTO et al	:	
U.S. Application No.: 10/541,518	:	
PCT Application No.: PCT/JP2003/015731	:	
Int. Filing Date: 09 December 2003	:	DECISION
Priority Date Claimed: 15 January 2003	:	
Attorney Docket No.: 81864.0064	:	
For: PATTERN FORMATION DEVICE,	:	
PATTERN FORMATION METHOD AND	:	
PATTERN FORMATION SYSTEM	:	

This is in response to applicant's "Petition Under 37 C.F.R. § 1.47(a) for Filing on Behalf of a Joint Inventor Who Does Not Sign" filed 22 December 2006.

BACKGROUND

On 09 December 2003, applicant filed international application PCT/JP2003/015731, which claimed priority of an earlier Japan application filed 15 January 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 29 July 2004. The thirty-month period for paying the basic national fee in the United States expired on 15 July 2005.

On 07 July 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 13 July 2006, applicant filed a petition under 37 CFR 1.47(a) along with an executed declaration.

On 24 August 2006, the DO/EO/US mailed a Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903).

On 18 October 2006, this Office mailed a decision dismissing the 13 July 2006 petition and vacating the 24 August 2006 Notice of Acceptance.

On 22 December 2006, applicant filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

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

Applicant has previously satisfied items (3) and (4) above.

With regard to item (1) above, the declaration filed 13 July 2006 satisfies 37 CFR 1.69(b) in view of the statement by Miyuki Horikawa that the translation contained in the declaration is accurate.

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

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted which fully describes the exact facts which are relied on to establish that a diligent effort was made. . . . The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.
>
> * * *
>
> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.

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

The petition states that joint inventor Hideki Kishi refuses to sign the application papers. Although the petition sufficiently establishes that a bona fide attempt was made to present a copy of the application papers to Kishi for signature (see affidavit of Miyuki Horikawa, ¶2), it cannot be determined whether Kishi actually received the correspondence that was sent to him. Although Horikawa's affidavit states that the mailings were not returned to sender, there is no evidence that Kishi still lives at the last known address of record or signed for the correspondence.

The petition states that Kishi cannot otherwise be located. The petition adequately demonstrates that a diligent effort was made to reach Kishi. Specifically, applicant tried to contact Kishi via postal mail, through Kishi's former employer, by searching telephone directories, and by searching a patent database. Thus, it can be concluded with reasonable certainty that Kishi cannot be found.

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 09 December 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 13 July 2006.

As set forth in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at the last known address of record and will be published in the *Official Gazette*.

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

Bryan Lin

Bryan Lin
PCT Legal Examiner
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,528	07/07/2005	Thomas Julius Borody	119381-00003 / 3704US	1484

77202 7590 08/26/2008
Bell, Boyd & Lloyd LLP
3580 Carmel Mountain Road
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San Diego, CA 92130

EXAMINER
WOOD, AMANDA P

ART UNIT	PAPER NUMBER
1657	

MAIL DATE	DELIVERY MODE
08/26/2008	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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AUG 2 6 2008

Stephanie Seidman
BELL BOYD & LLOYD L.L.P.
3580 CARMEL MOUNTAIN ROAD SUITE 200
SAN DIEGO CA 91230

In re Application of	:
BORODY et al	:Decision on Petition
Serial No.: 10/541,528	:
Filed : 7 July 2005	:
Attorney Docket No.:119381-00003	:

This letter is in response to the Renewed Petition under 37 C.F.R. 1.181 filed on 9 June 2008 requesting reconsideration of the restriction requirement dated 15 April 2008.

BACKGROUND

This application was filed as a national stage under 35 USC 371 and as such, is entitled to PCT unity of invention rules.

On 15 April 2008, the examiner required a restriction between Groups I, II and III, as follows.

> Group I, claim(s) 1-11, drawn to a biphasic culture medium.
>
> Group II, claim(s) 13-17, drawn to a kit.
>
> Group III, claim(s) 19-29 and 31-37, drawn to a method of detecting protozoa.

On 28 March 2008 applicants elected Group I, claims 1-11 with traverse.

On 14 April 2008, the examiner considered the traversal and made the lack of unity determination FINAL. Claims 1-11 were rejected under 35 USC 103(a) as being unpatentable over Clark in view of Nakamura.

On 9 June 2008, applicants filed this petition.

DISCUSSION

The file history and petition have been considered carefully.

PCT Rules 13.2 states that:

> **Where a group of inventions is claimed in one and the same international application, the requirement of unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.**

The criteria for determining the concept of "contribution over the prior art" is further discussed in Chapter 10 of the International Search and Preliminary Examination Guidelines:

Rule 13.2; AI Annex B, Part 1(b)

> 10.02 Whether or not any particular technical feature makes a "contribution" over the prior art, and therefore constitutes a "special technical feature," is considered with respect to novelty and inventive step. For example, a document discovered in the international search shows that there is a presumption of lack of novelty or inventive step in a main claim, so that there may be no technical relationship left over the prior art among the claimed inventions involving one or more of the same or corresponding special technical features, leaving two or more dependent claims without a single general inventive concept.

Applicants are correct that the lack of unity determination between the bi-phasic culture media of claim 1 and the kit, which comprises the bi-phasic culture media of claim and further comprises a container containing starch material is improper. Typically a claim directed to a kit comprising a reagent and claim directed to the reagent itself are not separated into separate groups in unity of invention practice. See ISPE Guidelines, Example 15, where claim to a compound shared unity of invention which another claim to the compound and the additional component, "a carrier."

Claim 1: Compound A.

Claim 2: An insecticide composition comprising compound A and a carrier.

Unity exists between claims 1 and 2. The special technical feature common to all the claims is compound A.

Applicants also argue the restriction required between Group I, a product, and Group III, a method of using the product for detection. The petition states that unity exists between the product and process inventions and argues the validity of the rejection made under 35 USC 103(a).

This is not persuasive in view of the first Office action on the merits. PCT Rule 13.2 requires that for unity of invention, the inventions must share a special technical feature which makes as contribution over the prior art. Chapter 10 of the ISPE Guidelines makes it clear that the contribution must be both in terms of novelty, which corresponds to anticipation under US

practice, and inventive step, which corresponds to unobviousness under US practice. The rejection made under 35 USC 103(a) are evidence that the product invention is obvious in view of the prior art.

Upon allowance of all claims directed to the elected product invention, applicant may be entitled to rejoinder of any process claims.

> The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.
>
> In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. Failure to do so may result in a loss of the right to rejoinder. Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

DECISION

The petition filed under 37 CFR 1.181 on 14 July 2008 is **GRANTED-IN-PART** as follows:

The request to rejoin Group I, (product) with Group II (kit comprising the product) is **GRANTED**.

The request to rejoin Group I, (product) with Group III (process) is **DENIED**.

The application will be forwarded to the examiner to prepare an Office action consistent with this petition decision which addresses rejoined Groups I and II, claims 1-17.

Any request for reconsideration should be filed within TWO MONTHS of the mail date of this Petition Decision.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450,

ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-272-8300.

Remy Yucel
Director, Technology Center 1600

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17 SEP 2007

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In re Application of Georges et al. Application No.: 10/541,536 PCT No.: PCT/US03/25813 Int. Filing Date: 08 August 2003 Priority Date: 07 January 2003 Attorney Docket No.: DBT004PCTUS1 For: Systems And Methods For Creating, Modifying, Interacting With And Playing Musical Compositions	DECISION

This is a decision on the "Request For Reconsideration" dated 22 February 2007, which is in effect a renewed petition under 37 CFR 1.182, a renewed petition under 37 CFR 1.137(b) and a renewed submission under 37 CFR 1.497(d).

DISCUSSION

Petition Under 37 CFR 1.137(b)

In the Decision mailed on 12 February 2007, the renewed petition under 37 CFR 1.137(b) filed on 26 January 2007 was dismissed without prejudice because requirement (1) had not been satisfied (i.e., the "required reply" had not been provided; "specifically, applicants did not timely resolve the issue of Mr. Damevski's name on the declaration. As noted in the following discussion of the petition under 37 CFR 1.182, this issue still has not been resolved to the extent that the application file still does not include a complete declaration document (that is, not a composite) signed by Mr. Damevski. For this reason, the required reply requirement has not been satisfied."). In response, petitioner has provided a declaration document which, when taken with the declaration document filed on 07 February 2006, is acceptable. Therefore, all of the requirements of 37 CFR 1.137(b) have been satisfied.

Petition Under 37 CFR 1.182

In the Decision mailed on 12 February 2007, the petition under 37 CFR 1.182 filed on 28 September 2006 was dismissed without prejudice because

> Based on the totality of the evidence of record, including Mr. Damevski's statement, it would be appropriate to accept the name of "Voislav ('Voit") Damevski" *in lieu* of the name "DAMEVSKI, Voit" as nominated by the published international application. However, it would still not be appropriate to accept the declaration of record because applicants have not yet furnished a complete (i.e., not composite) declaration document signed by Mr. Damevski. For this reason, it would not be appropriate to grant the requested relief under 37 CFR 1.182 at this time.

As noted above, petitioner has now provided an acceptable declaration. As such, it now would be appropriate to grant the relief requested under 37 CFR 1.182.

Submission Under 37 CFR 1.497(d)

The Decision mailed on 12 February 2007 stated that

> Since this case remains abandoned, further consideration of the merits under 37 CFR 1.497(d) would not be appropriate at this time. Such consideration would become appropriate upon the submission of an acceptable declaration document signed by Mr. Damevski. Such a document may name him as Voislav ("Voit") Damevski as discussed above.

As this application has now been revived under 37 CFR 1.137(b), it would now be appropriate to consider the outstanding issue under 37 CFR 1.497(d). In view of the submission of an acceptable declaration document as mentioned *supra*, it now would be appropriate to grant the requested relief under 37 CFR 1.497(d).

CONCLUSION

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

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

The declaration 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 **22 February 2007** (i.e., the date the acceptable declaration of the inventors was filed).

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07 JUN 2006

#5

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In re Application of	:	
Georges et al.	:	
Application No.: 10/541,536	:	
PCT No.: PCT/US03/25813	:	
Int. Filing Date: 08 August 2003	:	DECISION
Priority Date: 07 January 2003	:	
Attorney Docket No.: DBT004PCTUS1	:	
For: Systems And Methods For Creating, Modifying,	:	
Interacting With And Playing Musical Compositions	:	

This is a decision on the correspondence filed on 07 February 2006, which is being treated under 37 CFR 1.497(d).

BACKGROUND

This international application was filed on 08 August 2003 and claimed a priority date of 07 January 2003. The United States was designated. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 07 July 2005. On 06 July 2005, applicants filed *inter alia* the basic national fee.

On 30 November 2005, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an oath or declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.497(h).

DISCUSSION

The declaration of the inventors filed on 07 February 2005 lists four joint inventors, Eric Laurent, Frederic Flohr, Jean-Phillipe Chevreau and Alan R. Loudermilk, who were not nominated in the published international application, nor is an appropriate Form PCT/IB/306 present in the application file. Treatment of this situation under 37 CFR 1.497(d) is appropriate. 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 a "Statement of Inventors" stating in part that "Each person's signature below is an indication that the inventorship error occurred without deceptive intent on the part of that person." This "Statement of Inventors" has been signed by each of Eric Laurent, Frederic Flohr, Jean-Phillipe Chevreau and Alan R. Loudermilk.

Regarding requirement (2), the $130.00 processing fee is being charged to Deposit Account No. 50-0251, per the authorization in the 06 July 2005 Transmittal Letter.

Regarding requirement (3), the published international application suggests that MADWAVES LTD. may enjoy an assignment interest in this application, but applicants have not provided documentary evidence of the assignee's consent. Applicant's attention is respectfully directed 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.

In the absence of an appropriate consent of the assignee (or an explicit statement that no assignee enjoys an interest in this application), it would not be appropriate to consider requirement (3) to have been satisfied.

Inspection of the declaration filed on 07 February 2006 reveals that it appears to have been assembled by adding a faxed sheet signed by inventors Georges, Damevski, Blair and Laurent to a declaration document signed by all of the inventors other than Damevski. 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. The declaration is also defective in that it names an inventor ("Voislav ('Voit') Damevski") whose name differs from a similar name appearing in the published international application: "Damevski, Voit." In that this is clearly more than a mere typographic error of phonetic misspelling of applicant's name, a proper petition (and fee) is required to resolve this discrepancy. *See* MPEP § 605.04(b) and MPEP § 201.03(b). In view of all of the circumstances currently of record, it would not be appropriate to grant the requested relief.

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 **ONE (1) MONTH** from the mail date of this decision. Extensions of time are **NOT** 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.

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29 AUG 2006

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In re Application of Georges et al. Application No.: 10/541,536 PCT No.: PCT/US03/25813 Int. Filing Date: 08 August 2003 Priority Date: 07 January 2003 Attorney Docket No.: DBT004PCTUS1 For: Systems And Methods For Creating, Modifying, Interacting With And Playing Musical Compositions	DECISION

This is a decision on the renewed submission under 37 CFR 1.497(d) filed on 03 July 2006.

DISCUSSION

In a decision mailed on 07 June 2006, the declaration filed on 07 February 2005 was not accepted under 37 CFR 1.497(d), without prejudice, because

> Regarding requirement (3), the published international application suggests that MADWAVES LTD. may enjoy an assignment interest in this application, but applicants have not provided documentary evidence of the assignee's consent... In the absence of an appropriate consent of the assignee (or an explicit statement that no assignee enjoys an interest in this application), it would not be appropriate to consider requirement (3) to have been satisfied.
>
> Inspection of the declaration filed on 07 February 2006 reveals that it appears to have been assembled by adding a faxed sheet signed by inventors Georges, Damevski, Blair and Laurent to a declaration document signed by all of the inventors other than Damevski. 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. The declaration is also defective in that it names an inventor ("Voislav (' Voit') Damevski") whose name differs from a similar name appearing in the published international application: "Damevski, Voit." In that this is clearly more than a mere typographic error of phonetic misspelling of applicant's name, a proper petition (and fee) is required to resolve this discrepancy. *See* MPEP § 605.04(b) and MPEP § 201.03(b).

In response, counsel has provided a statement under 37 CFR 3.73(b) which identifies MediaLab Solutions LLC as the assignee; this is supported by a copy of an assignment document identifying the instant application number and executed in favor of MediaLab by the inventors as well as by agents of "the MadWaves Entities," including MadWaves Ltd. (named in the published international application). This is accompanied by a recordation form cover sheet. The statement is signed by Peter Blain in his capacity as "Founding Partner," who asserts that "The undersigned

is empowered to sign this statement and consent on behalf of the assignee." As such, applicants have now satisfied requirement (3) of 37 CFR 1.497(d).

Regarding the issue of Mr. Damevski's name, the proposed change from "Voit" as it appears on the published international application to "Voislav" as it appears in the declaration constitutes more than correction of a mere typographic error or phonetic misspelling. Accordingly, a proper petition (and fee) under 37 CFR 1.182 is required to effect this change. *See* MPEP § 605.04(b) and MPEP § 201.03(b). Petitioner has neither paid the petition fee nor explicitly requested treatment under 37 CFR 1.182. Therefore, the statement signed by Mr. Damevski does not in itself present sufficient basis to permit the requested name change.

CONCLUSION

The declaration is **NOT ACCEPTED** under 37 CFR 1.497(d), without prejudice.

Since applicants did not file an acceptable response within the time period set in the previous decision, this international application is **ABANDONED** with respect to the national stage in the United States.

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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07 DEC 2006

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In re Application of
Georges et al.
Application No.: 10/541,536
PCT No.: PCT/US03/25813
Int. Filing Date: 08 August 2003
Priority Date: 07 January 2003
Attorney Docket No.: DBT004PCTUS1
For: Systems And Methods For Creating, Modifying, Interacting With And Playing Musical Compositions

DECISION

This is a decision on the renewed submission under 37 CFR 1.497(d) filed on 28 September 2006.

DISCUSSION

In a decision mailed on 29 August 2006, in response to a renewed submission filed on 03 July 2006, the declaration filed on 07 February 2005 was not accepted under 37 CFR 1.497(d), without prejudice, because

> Regarding the issue of Mr. Damevski's name, the proposed change from "Voit" as it appears on the published international application to "Voislav" as it appears in the declaration constitutes more than correction of a mere typographic error or phonetic misspelling. Accordingly, a proper petition (and fee) under 37 CFR 1.182 is required to effect this change. *See* MPEP § 605.04(b) and MPEP § 201.03(b). Petitioner has neither paid the petition fee nor explicitly requested treatment under 37 CFR 1.182. Therefore, the statement signed by Mr. Damevski does not in itself present sufficient basis to permit the requested name change.

The application was held to have become abandoned with respect to the national stage in the United States for failure to timely file an acceptable response within the time period set in the previous decision. In response, requests reconsideration because "the Declaration and Statement of Voislav Damevski ("Damevski Declaration") sufficiently establishes that this is the type of error that may be corrected in the circumstances of this case." However, as mentioned in the Decision mailed on 29 August 2006, relief under the circumstances presented requires a proper petition and fee under 37 CFR 1.182. While counsel's position that Voislav and Voit are related in much the same manner as "Will or Bill and William, and Bob or Rob and Robert" is understood, this type of discrepancy in the declaration is regarded as more than a mere typographic error or phonetic misspelling. Thus, under existing policy, acceptance of the declaration of record would require a grantable petition under 37 CFR 1.182 (alternatively, applicants could file a newly executed declaration showing the same names as appear on the published international application).

Counsel also in effect requests that the previous submission be regarded as a constructive petition under 37 CFR 1.182, stating that the request "was in substance a request or petition under Rule 1.182 to effect the change and pay the required fee. This, respectfully, is what was

intended by Applicant's previous submission, even though Applicant mistakenly did not reference by number Rule 1.182." However, it is respectfully submitted that the Decision mailed on 07 June 2006 specifically cited MPEP 605.04(b) and 201.03(b). 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." Meanwhile, MPEP 201.03 states in part that "Where there is no change of individual but an incorrect name was given, a petition under 37 CFR 1.182 should be filed requesting correction of applicant 's name." As such, applicants reasonably would have been expected to recognize that a petition under 37 CFR 1.182 would be appropriate in this case. Since no such explicit petition under 37 CFR 1.182 was filed, it would be inappropriate to regard the papers filed on 03 July 2006 to have constructively constituted such a petition.

Since this case stands abandoned, further consideration of the merits under 37 CFR 1.497(d), or treatment of the submission filed on 28 September 2006 under 37 CFR 1.182, would not be appropriate at this time.

CONCLUSION

The declaration is **NOT ACCEPTED** under 37 CFR 1.497(d), without prejudice.

Petitioner's request for reconsideration (constructively, withdrawal) of the holding of abandonment is **DISMISSED**, without prejudice.

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

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12 FEB 2007

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In re Application of Georges et al. Application No.: 10/541,536 PCT No.: PCT/US03/25813 Int. Filing Date: 08 August 2003 Priority Date: 07 January 2003 Attorney Docket No.: DBT004PCTUS1 For: Systems And Methods For Creating, Modifying, Interacting With And Playing Musical Compositions	DECISION

This is a decision on the petition under 37 CFR 1.137(b) filed on 26 January 2007. The petition under 37 CFR 1.182 filed on 28 September 2006 is also being treated, and the status of the application with regard to the outstanding issues under 37 CFR 1.497(d) is also addressed.

DISCUSSION

Petition Under 37 CFR 1.137(b)

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), this application became abandoned for failure to timely reply a full reply to the decision mailed on 07 June 2006; specifically, applicants did not timely resolve the issue of Mr. Damevski's name on the declaration. As noted in the following discussion of the petition under 37 CFR 1.182, this issue still has not been resolved to the extent that the application file still does not include a complete declaration document (that is, not a composite) signed by Mr. Damevski. For this reason, the required reply requirement has not been satisfied.

Regarding requirement (2), the petition fee is being charged to counsel's Deposit Account per the authorization filed on 26 January 2007.

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

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

Petition Under 37 CFR 1.182

In view of the filing of the petition under 37 CFR 1.137(b) filed on 26 January 2007, it is necessary to resolve whether the "required reply" has been filed. Resolution of this issue requires treatment of the merits of the petition under 37 CFR 1.182 filed on 28 September 2006. Review of the "Declaration And Statement Of Voislav Damevski" reveals that Mr. Damevski states in part that

> I was originally named as a coinventor in international application number PCT/US03/25813. My name on this international application was listed as "Voit Damevski," as I often use Voit as my first name. My legal first name, however, is Voislav. Voislav and Voit are much like Robert and Bob. My first name was listed as Voit on international application number PCT/US03/25813, although in this application the declaration is using my legal first name of Voislav. If the use of Voit on international application number PCT/US03/25813, and the change to Voislav in this application, is an error, then this error was made without deceptive intent. Also, note that I signed the declaration in this application as "Voislav Damevski," although the typed portion is written as "Voislav ("Voit") Damevski."

Based on the totality of the evidence of record, including Mr. Damevski's statement, it would be appropriate to accept the name of "Voislav ('Voit") Damevski" *in lieu* of the name "DAMEVSKI, Voit" as nominated by the published international application. However, it would still not be appropriate to accept the declaration of record because applicants have not yet furnished a complete (i.e., not composite) declaration document signed by Mr. Damevski. For this reason, it would not be appropriate to grant the requested relief under 37 CFR 1.182 at this time.

Submission Under 37 CFR 1.497(d)

Since this case remains abandoned, further consideration of the merits under 37 CFR 1.497(d) would not be appropriate at this time. Such consideration would become appropriate upon the submission of an acceptable declaration document signed by Mr. Damevski. Such a document may name him as Voislav ("Voit") Damevski as discussed above.

CONCLUSION

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

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

The declaration is **NOT ACCEPTED** under 37 CFR 1.497(d), without prejudice.

The petition fee under 37 CFR 1.182 is being charged to counsel's Deposit Account No. 50-0251. The petition fee under 37 CFR 1.137(b) is also being charged to Deposit Account No. 50-0251, per the Fee Transmittal letter filed on 26 January 2007.

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

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

#12

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17 SEP 2007

Alan R Loudermilk
LOUDERMILK & ASSOCIATES
Post Office Box 3607
Los Altos CA 94024-0607

In re Application of	:	
Georges et al.	:	
Application No.: 10/541,536	:	
PCT No.: PCT/US03/25813	:	
Int. Filing Date: 08 August 2003	:	DECISION
Priority Date: 07 January 2003	:	
Attorney Docket No.: DBT004PCTUS1	:	
For: Systems And Methods For Creating, Modifying,	:	
Interacting With And Playing Musical Compositions	:	

This is a decision on the "Request For Reconsideration" dated 22 February 2007, which is in effect a renewed petition under 37 CFR 1.182, a renewed petition under 37 CFR 1.137(b) and a renewed submission under 37 CFR 1.497(d).

DISCUSSION

Petition Under 37 CFR 1.137(b)

In the Decision mailed on 12 February 2007, the renewed petition under 37 CFR 1.137(b) filed on 26 January 2007 was dismissed without prejudice because requirement (1) had not been satisfied (i.e., the "required reply" had not been provided; "specifically, applicants did not timely resolve the issue of Mr. Damevski's name on the declaration. As noted in the following discussion of the petition under 37 CFR 1.182, this issue still has not been resolved to the extent that the application file still does not include a complete declaration document (that is, not a composite) signed by Mr. Damevski. For this reason, the required reply requirement has not been satisfied."). In response, petitioner has provided a declaration document which, when taken with the declaration document filed on 07 February 2006, is acceptable. Therefore, all of the requirements of 37 CFR 1.137(b) have been satisfied.

Petition Under 37 CFR 1.182

In the Decision mailed on 12 February 2007, the petition under 37 CFR 1.182 filed on 28 September 2006 was dismissed without prejudice because

> Based on the totality of the evidence of record, including Mr. Damevski's statement, it would be appropriate to accept the name of "Voislav ('Voit") Damevski" *in lieu* of the name "DAMEVSKI, Voit" as nominated by the published international application. However, it would still not be appropriate to accept the declaration of record because applicants have not yet furnished a complete (i.e., not composite) declaration document signed by Mr. Damevski. For this reason, it would not be appropriate to grant the requested relief under 37 CFR 1.182 at this time.

As noted above, petitioner has now provided an acceptable declaration. As such, it now would be appropriate to grant the relief requested under 37 CFR 1.182.

Submission Under 37 CFR 1.497(d)

The Decision mailed on 12 February 2007 stated that

> Since this case remains abandoned, further consideration of the merits under 37 CFR 1.497(d) would not be appropriate at this time. Such consideration would become appropriate upon the submission of an acceptable declaration document signed by Mr. Damevski. Such a document may name him as Voislav ("Voit") Damevski as discussed above.

As this application has now been revived under 37 CFR 1.137(b), it would now be appropriate to consider the outstanding issue under 37 CFR 1.497(d). In view of the submission of an acceptable declaration document as mentioned *supra*, it now would be appropriate to grant the requested relief under 37 CFR 1.497(d).

CONCLUSION

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

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

The declaration 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 **22 February 2007** (i.e., the date the acceptable declaration of the inventors was filed).

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

MAIL

MAR 21 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of	:	
SOH, YOON SEONG, et al.	:	DECISION ON REQUEST TO
Application No. 10/541,540	:	PARTICIPATE IN PATENT
Filed: July 8, 2005	:	PROSECUTION HIGHWAY
Attorney Docket No. 6111-000003/US	:	PILOT PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed March 14, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the KIPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the KIPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the KIPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the KIPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the KIPO examiner in the KIPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Kenneth A. Wieder

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,560	07/06/2005	Stefan Breuer	PHDE030002US	5826

38107 7590 02/24/2009
PHILIPS INTELLECTUAL PROPERTY & STANDARDS
595 MINER ROAD
CLEVELAND, OH 44143

EXAMINER
NAQI, SHARICK

ART UNIT	PAPER NUMBER
3769	

MAIL DATE	DELIVERY MODE
02/24/2009	PAPER

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

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

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
595 MINER ROAD
CLEVELAND OH 44143

In re Application of:
BREUER, STEFAN et al
Serial No.: 10/541,560
Filed: July 6, 2005
Docket: PHDE030002US
Title: METHOD AND APPARATUS FOR COMMUNICATING WITH A MEDICAL DEVICE

DECISION ON PETITION TO WITHDRAW FINALITY and ENTRY OF AFTER FINAL AMENDMENT

This is a decision on the petition filed on Feb. 12, 2009 to withdraw the finality of the Office action of November 12, 2008 and enter the Rule 116 amendment filed January 9, 2009. This decision is being considered pursuant to 37 CFR 1.181. No fee is required under this section.

The petition is DISMISSED.

Applicable Rules or Statutes

37 CFR 1.181(f):
The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

Review of the record shows that the instant petition was filed more than two months after the mailing date of the final Office action of November 12, 2008. Pursuant to 37 CFR 1.181(f), the petition is not timely filed since the petition was not filed within two months of the action complained of. As the petition was not timely filed, the relief requested will not be granted. The finality of the last Office action stands.

In the petition, petitioner opines that the amendment filed after the final on January 9, 2009 should be entered because the finality was premature in the final Office action of November 12, 2008. Since the finality of the last Office action stands, a review of the examiner's refusal to enter the amendment after final filed on January 9, 2009 in the Advisory Action must be made. In the Advisory Action, the examiner refused to enter the amendment because the examiner stated in the advisory action that the amended claims 3, 20 and 21, and the addition of new claims 22-27 raise new issues that require further search and/or consideration. The examiner

also stated that independent claim 3, the newly added limitation that the device functions by "in the communication mode, digitally transmitting a software update from the connected external device into the medical device via the analog/digital interface and digitally transmitting data from the medical device to the external device via the analog/digital interface" was not previously claimed and raises a new issue. The independent claim 20, the newly added limitation of "a processing unit that detects whether digital or analog data is received and switches the interface..." was not previously claimed and presents a new issue. Finally the newly added independent claim 25, at least the limitation of "an external digital device configured to digitally transmit software updates from the external device to the medical device and to digitally receive data from the medical device via an external digital device plug" was not previously claimed and presents a new issue. Therefore, the examiner did not enter the Rule 116 amendment filed on January 9, 20009.

Discussion and Analysis

Relevant portions of 37 CFR §1.116 Amendments and affidavits or other evidence after final action and prior to appeal, state:

> (a) An amendment after final action must comply with 37 CFR 1.114 or this section. (b) After a final rejection or other final action (37 CFR 1.113) in an application or in an ex parte reexamination filed under 37 CFR 1.510, or an action closing prosecution (37 CFR 1.949) in an inter partes reexamination filed under 37 CFR 1.913, but before or on the same date of filing an appeal (37 CFR 41.31 or 37 CFR 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 my 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. Furthermore, entry of amendments after final rejection is not a matter of right (see 37 CFR 1.116).

In order to determine whether or not that the amended claims and newly added claim 25 raise new issues, which require further consideration and/or search, a comparison of amended claims and the newly added claims of January 9, 2009 and the existing claims 3, 8, 10-17, 20 and 21 of October 17, 2008 under final rejection must be made. The difference is the addition of the limitations as amended and/or added in claims 3, 20 and 25 which indeed require further consideration and/or search. Such added limitations in claims 3, 20 and 25 clearly contain new issues which were not considered by the examiner in the final Office action of November 12, 2008. A review of the record shows that the examiner was in compliance with proper examining practice as set forth in MPEP 714.13. Therefore, the amendment after final filed on January 9, 2009 is not in compliance with 37 CFR §1.116. The examiner's advisory action in refusing to admit the amendment of January 9, 2009 is proper.

Conclusion

For the foregoing reasons, the relief sought by petitioner requesting withdraw of the finality of the Office action of November 12, 2008 and entry of the amendment after final filed January 9, 2009 will not be granted. The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3769 for waiting applicant's notice of appeal.

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) 272-3468.

PETITION DISMISSED.

Robert Olszewski, Director
Technology Center 3700

24 APR 2006

#5

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James T. HOPPE
THE DOW CHEMICAL COMPANY
Intellectual Property
P.O. Box 1967
Midland, Michigan 48641-1967

In re Application of	:	
VAN DUN, Jozef, et al.	:	
U.S. Application No.: 10/541,564	:	DECISION ON PETITION
PCT No.: PCT/US2004/002837	:	UNDER 37 CFR 1.182
International Filing Date: 30 January 2004	:	
Priority Date: 30 January 2003	:	
Attorney's Docket No.: 62996A	:	
For: FIBERS FORMED FROM IMMISCIBLE	:	
POLYMER BLENDS	:	

This decision is issued in response to applicants' "Petition Under 37 CFR 1.182" filed on 13 January 2006. The petition seeks to correct the name of record for the inventor Miguel A. Prieto (as listed on the international application) to Miguel A. Prieto Goubert (as listed on the declaration filed 06 July 2005). Deposit Account No. 04-1512 will be charged the required $400 petition fee.

BACKGROUND

On 30 January 2004, applicants filed international application PCT/US2004/002837. The application claimed a priority date of 30 January 2003 and it designated the United States. The deadline for payment of the basic national fee was thirty months from the priority date, i.e., 30 July 2005.

On 06 July 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 03 October 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 the declaration filed 06 July 2005 was defective because the name of the seventh inventor on the declaration did not correspond with that inventor's name as set forth on the international application.

On 13 January 2006, applicants filed a "Response To Notice Of Missing Requirements" (with required two-month extension fee). The response included the petition under 37 CFR 1.182 considered herein.

DISCUSSION

In the published international application, the seventh inventor was identified as Miguel A. Prieto. On the declaration filed 06 July 2005, this inventor was identified as Miguel A. Prieto Goubert. With respect to corrections in an inventor's name, section 605.04(b) of the Manual Of Patent Examining Procedure ("MPEP") states the following:

> 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, discrepancy in the seventh inventor's name is more than a mere typographical error or a phonetic misspelling of the applicant's name; accordingly, the present petition under 37 CFR 1.182 is required in order to correct the inventor's name as requested.

Applicants' petition includes the authorization to charge Deposit Account No. 04-1512 for required fees. Based on this authorization, Deposit Account No. 04-1512 will be charged the requisite petition fee of $400. The petition explains the discrepancy in the inventor's name as follows: (1) the inventor's full name was omitted when the international application was prepared; (2) Miguel A. Prieto Goubert (the name listed on the declaration) is the full name of the inventor identified as Miguel A. Prieto on the international application; (3) the inventor prefers that his full name be used in the present application; and (4) Miguel A. Prieto and Miguel A. Prieto Goubert are in fact the same person.

Based on applicants' statements herein, it is accepted that the correct full name for the seventh inventor herein is Miguel A. Prieto Goubert, as set forth on the declaration filed 06 July 2005.

CONCLUSION

Applicants' petition under 37 CFR 1.182 to correct the name of record for the seventh inventor herein is **GRANTED**.

The correct full name of the seventh named inventor is accepted as Miguel A. Prieto Goubert, as set forth on the declaration filed 06 July 2005.

Based on the correction of the inventor's name, the declaration filed on 06 July 2005 is acceptable under 37 CFR 1.497. No surcharge is required.

This application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accord with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 06 July 2005.

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

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OFFICE OF PETITIONS

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ATTN: INTELLECTUAL PROPERTY
LAW DEPARTMENT
P.O. BOX 425045
CAMBRIDGE MA 02142

In re Application of	:	
Li JIANG, et al	:	
Application No. 10/541,568	:	DECISION ON PETITION
Filed: May 1, 2006	:	
Docket No. 57.0499 US PCT	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 7, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 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 August 22, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620; and (3) and the required statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1110 extension of time fee submitted with the petition on December 7, 2009, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's Deposit Account No. 19-0615.

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

This application is being referred to Technology Center AU 1795 for appropriate action by the Examiner in the normal course of business.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: HELENE RAYBAUD
SCHLUMBERGER TECHNOLOGY
CORPORATION
ONE HAMPSHIRE STREET
CAMBRIDGE, MA 02139

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LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO, IL 60604

Mail Date: 04/21/2010

Applicant	: Sung-Hoon Kim	: DECISION ON REQUEST FOR
Patent Number	: 7653143	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/541,569	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/26/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **945** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

0 7 JAN 2008

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DAVID A. GUERRA
INTERNATIONAL PATENT GROUP, LLC
2025 17TH AVENUE N.W.
CALGARY AB T2M 0S7
CANADA

In re Application of	:	DECISION
CHENG	:	
Application No.: 10/541,579	:	
PCT No.: PCT/CN2004/000044	:	
Int. Filing Date: 14 January 2004	:	
Priority Date: 28 January 2003	:	
Attorney Docket No.: AP058-05	:	
For: COMPOSITE SANDWICH WALL PANEL	:	
	:	

This decision is in response to applicant's petition to revive under 37 CFR 1.137(b) filed in the United States Patent and Trademark Office (USPTO) on 21 December 2007.

BACKGROUND

On 14 January 2004, applicant filed international application PCT/CN2004/000044, which designated the U.S. and claimed a priority date of 28 January 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 23 September 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 28 July 2005.

On 06 July 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 and n declaration of the inventor.

On 13 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 the name of the inventor on the declaration did not correspond with the name on the published international application. The NOTIFICATION set a two-month extendable period for reply.

On 14 July 2006, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT Form PCT/DO/EO/909) indicating that the application was abandoned as to the United States of America for failure to respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed

13 October 2005 within the time period set therein.

On 21 December 2007, applicants filed the instant submission.

DISCUSSION

Declaration of the Inventor

Regarding the name of the inventor, the instant submission indicates that the inventor's name was incorrectly translated in the published international application and that the name as it appears on the declaration of inventors filed 06 July 2005 is correct.

Applicants' explanation of the difference in the spelling of Chi Wai Cheng's name is accepted and noted for the record.

The response filed 21 December 2007 is a proper reply to the NOTIFICATION OF MISSING REQUIREMENTS mailed 13 October 2005. The declaration of the inventor filed 21 December 2007 is in compliance with 37 CFR 1.497(a)-(b).

Petition Under 37 CFR 1.137(b)

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), as noted above, the response filed 21 December 2007 is a proper reply.

As to item (2), applicant submitted the petition fee on 21 December 2007.

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.

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/

Daniel Stemmer
Legal Examiner
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UNITED STATES PATENT AND TRADEMARK OFFICE

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Bernhard Lucas	: DECISION ON REQUEST FOR
Patent Number	: 7660668	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/541,599	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/06/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1208** 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

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

In re Application of	:
Masakazu Imamura et al	:
Serial No.: 10/541,615	: PETITION TO MAKE SPECIAL
Filed: July 7, 2005	:
Attorney Docket No.: Q93771	:

This is in response to applicants' petition filed August 23, 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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21 SEP 2006

Kaye Scholer
425 Park Avenue
New York, NY 10022

In re Application of COUSINEAU *et al* U.S. Application No.: 10/541,620 PCT No.: PCT/CA04/00041 Int. Filing Date: 09 January 2004 Priority Date: 09 January 2003 Attorney Docket No.: 39320.002 For: DISTRIBUTED SYSTEM ENABLING INTEGRATION AND AUTOMATION OF MARKETING SALES AND SERVICES	**DECISION**

This decision is in response to applicants' "Petition Under 37 CFR §1.47(a)" filed 04 August 2006.

BACKGROUND

On 04 January 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required. Applicants were given two months to respond with extensions of time available.

On 04 August 2006, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration signed by eight of the nine named inventors; a five-month extension and fee; the petition fee; a declaration of John Cousineau; a supplemental declaration of John Cousineau; a declaration of Kerrie L. Manderscheid; and various exhibits and other documentary evidence.

DISCUSSION

Name of Inventor Misidentified

Petitioners claim that the name of the nonsigning inventor is misidentified as "JOHNSON" on the original application papers and the declaration. The proper spelling of the surname is "JOHNSTON." Section 605.04(b) of the MPEP discusses this situation and states, in part:

> When a typographical or transliteration error in the spelling of an inventor's name is discovered during pendency of an application, a

> petition is not required, nor is a new oath or declaration under 37 CFR 1.63 needed. However, applicants are strongly encouraged to use an application data sheet such that any patent to issue will reflect the correct spelling of the inventor's name. Without an application data sheet with the corrected spelling, any patent to issue is less likely to reflect the correct spelling since the spelling of the inventor's name is taken from the oath or declaration, or any subsequently filed application data sheet.

Petition Under 37 CFR 1.47(a)

Applicants claim that co-inventor, Michael Johnston, refuses to join the subject application and have filed the subject petition. A five-month extension fee has been paid. A petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the missing joint inventors cannot be located or refuse to cooperate; (3) a statement of the last known addresses of the nonsigning joint inventors; (4) and an oath or declaration executed by the signing joint inventors on their behalf and on behalf of the nonsigning joint inventors. Items (1), (3) and (4) are complete.

Concerning item (1), the petition fee has been charged to counsel's Deposit Account.

Regarding item (2), applicants' burden in showing that an inventor refuses to cooperate is explained in section 409.03(d) of the MPEP. Several pertinent segments are listed below:

> 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 . . .
>
> 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 written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts . . .

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

In this case, petitioners have submitted evidence showing that after a diligent effort in locating the nonsigning inventor, a copy of the application papers and declaration were sent to Mr. Johnston via email on 20 February 2006 and opened on 25 February 2006. Another email with personalized instructions was sent on 16 June 2006. However, there was no evidence this email was opened. On 06 July 2006, a package was delivered to Mr. Johnston at his last known address containing a copy of all previous letters and the filed application using TNT Couriers. These documents were never able to be delivered. Petitioners also submitted documentary evidence verifying the declarations of facts provided.

A review of the evidence demonstrates that the conduct of Mr. Johnston constitutes a refusal to cooperate pursuant to section 409.03(d) of the MPEP. Mr. Johnston has not responded to repeated requests to sign the application papers. There is evidence that the papers were received via email on 25 February 2006. *See* Exhibit E. In addition, petitioners attempted to deliver a complete copy of the application and papers but were unable to deliver them. These efforts are sufficient to satisfy item (2).

With regards to item (3), the last known address of co-inventor Michael Johnston is listed in the petition as:

Kalkarer Strasse 2,
40547, Dusseldorf,
Germany

Concerning item (4), the 37 CFR 1.47(a) applicant submitted a declaration signed by eight of the nine joint inventors on behalf of both nonsigning joint inventor.

However, this declaration does not comply with 37 CFR 1.497(a) and (b). The declaration submitted is only a composite declaration consisting of one Page 1, one Page 2, three Page 3, and two Page 4. This is not acceptable. Applicants must submit a complete copy of each declaration signed by each inventor and the declaration must identify the correct inventive entity. For this reason, item (4) of 37 CFR 1.47(a) is not yet satisfied.

CONCLUSION

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

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

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

James Thomson

James Thomson
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Office of PCT Legal Administration

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12 DEC 2006

KAYE SCHOLER LLP
425 Park Avenue
New York, NY 10022

In re Application of COUSINEAU *et al* U.S. Application No.: 10/541,620 PCT No.: PCT/CA04/00041 Int. Filing Date: 09 January 2004 Priority Date: 09 January 2003 Attorney Docket No.: 39320.002 For: DISTRIBUTED SYSTEM ENABLING INTEGRATION AND AUTOMATION OF MARKETING SALES AND SERVICES	**DECISION**

This decision is in response to applicants' renewed petition under 37 CFR 1.47(a) and other papers filed 17 November 2006.

BACKGROUND

On 21 September 2006, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Applicants failed to satisfy item (4) of 37 CFR 1.47(a). Applicants were given two months to respond with extensions of time available.

On 17 November 2006, applicants filed a renewed petition which was accompanied by, *inter alia*, an executed declaration and a corrected information data sheet.

DISCUSSION

A petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the missing joint inventors cannot be located or refuse to cooperate; (3) a statement of the last known addresses of the nonsigning joint inventors; (4) and an oath or declaration executed by the signing joint inventors on their behalf and on behalf of the nonsigning joint inventors. Applicants failed to satisfy item (4) in the original petition.

In the renewed petition, the 37 CFR 1.47(a) applicants provided a corrected information data sheet with the correct spelling of the inventors' names as requested. Applicants also submitted a complete copy of the declaration as required. Item (4) of 37 CFR 1.47(a) is now satisfied.

10/541,620

CONCLUSION

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

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 09 January 2004 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 17 November 2006.

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

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

James Thomson

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Attorney Advisor
Office of PCT Legal Administration

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Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton, NJ 08543-5312

Mail Date: 04/21/2010

Applicant	: Khaled Sarayeddine	: DECISION ON REQUEST FOR
Patent Number	: 7612771	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/541,634	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/11/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **320** 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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19 FEB 2008

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In re Application of	:	
GEORGES, Alain et al.	:	
Application No.: 10/541,640	:	
PCT No.: PCT/US03/40051	:	
Int. Filing Date: 25 November 2003	:	DECISION
Priority Date: 07 January 2003	:	
Attorney's Docket No.: DBT-006PCTUS1	:	
For: SYSTEMS AND METHODS FOR	:	
PORTABLE AUDIO SYNTHESIS	:	

This decision responds applicants' response to decision, filed in the United States Patent and Trademark Office on 27 August 2007.

BACKGROUND

On 08 May 2007, the Office mailed a decision indicating that an oath or declaration setting forth the inventorship in the international application was required.

On 27 August 2007, applicants submitted this renewed submission with a declaration and the fee for a two month extension of time.

DISCUSSION

The 27 August 2007 declaration of the inventors complies with 37 CFR 1.497(a)-(b).

CONCLUSION

This application is being forwarded to the National Stage Processing Branch of the Office of Patent Application Processing for continued processing in accordance with this decision. The application has a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 27 August 2007.

/Erin P. Thomson/

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#4

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21 AUG 2006

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In re Application of	:	
GEORGES, Alain et al.	:	
Application No.: 10/541,640	:	
PCT No.: PCT/US03/40051	:	
Int. Filing Date: 11 November 2003	:	DECISION
Priority Date: 07 January 2003	:	
Attorney's Docket No.: DBT-006PCTUS1	:	
For: SYSTEMS AND METHODS FOR	:	
PORTABLE AUDIO SYNTHESIS	:	

This decision responds to "Response to Notification of Missing Requirements," filed with the United States Patent and Trademark Office on 06 February 2006.

BACKGROUND

On 11 November 2003, applicants filed international application PCT/US03/40051, claiming a priority date of 07 January 2003. The deadline for entry into the national stage in the United States was midnight 07 July 2005.

On 06 July 2005, applicants filed a transmittal letter for entry into the national phase in the United States, accompanied by the basic national fee.

On 01 December 2005, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 06 February 2006, applicants submitted a declaration of the inventors and the $65 surcharge. Correspondence included a certificate of first class mailing indicating deposit on 01 February 2006.

DISCUSSION

Under 37 CFR 1.41(a)(4), the inventorship of the international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any change effected under PCT Rule 92*bis*. The record does indicate that any changes were made under PCT Rule 92*bis*.

The 06 February 2006 declaration indicates nine inventors, but the international application lists only five. Applicants indicate that the declaration is updating the inventorship based on the preliminary amendment. However, a preliminary amendment is not acted upon until applicants have entered the national phase by satisfying the requirements of 35 U.S.C. 371, including section (c)(4), requiring an oath or declaration in compliance with requirements.

That oath or declaration, as discussed above, must be executed by the inventors in the international application. As the 06 February 2006 declaration lists inventors other than those listed on the international application and is not accompanied by a grantable request under 37 CFR 1.497(d), it does not satisfy 35 U.S.C. 371(c)(4).

Further, the declaration is comprised of one page 1, 2 and 4, but two pages 3. While it is acceptable for inventors to execute separate copies of the declaration, the entire declaration as executed by the inventors must be submitted. It is not acceptable to piece together pages from separately executed declarations to create a single composite declaration.

CONCLUSION

An oath or declaration in compliance with 37 CFR 1.497(a)-(b) must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under §1.136(a) are permitted. **Failure to file a timely and proper reply will result in ABANDONMENT of the application as to the United States of America.**

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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12 DEC 2006

#12

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In re Application of	:	
GEORGES, Alain et al.	:	
Application No.: 10/541,640	:	
PCT No.: PCT/US03/40051	:	
Int. Filing Date: 11 November 2003	:	DECISION
Priority Date: 07 January 2003	:	
Attorney's Docket No.: DBT-006PCTUS1	:	
For: SYSTEMS AND METHODS FOR	:	
PORTABLE AUDIO SYNTHESIS	:	

This decision responds applicants' Request Under 37 CFR 1.497(d), filed with the United States Patent and Trademark Office on 27 October 2006.

BACKGROUND

On 21 August 2006, the Office mailed Decision, informing applicants that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 27 October 2006, applicants submitted this request under 37 CFR 1.497(d) to add four inventors to the application. The application included a certificate under 37 CFR 1.8, indicating it was timely deposited on 23 October 2006.

DISCUSSION

Applicants file this request to add Eric Laurent, Frederic Flohr, Jean-Phillipe Chevreau and Alan R. Loudermilk as inventors.

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

Items (1) and (2) have been satisfied. Applicants provided a statement by Eric Laurent, Frederic Flohr, Jean-Phillipe Chereau and Alan R. Loudermilk and the processing fee will be charged to deposit account no. 50-0251, as authorized.

Item (3) has not been satisfied. Applicants have not furnished a copy of the assignment from the original inventors to the assignee. The recorded document is a "Confirmation of Assignment". It indicates that other assignment documents have been signed with various entities. The chain of title between these companies has not been established. It is unclear to whom these inventors assigned their invention and the language at the bottom of the confirmation requiring prior written authorization from Voislav Damevski to assign to MediaLab Solutions indicates other papers are required with regard to Mr. Damevski's interest.

PETITION UNDER 37 CFR 1.182

The declaration is executed by Voislav "Voit" Damevski . The international application listed Voit Damevski.

Applicant has supplied a statement signed by Voislav Damevski stating that he is legally Voislav Damevski and that the listing of him by his nickname "Voit" was in error. This is sufficient explanation. The $400 petition fee will be charged to deposit account no. 50-0251, as authorized.

CONCLUSION

For the above reasons, applicant's request under 37 CFR 1.497(d) is **REFUSED**.

The petition under 37 CFR 1.182 to correct the inventor's name is **GRANTED**.

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

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

Erin P. Thomson

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#8

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08 MAY 2007

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In re Application of	:	
GEORGES, Alain et al.	:	
Application No.: 10/541,640	:	
PCT No.: PCT/US03/40051	:	
Int. Filing Date: 11 November 2003	:	DECISION
Priority Date: 07 January 2003	:	
Attorney's Docket No.: DBT-006PCTUS1	:	
For: SYSTEMS AND METHODS FOR	:	
PORTABLE AUDIO SYNTHESIS	:	

This decision responds applicants' renewed request under 37 CFR 1.497(d), filed in the United States Patent and Trademark Office on 15 February 2007.

BACKGROUND

On 12 December 2006, the Office mailed Decision, granting applicants' petition under 37 CFR 1.182 to correct inventor Damevski's name and refusing applicants' request under 37 CFR 1.497(d).

On 15 February 2007, applicants submitted this renewed request under 37 CFR 1.497(d) and the fee for a one month extension of time.

DISCUSSION

Applicants file this request to add Eric Laurent, Frederic Flohr, Jean-Phillipe Chevreau and Alan R. Loudermilk as inventors. Applicants have indicated that these inventors are being added because the application has been amended.

As earlier indicated, under 37 CFR 1.41(a)(4), the inventorship of the international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any changes effected under PCT Rule 92*bis*. An oath or declaration reflecting that international stage inventorship is required. Should applicants need to change the inventorship in the national stage application on account of a preliminary amendment, that can be done with a petition under 37 CFR 1.48, AFTER the application satisfies the requirements for entry into the national stage. Requests under 37 CFR 1.497(d) are to correct errors in inventorship made during the international phase, not to change the inventorship on account of amendment.

CONCLUSION

For the above reasons, applicant's request under 37 CFR 1.497(d) is **REFUSED**.

An oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required within **TWO (2) MONTHS** from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Extensions of time are available under 37 CFR 1.136(a).

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

Erin P. Thomson

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#9

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19 FEB 2008

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In re Application of	:	
GEORGES, Alain et al.	:	
Application No.: 10/541,640	:	
PCT No.: PCT/US03/40051	:	
Int. Filing Date: 25 November 2003	:	DECISION
Priority Date: 07 January 2003	:	
Attorney's Docket No.: DBT-006PCTUS1	:	
For: SYSTEMS AND METHODS FOR	:	
PORTABLE AUDIO SYNTHESIS	:	

This decision responds applicants' response to decision, filed in the United States Patent and Trademark Office on 27 August 2007.

BACKGROUND

On 08 May 2007, the Office mailed a decision indicating that an oath or declaration setting forth the inventorship in the international application was required.

On 27 August 2007, applicants submitted this renewed submission with a declaration and the fee for a two month extension of time.

DISCUSSION

The 27 August 2007 declaration of the inventors complies with 37 CFR 1.497(a)-(b).

CONCLUSION

This application is being forwarded to the National Stage Processing Branch of the Office of Patent Application Processing for continued processing in accordance with this decision. The application has a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 27 August 2007.

/Erin P. Thomson/

Erin P. Thomson
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11 JAN 2007

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RICHARD M. GOLDBERG
25 EAST SALEM STREET
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HACKENSACK, NJ 07601

In re Application of	:	
NANNI, Mario et al.	:	
Application No. 10/541,650	:	DECISION
PCT No.: PCT/IB03/06231	:	
Int. Filing Date: 30 December 2003	:	ON PETITION UNDER
Priority Date: 07 January 2003	:	
Attorney Docket No.: 248/1/037	:	37 CFR 1.8
For: FLUID DELIVERY SYSTEM WITH	:	
INTEGRATED LIGHT SOURCE	:	

This is a decision on applicants' "Petition to Withdraw Abandonment," filed on 29 November 2006.

BACKGROUND

On 30 December 2003, applicants filed international application no. PCT/IB03/06231, claiming a priority date of 07 January 2003. A copy of the international application was transmitted to the Office by the International Bureau on 22 July 2004. The deadline for payment of the basic national fee in the United States was 07 July 2005.

On 07 July 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 22 February 2006, 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 26 September 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 03 October 2006 and on 29 November 2006, applicants filed this petition indicating that applicants had timely responded to the Notification of Missing Requirements via facsimile on 03 March 2006, enclosing a copy of the 03 March 2006 response.

DISCUSSION

Applicants claim to have responded to the Notification of Missing Requirements on 03 March 2006, 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.

The declaration has a receipt date of 03 October 2006 and is considered timely as of 03 March 2006.

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 26 September 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 03 October 2006.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,657	03/03/2006	Robert M. Jones	34.US5.PCT	4098

26204 7590 12/04/2009
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EXAMINER
MURRAY, JEFFREY H

ART UNIT	PAPER NUMBER
1624	

NOTIFICATION DATE	DELIVERY MODE
12/04/2009	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):

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MINNEAPOLIS MN 55440-1022

DEC 0 4 2009

In re Application of:
JONES et al.

Serial No.: 10/541,657
Filed: March 3, 2006
Attorney Docket No.: 34.US5.PCT

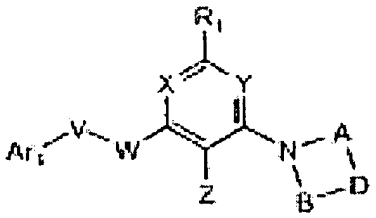
Title: **1,2,3-TRISUBSTITUTED ARYL AND HETEROARYL DERIVATIVES AS MODULATORS OF METABOLISM AND THE PROPHYLAXIS AND TREATMENT OF DISORDERS RELATED THERETO SUCH AS DIABETES AND HYPERGLYCEMIA**

DECISION ON PETITION

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on June 9, 2009.

BACKGROUND

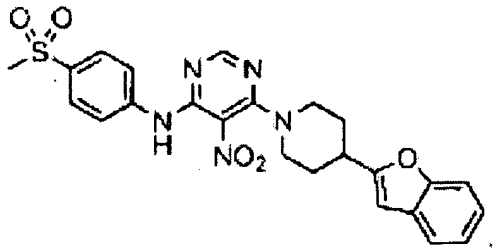
On June 11, 2008 the examiner set forth a restriction requirement separating claims 1-85, 87-92 and 100 into eighteen groups.



Groups I to XIII related to the structure shown above and concerned choices of X, Y Ar_1, W, V, A, B and D. Groups XIV-XVIII concerned methods of using and methods of making the compounds having the structure shown above. The examiner asserted that "Groups I-XIII are directed to structurally dissimilar compounds such that the variable core created by varying the definitions of the Formula do not belong to a recognized class of chemical compounds in the art and references that exist in anticipating one invention would not render obvious the others."

The examiner required a further election of species from those presented in claims 73-76.

Applicants elected Group V and the species shown below with traverse in the Paper filed December 19, 2008.



Applicant's traversed by asserting that the common features of the compounds constituted a special technical feature and that" the International Searching Authority found the claims of the present application meet the requirement of unity of invention. (page 8)"

Applicant further urged that the method of use/making claims had unity of invention based on the premise that the compound claims had unity of invention.

Applicant further argued that even if lack of unity were established that the groups from which election was required are arbitrary and improper.

> The restriction requirement, however, does not appear to consider the definitions in the *claims* of the application, as is required for properly making a restriction requirement. It is not seen from where in the claims the Examiner has derived the various definitions used to define the claims. For example, Ar_1 in the claims is not limited to phenyl or pyrazole. Further, with regard to the applicants' elected group, Group V, the applicants do not see a definition in the claims where "A, B, and D form a 6-membered ring."

Applicant alleged that the restriction requirement "abridges the applicants' right to claim the generic subject matter which the applicants regard as their invention" and "the arbirtrary definitions of the groups would deprive the applicants of their right to claim the entirety of their invention."

Applicant alleged the "even if a lack of unity were established, the arbitrary definitions of the groups would limit applicants' invention more than could conceivably be required to restore unity of invention."

Applicant alleged that no search burden existed as the International Searching Authority "*performed a complete search* with respect to the claimed invention.

Applicant alleged that the restriction requirement was incomplete because Group XIII was a "catch-all" group.

Applicant alleged that the restriction requirement lacked clarity because it failed to properly set forth which claims were properly in Groups I-XIII.

Applicant alleged that claims 1 and 78 were linking claims as per MPEP 809.03.

The Examiner issued an Office Action on March 9, 2009 in which the restriction requirement was made final. The Examiner alledged:

> The only common portion of ALL the compounds encompassed by the scope of these claims is the central ring, which at best can be a pyrimidine, pyridine or phenyl ring according to the claim set, therefore no unity of invention exists. Examiner asserts that a special technical feature is exactly that, "special." Any position where multiple variables may exist, such as X, Y, Arl, the N-A-B-D ring, Z and R1, then those positions cannot be considered "a special technical feature" if those positions van be represented by multiple different groups in the compound. For a prior art example which reads on the claims and thus breaks the unity of invention please see the 102(b) rejection cited below.
>
> Applicants have additionally argued that if the special technical feature is not present, and hence there is no unity of invention, that the examiner did not properly restrict the claims. Examiner points to the restriction requirement and notes that there are groups for every possible scenario of compound for the claims set forth in the claim set. Applicants also argue that the restriction requirement abridges their right to claim the generic subject matter. Applicant is correct. This is because the generic subject matter was deemed to be multiple inventions. Applicants may not claim subject matter so generic that it results in multiple patentable inventions.
>
> Finally, as a matter of form, examiner would like to remind applicants that the election of a species is merely to denote a starting point in the examiner's search. Should the elected species be found allowable, the examiner would then move on to other species within the broader genus, the applicants are not being restricted to a single compound for patentability.

DISCUSSION

The examiner's initial assertion that unity of invention was lacking appears to most closely track PCT/GL/ISPE/1 Chapter 10 Unity of Invention 10.44 Example 24

> *Claim 1: A pharmaceutical compound of the formula:*
> *A – B – C – D – E*
> *wherein:*
> *A is selected from C_1-C_{10} alkyl or alkenyl or cycloalkyl, substituted or unsubstituted aryl or C_5-C_7 heterocycle having 1-3 heteroatoms selected from O and N;*
> *B is selected from C_1-C_6 alkyl or alkenyl or alkynyl, amino, sulfoxy, C_3-C_8 ether or thioether;*
> *C is selected from C_5-C_8 saturated or unsaturated heterocycle having 1-4 heteroatoms selected from O, S or N or is a substituted or unsubstituted phenyl;*

D is selected from B or a C_4-C_8 carboxylic acid ester or amide; and
E is selected from substituted or unsubstituted phenyl, naphthyl, indolyl, pyridyl, or oxazolyl.
From the above formula no significant structural element can be readily ascertained and thus no special technical feature can be determined. Lack of unity exists between all of the various combinations. The first claimed invention would be considered to encompass the first mentioned structure for each variable, that is, A is C_1 alkyl, B is C_1 alkyl, C is a C_5 saturated heterocycle having one O heteroatom, D is C_1 alkyl, and E is a substituted phenyl.

However, it appears that the examiner departed from the example in not setting forth the groups as per the example. This is apparent since if one were to follow the guidelines the first group would have been A= methylene, B=methylene, D=O, V=methylene, W=NR_4, X=N, Y=N, Z=C_1 acyl, Ar_1= aryl, and R_1=H. Additional groups would then reflect combinations of each of the recited possibilities. Considering just the possibilities for A, B, D, V, W, X and Y, Z and R_1 would result in (3)(3)(6)(4) (6) (2)(2)(2)(1)= 10,368 groups without taking into account the suggested substitutions and treating Z as though it had only two possibilities.

The examiner appears to have taken a more liberal approach toward claim by setting forth groups which he considered to be sufficiently related so as to have a unifying feature which may or may not also be a special technical feature. The difficulty with such an approach is that it may result in groups for which no written description exists in the claims or specification as originally filed. An additional difficulty in the examiner's grouping is the failure to address either the R_1 or Z substituents.

When the independent claim lacks unity of invention it is incumbent upon the examiner to analyze the dependant claims for a special technical feature and to group those having the same special technical feature. The groupings set forth by the examiner do not appear to reflect such an analysis as each of groups I-XIII refers to claims 1-78 whereas they should refer to subsets thereof based on the limitations recited in claims 2-78.

As noted above applicant elected Group V and an individual compound from those listed in claims 73-76 (B125) and presented extensive arguments as to why unity of invention was present.

However, it is noted that nowhere in applicant's 18 pages of argument is the examiner's failure to address either the R_1 or Z substituents specifically set forth.

Applicant's argument that neither the ISA nor the IPRP indicated lack of unity is not persuasive since it is not a requirement that lack of unity be made if unity of invention is not present nor is the USPTO bound by the determination of either the ISA or IPRP. It is further noted that the IPRP does not appear to have been submitted for the examiner's consideration.

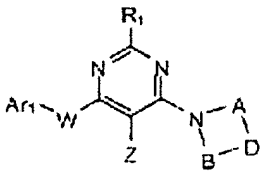
Applicant's allegation that no search burden is present is unpersuasive as search burden is not the criteria for lack of unity.

In the Office Action of March 9, 2009 the examiner found none of applicant's arguments persuasive. The examiner presented a line of argument consistent with Example 24 and in addition rejected claims 1-3, 9, 12, 14-17, 32, 39, 41, 42 and 70 as anticipated by Cocco et al. (2000) thereby establishing that the claims lacked unity of invention.

The examiner's remarks concerning the election of species are not on point as they are not consonant with unity of invention.

On June 9, 2009 applicant filed an Amendment accompanied by the instant petition. Claim 1 is substantively amended and limited to a subgenus of original claim 1. In the amendment the structure shown above is depicted, however, among the amendments to claim 1 is the elimination of V.
In response to the Office Action of March 9, 2009 applicants substantively amended the claims and filed the instant petition.

The amendment to claim 1 eliminating V from the structural formula appears to reflect applicant's recognition that the prior art anticipated at least claim 1. Therefore, claim 1 as originally presented lacked unity of invention.

> At page 7 of the instant petition applicant alledges that the genus of compounds having the following structure
>
> 
>
>
> (Ia)
>
> wherein:
> - A and B are C1-3 alkylene which substituted with 1 to 4 methyl groups;
> - D is CR2R3 or N-R2;
> - W is NR4 or O (where R4 is H or alkyl); and
> - R1 and Z are selected from a limited number of substituent options[.]
>
> has unity of invention.

To the extent that the previously applied prior art no longer anticipates certain of the claims applicant is correct. However, whether or not the amended claims have unity of invention has not yet been determined.

> Applicant further argues that the method of use claims share unity of invention based on the Administrative Instructions. Applicant argues that if the independent claims avoid the prior art that no problem of unity of invention arises with respect to claims which depend from the independent claim and that unity is apparent because claims 1-78 and claims 79-85, 87-92 and 100 are related as product and methods of using that product.

It is noted that claim 100 is actually a method of making a pharmaceutical composition comprising the compound having the recited structure. In addition method claims 79 and 82-84, are independent claims. To the extent that such method claims do not share a special technical feature with each other and in accordance with 37 CFR §1.475(d) they may lack unity of invention.

> Applicant reiterates his previous arguments that the "groups from which election was required were based on arbitrary definitions and improper.
>
> Applicant argues that the definitions of the groups provided by the examiner are "artificial definitions different from those found in the claims."
>
> Applicant argues that "the restriction requirement, by imposing arbitrary definitions on the groups would abridge the applicants right to claim the generic subject matter which the applicants regard as their invention," "the arbitrary definitions of the groups would deprive the applicants of their right to claim the entirety of their invention," "even if lack of unity of invention were established, the arbitrary definitions of the groups would limit applicant's invention more than could conceivably be required to restore unity of invention."

Applicant's arguments have been fully considered, however, given the determination that claim 1 lacked unity of invention the examiner attempted to set forth groupings which contained related compounds. Such groupings necessarily reflect the examiner's understanding of the invention and may not be consonant with applicant's view as is apparent from applicant's argument concerning the difference in definitions. But, the lack of unity in claim 1 necessitates a redefinition of the claim. The examiner met his burden whereas applicant in his initial response did not propose new definitions. It is noted that in the amendment of June 9, 2009 that applicant has redefined his invention. Applicant could have proposed alternatives to the examiner's groupings which he felt were consonant with his view of the invention and which , in addition, took into account the findings of the ISA as well as the prior art submitted with the IDS of March 1, 2007.

In the claims as originally filed claims 2-8 were directed to limitations regarding W, claims 8-11 were directed to limitations regarding V, claims 12-14 were directed to limitations regarding A and B, claims 15-21, 23-38 were directed to limitations regarding D, claim 39 was directed to limitations regarding Z, claim 40 was directed to limitations regarding R_1, claims 42-66 were directed to limitations regarding Ar_1, and claims 67-72 were directed to limitations regarding X and Y. As the claims were originally drafted the only independent compound claim was claim 1.

PCT/GL/ISPE/1 Chapter 10 Unity of Invention 10.08 states:

> If, however, an independent claim does not avoid the prior art, then the question whether there is still an inventive link between all the claims dependent on that claim needs to be carefully considered. If there is no link remaining, an objection of lack of unity *a posteriori* (that is, arising only after assessment of the prior art) may be raised. Similar

> considerations apply in the case of a genus/species or combination/subcombination situation. This method for determining whether unity of invention exists is intended to be applied even before the commencement of the international search. Where a search of the prior art is made, an initial determination of unity of invention, based on the assumption that the claims avoid the prior art, may be reconsidered on the basis of the results of the search of the prior art.

The examiner appears to have taken this approach. The examiner considered the ring containing X and Y and on this basis proposed groups I-XII were X and Y are both N and group XIII which included all other X and Y combinations. However, to have been complete the examiner should have proposed groups for each of the X,Y combinations set forth in claims 67-69 and 71 and 72. For each X, Y group the examiner the examiner then presented choices for the ring structure containing A, B and D. The examiner did not present a rationale for his grouping of A, B and D together nor the limitation to 5 and 6 membered rings, however, it would appear to arise from a consideration of the claims and the compounds synthesized. The examiner then presented a restricted set of choices for V and W as well as Ar_1. Groups I-XII do not cover all the possible combinations presented by applicant's claims. The examiner set forth Group XIII to embrace those combinations of X, Y, (A,B,D), V and W, and Ar_1 not explicitly recited in Groups XIII. Applicant has disparaged Group XIII as a catch-all group. It would appear that Group XIII is more extensive than Groups I-XII, however, it is only necessary that it not share unity of invention with Groups I-XII and it does not appear to do so.

> Applicant further argues "the examiner failed to make a showing that applicants claimed invention would impose a serious undue burden," the restriction requirement is incomplete, and the restriction requirement lacks clarity. Applicant states "[t]he restriction requirement also ignores the fact that there are linking claims present in the application."

Applicant's arguments relating to search burden and linking claims are directed to requirements for restriction under US restriction practice, however, the instant application is subject to Unity of Invention practice.

Applicant's assertion that the restriction requirement is incomplete stems from his reasoning that Groups I-XII do not cover all the subject matter of claim 1 and that the examiner recognized this be the inclusion of Group XIII. Applicant urges that Group XIII is improper as it is not based on the claimed subject matter and applicant's claims do not include any such definition of the subject matter as set forth in Group XIII. First, Groups I-XIII do appear to include all the subject matter of claim 1. Second, applicant has not demonstrated that there exists a combination of applicant's original claims which would fall outside of Groups I-XII and not be present in Group XIII. It would appear to be applicant's position that the examiner did not set forth a sufficient number of groups. As noted above an exhaustive recitation of the inventions in relation to the possibilities for A, B, D, V, W, X and Y Z and R_1 would result in (3)(3)(6)(4) (6) (2)(2)(2)(1)= 10,368 groups without taking into account the suggested substitutions.
The restriction requirement and the examiner's response to applicant's initial traversal could have provided more explanation, however, neither is so deficient as to have precluded applicant's making a rational election.

Applicant urges that the objection to claims 1-78 as containing non-elected subject matter is improper for the same reasons the restriction requirement is improper. Applicant further argues that MPEP 803.02 and 809 should apply to the instant claims.

Thus, if the restriction requirement were proper then the objection would be proper. MPEP 803.02 and 809 are directed to US restriction practice.

A consideration of the claims as originally filed suggests the following analysis with respect to lack of unity of invention.

A. Claims 1, 2-8 wherein a choice of W is made.
B. Claims 1, 8-11 wherein a choice of V is made.
C. Claims 1, 12-14 wherein choices for A and B are made.
D. Claims 1, 15-38 wherein choices for D are made.
E. Claims 1, 39 and 40 wherein choices for Z are made.
F. Claims 1 and 41 wherein a choice is made for R_1.
G. Claims 1, 42-66 wherein a choice of Ar_1 is made.
H. Claims 1 and 67-72 wherein a choice for X and Y is made.

Each group would represent a combination of one of A-H. A choice within each of A-H would be required. Within D and G further groups could arise depending upon whether the differences in structure retain unity of invention.

With regard to claims 73-77 the individual compounds therein would be grouped with whichever combination of A-H was elected. An election of a specific species would be required if the related compounds did not have unity of invention.

Applicant's amendment of the claims suggests that an analysis with respect to unity of invention should include:

A. Claims 1, 2-5 wherein a choice of W is made.
B. Claims 1, 12-14 wherein choices for A and B are made.
D. Claims 1, 16-38 wherein choices for D are made.
E. Claims 1, 39 and 40 wherein choices for Z are made.
F. Claims 1 and 41 wherein a choice is made for R_1.
G. Claims 1, 42-66 wherein a choice of Ar_1 is made.

Election of Species

The examiner required an election of species as part of the original lack of unity, however, the examiner appears to have done so relying on US Markush practice and not in accordance with MPEP 1893.03(d).

Applicant traversed the election by citing to *Caterpillar Tractor Co. v. Com'r Pat. & Trademarks*, 650 F. Supp. 218 (E.D. Va. 1986) as directing the Office to follow the P.C.T. rules with respect to unity of invention.

In the Office Action of March 9, 2009 the examiner responded to applicant's traversal by stating that the election of species was solely for search purposes and that if the elected species was found allowable the examiner would move to other species. The examiner again treats the election of species according to US restriction practice and not in accordance with MPEP 1893.03(d). The examiner presented no prior art based rejection of the elected species nor for any additional species within the elected group. The examiner's rejection of the claims under 35 USC §112 first paragraph indicates that the examiner considers that the elected group is enabled.

DECISION

The election of species was improper to the extent that it did not follow the procedure set forth in MPEP 1893.03(d). Upon resuming prosecution the examiner is directed to evaluate all the pending claims in accordance with the procedures set forth in MPEP 1893.03(d).

Despite the errors in the holding of lack of unity the evidence of record clearly indicates that the claims as originally filed did not have unity of invention. The examiner's failure to discuss the claims with regard to the Z and R_1 substituents is in error. Applicant's amendments of the claims accompanying this petition have significantly modified the genus of compounds claimed.

Upon resuming prosecution the examiner is directed to evaluate the amended claims to determine if they have unity of invention and if the amendments are consonant with the elected invention. Should the examiner determine that the amend claims lack unity of invention he should so notify applicant prior to proceeding further in the examination of the claims. With respect to the method claims the examiner is advised to consider whether or not the method claims currently pending have unity of invention with the claimed compounds.

The objection to claims 1-78 is improper despite the restriction requirement being proper as no applicable statute or rule permits such an objection.

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

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

Remy Yucel
Director, Technology Center 1600

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In re Application of:	:
Jones et al.	:
Serial No.: 10/541,657	: PETITION DECISION
Filed: March 3, 2006	:
Attorney Docket No.: **34.US5.PCT**	:

This is in response to the petition under 37 CFR § 1.181, filed February 17, 2010, requesting that the finality of the Office action of December 17, 2009 be withdrawn.

BACKGROUND

The examiner mailed a non-final Office action on March 9, 2009 setting a three month statutory limit for reply. At the time of this non-final Office action, claims 1-85, 87-92 and 100 were pending. The examiner rejected claims 1-3, 9, 11-61, 70, 72-76 and 78 under 35 USC 112, first paragraph, as non-enabling. Claims 1-3, 9, 11-61, 70, 72-76 and 78 were rejected under 35 USC 112, second paragraph, as indefinite. Claims 1-3, 9, 12, 14-17, 32, 39, 41, 42 and 70 were rejected under 35 USC 102 (b) as being anticipated by Cocco et al. Claims 4-8, 10, 62-69, 71, 77, 79-8, 87-92 and 100 were withdrawn from consideration.

In reply to the non-final Office action of March 9, 2009, applicants filed a response on June 9, 2009. The response submitted by applicants included remarks, arguments traversing the rejections made in the non-final Office action and amendments to the claims.

On September 3, 2009, the examiner mailed a final Office action setting a three month statutory limit for reply. At the time of this final Office action, claims 1-5, 12-14, 16-66, 73, 74, 78-85, 87-92 and 100 were pending. Claims 1-3, 12-14, 16-61, 73, 74 and 78 remained rejected under 35 USC 112, first paragraph, as non-enabling. Claims 1-3, 9, 11-61, 70, 72-76 and 78 remained rejected under 35 USC 112, second paragraph, as indefinite. Claims 1-3, 12, 16 and 78 were rejected under 35 USC 102 (e) as being anticipated by Griffith et al. Claims 4, 5, 62-66, 79-85, 87-92 and 100 were withdrawn from consideration.

The final Office action of September 3, 2009 was vacated due to a petition and petition decision regarding an earlier restriction requirement.

On December 17, 2009, the examiner mailed a final Office action setting a three month statutory limit for reply. At the time of this final Office action, claims 1-5, 12-14, 16-66, 73, 74, 78-85, 87-92 and 100 were pending. Claims 1-3, 12-14, 16-61, 73, 74 and 78 remained rejected under 35 USC 112, first paragraph, as non-enabling. Claims 1-3, 12-14, 16-61, 73, 74 and 78 remained rejected under 35 USC 112, second paragraph, as indefinite. Claims 1-3, 12, 16 and 78 were rejected under 35 USC 102 (b) as being anticipated by Griffith et al. Claims 4, 5, 62-66, 79-85, 87-92 and 100 were withdrawn from consideration.

In response thereto, applicants filed this petition on February 17, 2010, requesting that the finality of the Office action of December 17, 2009 be withdrawn.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition filed by applicants on February 17, 2010, applicants request that the finality of the Office action of December 17, 2009 be withdrawn as improper. Specifically, applicants argue that "The Office Action dated December 17, 2009 instead of merely withdrawing the rejection insofar as alleged that "heterocycloalkyl" was indefinite, substituted a new ground of rejection, by alleging that the claims were indefinite because the term "heterocyclic" used in the claims is unclear. Applicants have been provided with no opportunity to respond to this new ground of rejection. If Applicants had been presented with this ground of rejection originally, Applicants could have responded, for example, by pointing to the clear definition on p. 16 of the specification, amending the claims to further clarify them, or submitting a declaration or other evidence showing that the meaning of term would be apparent and clear to the person skilled in the art. Since the Office Action was made final, Applicants would be denied the opportunity to respond fully as of fight, and Applicants have therefore been denied a full and fair hearing and the opportunity to fully develop this issue for appeal."

Applicants further point out "This is a new ground of rejection because the Examiner is making a new rejection over the term "heterocyclic" which was not part of the rejection in the previous office action. The Examiner contends that he made a mistake by previously reciting "heterocycloalkyl" instead of "heterocyclic", but these terms are different and Applicants would have no reason to know or even guess that the Examiner meant "heterocyclic" when he wrote "heterocycloalkyl." Thus, the Examiner's "correction" in the final office Action was a new ground of rejection. Applicants therefore respectfully submit that the Office Action dated December 17, 2009 was improperly made final, and that the finality of the Office Action should be withdrawn."

Applicants' argument is well taken and persuasive since applicants' amendments did not necessitate the new rejection. MPEP § 706.07 recites:

> 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).

Thus, it is *not* proper for an office action to be made final when the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c). Accordingly, it is decided that Applicants' argument is well-taken and found persuasive.

DECISION

The petition is **GRANTED.**

The Office action mailed December 17, 2009 is hereby vacated to the extent that it was made "final" and the Office action is now considered to be a non-final Office action. Applicants' comments with regard to the Office action of March 9, 2009 are not considered relevant as the Office action of December 17, 2009 is now considered to be the non-final action due a response by applicants.

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

George C. Elliott

George Elliott
Director, Technology Center 1600

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 07/09/2010

Applicant	: Kai Man Chung	: DECISION ON REQUEST FOR
Patent Number	: 7641471	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/541,674	: 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 **909** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

12 FEB 2007

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ROTHWELL FIGG ERNST AND MANBECK PC
1425 K ST N.W., STE 800
WASHINGTON, DC 20005

In re Application of	:	
Reissenweber	:	
Application No.: 10/541,676	:	
PCT No.: PCT/EP04/00169	:	
Int. Filing Date: 13 January 2004	:	DECISION
Priority Date: 13 January 2003	:	
Attorney Docket No.: 2923-717	:	
For: Laminated Decorative Strip And Method For Producing A Laminated Decorative Strip	:	

This is in response to the correspondence filed on 05 September 2006, which is being treated as a petition to review the status of the Power of Attorney in this application.

BACKGROUND

This international application was filed on 13 January 2004, claimed an earlier priority date of 13 January 2003, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 29 July 2004. The 30 month time period for paying the basic national fee in the United States expired at midnight on 13 July 2005. Applicants filed *inter alia* the basic national fee on 08 July 2005.

On 10 March 2006, 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 "07/08/2005."

On 21 August 2006, a Notice Regarding Change of Power of Attorney was mailed to Rothwell, Figg, Ernst & Manbeck PC, "in response to the Power of Attorney filed 12/09/2005," indicating that "the Power of Attorney to you in this application has been revoked by the assignee..." On the same date, a Notice of Acceptance of Power of Attorney was mailed to Jones Day, indicating that "The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33."

DISCUSSION

Petitioner requests that "the Power of Attorney [be] restored to this firm" because "we believe the USPTO made this change in error." Review of the IFW electronic application file reveals that no Power of Attorney in favor of other counsel is present. Rather, the only Power of Attorney present in the case is the executed Declaration and Power of Attorney filed on 08 July 2005, which appoints "the registered practitioner(s) associated with Customer No. 6449..." In view of the totality of the evidence of record, it would be appropriate to conclude that Power of Attorney in this case resides with "the registered practitioner(s) associated with Customer No. 6449." Therefore, the Notice Regarding Change of Power of Attorney and the Notice of Acceptance of Power of Attorney mailed on 21 August 2006 are both **VACATED**.

DECISION

The petition is **GRANTED**, as discussed above.

A courtesy copy of this communication is being mailed to Jones Day. A copy of an Electronic Acknowledgment Receipt transmitted to Jones Day on 25 January 2007 is attached to the copy of this decision being mailed to Rothwell, Figg, Ernst & Manbeck PC.

This application is being returned to the National Stage Processing Branch for further processing, including correction of the records of the USPTO to show Power of Attorney and the correspondence address as residing with Customer No. 06449.

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

cc: Brian M. Rothery
Jones Day
222 East 41st Street
New York, NY 10017-6702

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OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN VA 22102

In re Application of

ANDERSEN, Frank-Uwe et al.
Application No. 10/541,696
Filed: July 08, 2005
Attorney Docket No. **449122081200**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 25, 2007.

The request is **APPROVED**.

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

The request was signed by Deborah S. Gladstein on behalf of all attorneys of record who are associated. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **FRANK-UWE ANDERSEN**
MARIE-ELISABETH-LUDERS-STR. 7
BERLIN, GERMANY 10625

cc: **KEVIN SPIVAK, BELL BOYD & LLOYD LLC**
70 WEST MADISON STREET
SUITE 3100
CHICAGO, IL 60602

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OFFICE OF PETITIONS

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

In re Application of	:	
Sajed HUSEIN	:	
Application No. 10/541,711	:	DECISION ON PETITION
Filed: July 08, 2005	:	
Attorney Docket No. **1003301-000396**	:	

This is a decision on the petition under 37 CFR 1.182, filed, July 14, 2009, to change the name of inventor "Sajed Husein" to – Remy Sajed Husein --.

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.

The revocation and new power of attorney is accepted and has been made of record.

Any questions concerning this matter may be directed to Tredelle Jackson at (571) 272-2783. Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2456 for further processing in due course.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/541,711	07/08/2005	2456	900	1003301-00396	20	2

CONFIRMATION NO. 4022

CORRECTED FILING RECEIPT

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

OC000000037645764

Date Mailed: 09/11/2009

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

Applicant(s)

Remy Sajed Husein, London, UNITED KINGDOM;

Power of Attorney: The patent practitioners associated with Customer Number 21839

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/GB03/05705 12/29/2003

Foreign Applications

UNITED KINGDOM 0300499.1 01/09/2003

If Required, Foreign Filing License Granted: 09/02/2009

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/541,711**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Building management with remote configuration

Preliminary Class

709

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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	:	
WEGGEN *et al*	:	
U.S. Application No.: 10/541,715	:	
PCT No.: PCT/NL04/00005	:	
Int. Filing Date: 06 January 2004	:	
Priority Date: 08 January 2003	:	**DECISION**
Attorney Docket No.: 3135-052069	:	
For: DEVICE AND METHOD FOR	:	
ENCAPSULATING WITH	:	
ENCAPSULATING MATERIAL AN	:	
ELECTRONIC COMPONENT FIXED	:	
ON A CARRIER	:	

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 29 March 2006 omitted the third applicant.

The third applicant should be listed as: Wilhelmus Gerardus Jozef Gal, Kilder, Netherlands.

Accordingly, the filing receipt mailed 29 March 2006 is **VACATED**.

A corrected filing receipt will be mailed with this decision.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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

Mail Date: 04/21/2010

Applicant	: Martin Hermann Weggen	: DECISION ON REQUEST FOR
Patent Number	: 7608486	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/541,715	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/29/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **545** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

1 5 JUN 2010

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KEVIN J. MCNEELY, ESQ.
5335 WISCONSIN AVENUE, NW
SUITE 440
WASHINGTON DC 20015

In re Application of	:	
SHAEFER, Gerhard	:	
U.S. Application No.: 10/541,730	:	DECISION
Filing Date: 07 July 2005	:	
Attorney Docket No.: WWPP.8025.0015	:	
For: PICKING STATION	:	

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

BACKGROUND

On 07 July 2005, applicant filed, *inter alia*, a specification indicating that the application was a continuation of international application PCT/EP2004/013073.

On 17 October 2006, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors and the surcharge for late filing of the search fee, examination fee or oath or declaration were required.

On 11 December 2006, applicants filed additional fees, a declaration of the inventor and the surcharge.

On 26 December 2006, the Office mailed a filing receipt and a Notification of Acceptance (Form PCT/DO/EO/903) indicating that the application had a 35 USC 371 (c)(1), (c)(2) and (c)(4) and all 35 USC 371 completion dates of 11 December 2006.

On 01 May 2009, the Office mailed a Notice of Allowance and Fee(s) Due (PTOL-85).

On 25 June 2009, applicants furnished the issue and publication fees.

DISCUSSION

A review of the above-captioned application file indicates it is a utility application filed under 35 U.S.C. 111(a).

The USPTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in part, the following:

> The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.
>
> * * *
>
> If there are any conflicting instructions as to which sections of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111.

Here, the specification states that this application is a continuation of international application PCT/EP2004/013073, an instruction to process the application under 35 USC 111(a).[1] As such, this application must be processed under 35 USC 111(a), not 35 USC 371.

CONCLUSION

As indicated above, this application will be processed as a 35 USC 111(a) filing.

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 17 October 2006 and Notification of Acceptance (Form PCT/DO/EO/903) mailed 26 December 2006 are **VACATED**.

This application is being referred to the Office of Patent Application Processing for further processing as an application filed under 35 USC 111(a) with a filing date of 07 July 2005.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292

---

[1] It is noted that while the specification contains a benefit claim under 35 U.S.C. 120 and 365(c) to the international application, the benefit claim does not fully comply with the provisions of 37 CFR 1.78(a)(2)(i), as the international filing date is not provided.

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12 SEP 2006

09/12/2006 SBASHER 00000003 024035 10541751
Sale Ref: 00000003 DAH: 024035 10541751
01 FC:2453 /50.00 DA

Roger L. Browdy
Browdy & Neimark, PLLC
624 Ninth Street, N.W., Suite 300
Washington, DC 20001

In re Application of	:	
PATCHORNIK	:	
Application No.: 10/541,751	:	
PCT No.: PCT/IL03/00606	:	DECISION ON PETITIONS
Int. Filing Date: 24 July 2003	:	
Priority Date: 24 December 2002	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: PATCHORNIK5	:	
For: ENERGY SAVING STARTUP CIRCUIT FOR	:	AND 1.181
POWER SUPPLY	:	

It is noted that it is not possible to grant applicant's petition under 37 CFR 1.181 to accept the present copy of the petition to revive as having been filed on 08 July 2005 as the return receipt postcard did not itemize this item. As such, the petition is **DISMISSED.**

The petition to revive under 37 CFR 1.137(b) filed 08 September 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3). In addition, it is clear from applicant's filing of the petition under 37 CFR 1.181 that the period of delay from 08 July 2005 to present filing was unintentional as applicant assumed that the originally filed petition had been received.

A review of the application file reveals that applicant has 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 on 08 July 2005.

The application has an international filing date of 24 July 2003 under 35 U.S.C. 363 and will be given a date of **08 July 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

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

COPY MAILED
OCT 16 2006
OFFICE OF PETITIONS

Applicant: Pinori et al.
Appl. No.: 10/541,795
International Filing Date: January 7, 2004
Title: HYDROXAMIC ACID DERIVATIVES HAVING ANTI-INFLAMMATORY ACTION
Attorney Docket No.: 622-84
Pub. No.: US 2006/0100285 A1
Pub. Date: May 11, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on July 14, 2006, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors in the chemical formula in the abstract and claim 18.

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 July 14, 2006, was not timely filed under 37 CFR 1.221(b).

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system

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

requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

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

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

By facsimile: 571-273-8300

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

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

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OCT 16 2006

OFFICE OF PETITIONS

In re Application of	:
Pinori et al.	:
Application No. 10/541,795	:
International Filing Date: January 7, 2004	: Decision on Petition
For: Hydroxamic Acid Derivatives Having	: Regarding
Anti-Inflammatory Action	: Republication
Attorney Docket No.: 622-84	:
Pub. No.: US 2006/0100285 A1	:
Pub. Date: May 11, 2006	:

This is a decision on the petition under 37 CFR 1.183 received on July 18, 2006, requesting waiver of the requirement in 37 CFR 1.221(b) that petitioners file the request for corrected publication within two months from the date of the patent application publication.

The petition under 37 CFR 1.183 is dismissed.

Petitioner requests that the application be republished because the patent application publication contains material errors in the chemical formula in the abstract and claim 18. Petitioner argues that the two month time limit in 27 CFR 1.221(b) should be waived to permit republication of the present application. Petitioner states that a request for corrected publication in this application was due on July 11, 2006. Petitioner states that the undersigned received "instructions to investigate the matter on July 3, 2006 when the undersigned was out of the office for the holiday period." Petitioner states that upon realizing the nature of the mistake that a request for corrected publication and the instant petition were filed. Petitioner asserts that since the delay in presenting the request for republication is only three days, such delay is unintentional.

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."

The request for corrected publication received on July 14, 2006, was not timely filed under 37 CFR 1.221(b).

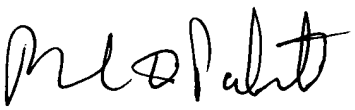
Suspension of the rules under 37 C.F.R. § 1.183 may be granted only "[i]n an extraordinary

situation, when justice requires . . .." The rule places the determination of whether a situation is "extraordinary," and whether justice requires waiver, within the discretion of the Commissioner of Patents and Trademarks. *Nitto Chem. Indus. Co. v. Comer,* 39 USPQ2d 1778, 1780 n.4 (D.D.C. 1994). The facts presented on the record do not establish an extraordinary situation within the meaning of §1.183. Petitioner has not established any special circumstances or equities that would require suspension of the rules in the interests of justice.

There is no adequate showing that petitioner was unable "investigate the matter" earlier or file the request for corrected publication within the two month time limit. Petitioner has simply stated that he received instructions to investigate the matter on July 3, 2006, when he was out of the office for the holiday period. He has not fully explained why it could not have been done earlier or by someone else at the firm. Moreover, petitioner has a suitable remedy on hand for his predicament that does not require the extraordinary remedy of invoking 37 CFR 1.183. That is, petitioner may seek republication relief under the provisions of 37 CFR 1.221(a), which does not have a two month time limit. It is brought to petitioner's attention that the USPTO will not normally consider an extraordinary remedy, when the rules already provide an avenue for obtaining the relief sought. See Cantello v. Rasmussen, 220 USPQ 664, 664 (Comm'r Pat. 1982). Equitable powers should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable due care and diligence. *United States v. Lockheed Petroleum Servs.*, 709 F.2d 1472, 1475 (Fed. Cir. 1983).

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition. *See* 35 U.S.C. § 41(a)(7). Accordingly, as authorized, the required $400 fee for the petition under 37 CFR 1.183 will be charged to petitioner's Deposit Account (14-1140).

Inquiries relating to this communication should 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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FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON, MA 02110

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SEP 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Robert N. Hotchkiss, et al.	:	
Application No. 10/541,808	:	DECISION ON PETITION
Filed: July 8, 2005	:	TO WITHDRAW
Attorney Docket No. OBK-001.02	:	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 8, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Foley Hoag, LLP has been revoked by the assignee of the patent application on July 27, 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: ROBERT N. HOTCHKISS, MD
144 INDIAN HEAD ROAD
RIVERSIDE, CT 06878

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Paper No.

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
Gerlt et al.	:	DECISION ON PETITION
Application Number: 10/541815	:	TO WITHDRAW HOLDING OF
Filing Date: 07/08/2005	:	ABANDONMENT
Attorney Docket Number: 411000-136	:	

This is a decision on the "PETITION TO RE-SEND FINAL OFFICE UNDER 37 C.F.R. §1.181," filed on December 22, 2009, which is treated as a petition to withdraw the holding of abandonment filed on August 10, 2004.

The application was held abandoned for failure to timely submit a reply to the final Office action mailed on June 10, 2009, which set a three (3)-month shortened statutory period for reply.

Petitioners assert that the final Office action mailed on June 10, 2009, was not mailed to the correct address. Specifically, petitioners assert that a revocation and new power of attorney and change of correspondence address were filed on January 12, 2009, but that the Office action mailed on June 10, 2009, was subsequently sent to the old correspondence address.

In support, petitioners have provided a copy of a postcard receipt stamped with an "Office-date" of January 12, 2009, itemizing the filing of a power of attorney by assignee of the entire interest and revocation of prior powers, an assignment form cover sheet, and assignment. The postcard identifies the subject application by application number, first named inventor's name, filing date, invention title, and attorney docket number. A copy of the revocation and power of attorney have also been provided.

A review of Office assignment records indicates that an assignment, including the statement under 37 CFR 3.73(b) included with the subject power of attorney, was filed on January 12, 2009.

The revocation and power of attorney and change of correspondence address filed on January 12, 2009, is not of record in the file and cannot be located. However, M.P.E.P. § 503 states, "[a] post card 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." Accordingly, it is concluded that the revocation and power of attorney filed on January 12, 2009, was timely filed in the Office but was not matched with the application file.

Accordingly, the final Office action mailed on June 10, 2009, was not mailed to the correct address because the power of attorney and change of correspondence address filed on January 12, 2009 were not entered.

As such, the showing of record is that there is no abandonment in fact. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

The power of attorney and change of correspondence address will be entered. All future correspondence will be mailed to the new address. The Notice of Acceptance of Power of Attorney and Notice Regarding Change of Power of Attorney will be mailed under separate cover.

While the copy of the papers filed with the subject petition are considered sufficient to enter the power of attorney change of correspondence address, it is noted that the statement under 37 CFR 3.73(b) does not track the language set forth in the USPTO form. Accordingly, it is recommended that a new Statement Under 37 CFR 3.73(b), utilizing the attached USPTO form, be filed in the Office.

The application file is being referred to Technology Center 2800 technical support staff for remailing of the final Office action. The period for reply will be reset from the mailing date thereof.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/96

08 JUN 2006

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Nath & Associates
1030 15th St. NW, 6th Floor
Washington, DC 20005-1503

In re Application of	:	
Erwin	:	
Application No.: 10/541,826	:	DECISION
PCT No.: PCT/AU03/01348	:	
Int. Filing Date: 10 October 2003	:	ON
Priority Date: 11 October 2002	:	
Attorney Docket No.: 26883U	:	PETITION
For: Vending Machine For Dispensing Bags	:	

The petition to revive under 37 CFR 1.137(b) filed 11 July 2005 in the above-captioned application is hereby **GRANTED** as follows:

Petitioner states that "the entire delay in filing this entry into the national phase due 11 April 2005, until the filing of this statement and the attached Petition under 37 CFR 1.137(b), is unintentional, as required by 37 CFR 1.137(b)3." 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).

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 executed declaration of the inventor and the surcharge under 37 CFR 1.492(h) were received on 16 September 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 **16 September 2005**.

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

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

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#3

23 NOV 2005

COLGATE-PALMOLIVE COMPANY
909 RIVER ROAD
PISCATAWAY NJ 08854

In re Application of JIMENEZ Application No.: 10/541,836 PCT No.: PCT/US03/33919 Int. Filing: 24 October 2003 Priority Date: 25 October 2002 Attorney Docket No.: 7071-00 For: TOOTHBRUSH WITH DECORATIVE PROTECTIVE COVER	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 12 July 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 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.

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 12 July 2005.

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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ALEXANDRIA VA 22320-4850

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OFFICE OF PETITIONS

In re Application of :
FUJITA et al. :
Application No. 10/541,841 : DECISION ON PETITION
Filed: 04/28/2006 :
Attorney Docket No. 124689 :

This is a decision on the petition under 37 CFR 1.181 (no fee), filed January 15, 2008, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is GRANTED.

This application was held abandoned for failure to file a timely and proper response to the final Office action of May 23, 2007, which set a three-month shortened statutory period for reply. In the apparent absence of a timely and proper reply, the Office mailed a Notice of Abandonment on January 2, 2008.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard, which acknowledges receipt of "Petition for Extension of Time w/check #197050 $120 and Request for Continued Examination (RCE) w/check #197051 $790" by the U.S. Patent and Trademark Office (USPTO) on September 19, 2007. A copy of the previously submitted reply accompanies the petition.

The RCE and the request for an extension of time within the first month acknowledged as having been received in the USPTO on September 19, 2007, are not of record in the application file and have not been located to date. However, MPEP 503 states that "[a] post card 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." Accordingly, it is concluded that the RCE and the request for an extension of time within the first month were timely received in the USPTO but lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The copy of the reply supplied with the petition will be accepted in place of the reply shown to have been received by the USPTO on September 19, 2007.

This application is being referred to Technology Center AU 1791 for appropriate action in the normal course of business on the reply received with petition on January 15, 2008.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

16 MAY 2006

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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

In re Application of	:	
HOFMEISTER, Martin	:	
Application No.: 10/541,850	:	DECISION
PCT No.: PCT/EP03/12655	:	
Int. Filing Date: 12 November 2003	:	ON PETITION UNDER
Priority Date: 03 December 2002	:	
Docket No.: 03086.000005	:	37 CFR 1.137(b)
For: METHOD FOR ANALYSING THE	:	
CHANNEL IMPULSE RESPONSE OF A	:	
TRANSMISSION CHANNEL	:	

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 12 July 2005 is **GRANTED**.

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

A signed oath or declaration has not yet been submitted.

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

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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21 FEB 2006

Douglas R Hanscom
Jones, Tullar & Cooper
P O Box 2266 Eads Station
Arlington VA 22202

In re Application of	:	
BARROIS et al.	:	DECISION ON
Application No.: 10/541,869	:	
PCT No.: PCT/DE03/03643	:	PAPERS
Int. Filing Date: 03 November 2003	:	
Priority Date: 22 January 2003	:	UNDER 37 CFR 1.42
Attorney's Docket No.: W1.1602 PCT-US	:	
For: PRINTING PRESSES COMPRISING AT	:	
LEAST ONE PRINTING CYLINDER	:	

This is a decision on the submission filed by applicants on 11 July 2005, which was accompanied by, *inter alia*, a declaration of the inventors. The indication in this declaration that inventor Reinhold Dunninger is deceased has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 03 November 2003, applicants filed international application PCT/DE03/03643 which claimed a priority date of 22 January 2003 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 12 August 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 22 July 2005.

On 11 July 2005, applicants filed, *inter alia*, 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 inventors. The indication in this declaration that inventor Reinhold Dunninger is deceased has been treated as a request for status under 37 CFR 1.42.

DISCUSSION

The declaration filed 11 July 2005 fails to comply with 37 CFR 1.497(a)-(b).
-First, it is not clear from the declaration whether the information below Brigitte Dunninger's signature is her residence, mailing address, and citizenship, or if it is the residence, mailing address, and citizenship of Reinhold Dunninger. Additionally, the declaration does not include the residence, mailing address and citizenship of the person(s) signing on behalf of the deceased

inventor (37 CFR 1.497(b)(2)) in addition to the full name *and citizenship* of the deceased inventor (37 CFR 1.497(a)(3)).

-Second, under 37 CFR 1.42, the declaration must include the signature of the legal representative or the signature of all of the heirs (or if there is only one heir, the sole heir). If the declaration is signed by a legal representative, the declaration should state that this person is the legal representative. Alternatively, applicants' attorney may file a statement certifying that the person signing is the legal representative. If the declaration is not signed by a legal representative and does not indicate that the persons signing are all of the heirs (or the sole heir), then it must be accompanied by a statement by either those signing or by the attorney which sets forth (1) that they are in fact all the heirs of the deceased and (2) that no legal representative of the deceased's estate has been appointed or is required by the applicable law to be appointed.

CONCLUSION

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

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.

Applicant is required to submit a declaration in compliance with 37 CFR 1.497 and 1.42 within a time period of **TWO (2) MONTHS** from the mail date of this Decision. THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT. Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

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

05 JUL 2006

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Douglas R Hanscom
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Arlington VA 22202

In re Application of	:	
BARROIS et al.	:	DECISION ON
Application No.: 10/541,869	:	
PCT No.: PCT/DE03/03643	:	PAPERS
Int. Filing Date: 03 November 2003	:	
Priority Date: 22 January 2003	:	UNDER 37 CFR 1.42
Attorney's Docket No.: W1.1602 PCT-US	:	
For: PRINTING PRESSES COMPRISING AT	:	
LEAST ONE PRINTING CYLINDER	:	

This is a decision on the "RESPONSE TO DECISION ON PAPERS UNDER 37 CFR 1.42" filed by applicants on 05 April 2006, which was accompanied by a declaration of the inventors.

BACKGROUND

On 03 November 2003, applicants filed international application PCT/DE03/03643 which claimed a priority date of 22 January 2003 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 12 August 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 22 July 2005.

On 11 July 2005, applicants filed, *inter alia*, 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 inventors. The indication in this declaration that inventor Reinhold Dunninger is deceased has been treated as a request for status under 37 CFR 1.42.

On 21 February 2006, a decision was mailed refusing applicants' request for status under 37 CFR 1.42.

On 05 April 2006, applicants submitted the instant "RESPONSE TO DECISION ON PAPERS UNDER 37 CFR 1.42" which was accompanied by a declaration of the inventors.

DISCUSSION

The submission filed 05 April 2006 has been reviewed and has been found in compliance with 37 CFR 1.42. The declaration filed 05 April 2006 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 **GRANTED**.

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

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

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Olivia Tolan
British American Tobacco
R & D Centre
Patents Department
Regents Park Road, Mailbrook
Southhampton, SO15-8TL

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In re Application of	:	
ESMAEILZADEH	:	
Application No. 10/541,871	:	DECISION ON PETITION
Filed: July 11, 2005	:	TO WITHDRAW
Attorney Docket No. 68989-79590	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 29, 2006.

The request is **NOT APPROVED**.

A review of the request indicates that Olivia Tolan is no longer associated with Customer Number 26288. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: **Albihns Stockholm AB**
Box 5581, Linnegatan 2
SE-114 85 Stockholm; SWEDENn
Stockholm, Sweden

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SE-114 85 STOCKHOLM; SWEDEN
STOCKHOLM SE SWEDEN

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OFFICE OF PETITIONS

In re Application of	:	
Saeid Esmaeilzadeh	:	
Application No. 10/541,871	:	DECISION ON PETITION
Filed: July 11, 2005	:	
Attorney Docket No. 065427-076779	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 22, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the Final Rejection of December 10, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 11, 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), an amendment under 37 CFR 1.114, and fee of $810; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

Finance records indicate an overpayment in the amount of $810 for a RCE. A refund in the amount of $810 will be credited to the petitioner's deposit account.

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

This application is being referred to Technology Center AU 1793 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment.

Brian W. Brown
Petitions Examiner
Office of Petitions

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K&L GATES LLP
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BOSTON, MA 02111-2950

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OFFICE OF PETITIONS

In re Application of	:	
Dorn et al.	:	DECISION ON PETITION
Application No. 10/541,875	:	TO WITHDRAW
Filed: April 5, 2006	:	FROM RECORD
Attorney Docket No. 14673-070US	:	

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 26, 2006.

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

A review of the file record indicates that the power of attorney to practitioners associated with K&L Gates LLP, has been revoked by the assignee of the patent application on June 21, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6059.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: PROSKAUER ROSE LLP
1001 PENNSYLVANIA AVE, N.W.,
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01 DEC 2006

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30 Turnpike Road, Suite 9
Southborough, MA 01772

In re Application of	:	
MICHELSON, Robert et al.	:	
Application No.: 10/541,880	:	DECISION
PCT No.: PCT/US04/00680	:	
Int. Filing Date: 12 January 2004	:	ON PETITION UNDER
Priority Date: 11 January 2003	:	
Docket No.: 82005APCT/US	:	37 CFR 1.137(b)
For: KIT FOR MULTI-PIECE FLOOR	:	
CLEANING	:	

Applicant's "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 C.F.R. §1.137(b)," filed in the above-captioned application on 13 November 2006 is **GRANTED**.

Applicant indicates that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, as required by 37 CFR 1.137(b)(3). The appropriate reply 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 has supplied a declaration in compliance with 37 CFR 1.497(a)-(b). The fee for late furnishing of the search fee, examination fee or oath or declaration has been paid.

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 13 November 2006 under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4).

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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31 OCT 2006

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

In re Application of:
KNUDSEN, Carl
U.S. Application No.: 10/541,884
PCT No.: PCT/IB2004/000049
International Filing Date: 14 January 2004
Priority Date: 14 January 2003
Atty Docket No.: US03 0014US
For: TAMPER RESISTANT PACKAGING AND APPROACH USING MAGNETICALLY-SET DATA

DECISION ON PETITION

The petition for revival under 37 CFR 1.137(b) filed 23 October 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the 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 the required reply, that is, an executed declaration and the authorization to charge Deposit Account No. 50-4019 for the required surcharge and petition fee; 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 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 23 October 2006.

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

31 MAR 2006

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Fish & Neave IP Group
Ropes & Gray LLP
1251 Avenue of the Americas
New York, New York 10020

In re Application of	:	DECISION ON
Strauss et al	:	
Application No.: 10/541,901	:	
PCT No.: PCT/US03/41357	:	
Int. Filing Date: 23 December 2003	:	PETITION UNDER
Priority Date: 23 December 2002	:	
Attorney's Docket No.: GFI/103 US	:	
For: STEROID RECEPTION MODULATION	:	
OF GENE EXPRESSION	:	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 C.F.R. 1.137(b)," filed on 11 July 2005.

BACKGROUND

On 23 December 2003, this international application was filed, claiming an earliest priority date of 23 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 23 June 2005. This international application became abandoned with respect to the United States at midnight on 23 June 2005 for failure to pay the required basic national fee.

On 11 July 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

17 JUL 2007

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

In re Application of	:	
SHIMIZU, Kenji *et al*	:	
U.S. Application No.: 10/541,905	:	
PCT No.: PCT/JP04/00205	:	
Int. Filing Date: 14 January 2004	:	
Priority Date: 14 January 2003	:	**DECISION**
Attorney Docket No.: Q73847	:	
For: MAGNETIC RECORDING MEDIUM,	:	
METHOD OF MANUFACTURING	:	
THEREOF, AND MAGNETIC	:	
READ/WRITE APPARATUS	:	

This decision is in response to the "Petition Under 37 CFR § 1.181 to Withdraw A Holding of Abandonment, and . . . " filed on 18 January 2007 and the petition under 37 CFR 1.47(a) originally filed 17 May 2006.

BACKGROUND

On 17 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 that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a $130.00 surcharge fee was required. A two-month time limit in which to respond was set with extensions of time available.

On 17 May 2006, applicants purportedly filed a response which contained, *inter alia*, a petition under 37 CFR 1.47; an executed declaration; a "Statement of Facts" by Masaaki Yanagisawa; Documents 1 - 7; an assignment and fee; a $130.00 petition fee; a $130.00 surcharge fee; a one-month extension and $120.00 fee; and authorization to the charge any additional fee as required to Deposit Account No. 19-4880. These documents were not located in the application.

On 19 December 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 25 August 2004 within the time period set.

On 18 January 2007, applicants filed a petition to withdraw the holding of abandonment which was accompanied by, *inter alia*, copies of the documents

purportedly filed 17 May 2006 and a date-stamped postcard receipt for the 17 May 2006 documents.

DISCUSSION

Petition to Withdraw the Holding of Abandonment

A review of the subject application shows that the 17 May 2006 response purportedly filed in the above-captioned application was not located in the file. Nonetheless, the fees as described above were located in the application as submitted on 17 May 2006.

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 17 May 2006. The postcard receipt records that among the papers received in the USPTO included a "Petition Under 37 C.F.R. § 1.47(a)." The postcard receipt is stamped "OIPE IAP45 MAY 17 2006" across its face. The U.S. application number, docket number and name of the applicants are all listed on the postcard receipt.

Accordingly, applicants have provided *prima facie* evidence that a proper response to the Form PCT/DO/EO/905 mailed 17 February 2006 was received by the USPTO on 17 May 2006.

DECISION

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

The Form PCT/DO/EO/909 mailed 19 December 2006 is hereby **VACATED**.

Petition Under 37 CFR 1.47(a)

In the response submitted 17 May 2006, applicants claim that they have been unable to locate one of the inventors, Mr. Nguyen Tien Duong, and filed a petition under 37 CFR 1.47(a) in response to the Form PCT/DO/EO/905 mailed 19 December 2006.

DISCUSSION

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 inventors on their behalf and on behalf of the nonsigning joint inventors. Applicants completed items (1) and (3) with this petition.

Concerning item (1), the fee for a petition under 37 CFR 1.47 changed to $200.00 on 08 December 2004. Petitioners submitted a $130.00 petition fee on 28 June 2005. The $70.00 difference will be charged to Deposit Account No. 19-4880 as authorized. Item (1) of 37 CFR 1.47(a) is complete

Regarding item (2) of 37 CFR 1.47(a), section 409.03(d) of the MPEP discusses situations where an inventor cannot be reached and states, in part:

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

Here, applicants submitted a statement of facts by Mr. Yanagisawa dated 26 April 2006. Mr. Yanagisawa indicates that a copy of the application and request for signature were sent to Mr. Duong at his latest address in Vietnam on 12 July 2005. However, Mr. Yanagisawa has been unable to verify whether the nonsigning inventor received these documents as no request was made to the Post office within six months of mailing as required by their rules. Mr. Yanagisawa then conducted an internet search for Mr. Duong in Vietnam to no avail. Finally, Mr. Yanagisawa claims that the documents were again sent to Mr. Duong on 03 February 2006. A copy of the FedEx International Air Way Bill was submitted which shows that the documents "were received by someone." However, the 37 CFR 1.47(a) applicants have not yet received a reply and could not determine who actually received the documents. The statement of facts was dated 26 April 2006. A review of the FeEX Track Shipments document provided verifies that the documents were "DELIVERED" on 07 February 2006.

This evidence is sufficient to show that a "diligent effort" was made to locate the nonsigning inventor. Item (2) of 37 CFR 1.47(a) is satisfied.

A copy of the last known address for Mr. Huong in Vietnam was submitted as:

Mr. Nguyen Tien Duong
Phong 508,
Day nna No. 1A
Ban dao Linh Dam
Quan Hoong Mai
Hanoi, Vietnam

As such, item (3) is satisfied.

Concerning item (4), the 37 CFR 1.47(a) applicants submitted a declaration signed by eight of the nine co-inventors on behalf of themselves and the nonsigning joint inventor. The residence, mailing address and citizenship of all nine inventors are recorded on the declaration as required. The declaration includes statement that the English text is an accurate translation of the foreign text pursuant to 37 CFR 1.69. This satisfies item (4) of 37 CFR 1.47(a).

DECISION

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

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 14 January 2004 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 17 May 2006.

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

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

17 JUL 2007

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Mr. Nguyen Tien Duong
Phong 508, Day nna No. 1A
Ban dao Linh Dam
Quan Hoong Mai
Hanoi, Vietnam

In re Application of
SHIMIZU, Kenji *et al*
U.S. Application No.: 10/541,905
PCT No.: PCT/JP04/00205
Int. Filing Date: 14 January 2004
Priority Date: 14 January 2003
Attorney Docket No.: Q73847
For: MAGNETIC RECORDING MEDIUM, METHOD OF MANUFACTURING THEREOF, AND MAGNETIC READ/WRITE APPARATUS

Dear Mr. Duong:

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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

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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

Mail Date: 07/23/2010

Applicant	: Werner Reinhart	: DECISION ON REQUEST FOR
Patent Number	: 7654578	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/541,935	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **935** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,939	07/12/2005	Hideki Matsui	052740	8618

7590 04/18/2008
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

EXAMINER
HWANG, VICTOR KENNY

ART UNIT	PAPER NUMBER
3764	

MAIL DATE	DELIVERY MODE
04/18/2008	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☒ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.

4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

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

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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EGBERT LAW OFFICES
412 MAIN STREET, 7TH FLOOR
HOUSTON TX 77002

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NOV 06 2008

OFFICE OF PETITIONS

In re Application of
Ramon Cortes et al
Application No. 10/541,946
Filed: July 8, 2005
Attorney Docket No. 1429-163

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 29, 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 and drawing; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed October 16, 2007, is accepted as having been unintentionally delayed.

The filing of a terminal disclaimer is not necessary if the utility/plant application was filed on or after June 8, 1995.

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

This application is being referred to Technology Center AU 2617 for appropriate action by the Examiner in the normal course of business on the reply received July 29, 2008.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,950	03/20/2006	Matthias Hauser	J&J5016USPCT	6627

27777 7590 03/02/2010
PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

EXAMINER
ORWIG, KEVIN S

ART UNIT	PAPER NUMBER
1611	

NOTIFICATION DATE	DELIVERY MODE
03/02/2010	ELECTRONIC

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

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

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

jnjuspatent@corus.jnj.com
lhowd@its.jnj.com
gsanche@its.jnj.com

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JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

MAR 02 2010

In re Application of :
Hauser et al.
Serial No.: 10/541,950
Filed: March 20, 2006
Attorney Docket No.: **J&J5016USPCT**

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed November 20, 2009, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the Documents submitted on November 20, 2009 be expunged from the record as they were unintentionally submitted in this application. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

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

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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

Mail Date: 04/22/2010

Applicant	: John William Edward Fuller	: DECISION ON REQUEST FOR
Patent Number	: 7625309	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/541,955	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **683** 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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HICKMAN PALERMO TRUONG & BECKER / TESSERA INC.
2055 GATEWAY PLACE , SUITE 550
SAN JOSE, CA 95110-1083

MAILED

MAY 24 2010

OFFICE OF PETITIONS

In re Patent No. **7,627,193** :
Issue Date: December 1, 2009 :
Application No. 10/541,967 : NOTICE UNDER 37 CFR 1.28
Filed: June 23, 2006 :
Attorney Docket No. **60166-0027** :

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

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

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

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-7253.

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

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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

Mail Date: 04/27/2010

Applicant	: Jiashun Tu	: DECISION ON REQUEST FOR
Patent Number	: 7577242	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/541,968	: OF WYETH
Filed	: 04/03/2006	:
		:

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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Rutan & Tucker, LLP
611 Anton Boulevard
Suite 1400
Costa Mesa, CA 92626

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OFFICE OF PETITIONS

In re Application of,
Ashok Rao et al.
Application No. 10/541,973
Filed: April 18, 2006
Attorney Docket No. 100325.0199US

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 11, 2008.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the acts noted in the above-identified certifications have been performed. Refer to Form No. PTO/SB/83 (Updated 4/2008).

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 6735.

Kimberly Inabinet
Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Robert Fish
Fish & Associates, PC
2603 Main Street, Suite 1050
Irvine, VA 92614

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OFFICE OF PETITIONS

In re Application of	:	
Ashok Rao et al.	:	
Application No. 10/541,973	:	DECISION ON PETITION
Filed: April 18, 2006	:	TO WITHDRAW
Attorney Docket No. 100325.0199US	:	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 September 24, 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- 4618.

Kimberly Inabnet
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Ashok Rao et al.	:	
Application No. 10/541,973	:	DECISION ON PETITION
Filed: April 18, 2006	:	TO WITHDRAW
Attorney Docket No. 100325.0199US	:	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 28, 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).

As stated in previous decisions mailed on September 2, 2008 and October 20, 2008 certifications must be made for a withdrawal of attorney.

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- 4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,000	06/05/2006	Ryota Odake	09792909-6326	6729

EXAMINER

7590 12/13/2007
SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606-1080

ART UNIT	PAPER NUMBER
2821	

MAIL DATE	DELIVERY MODE
12/13/2007	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☑ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

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

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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Benoit Castel
Young & Thompson
745 South 23rd Street
Arlington, VA 22202

In re Application of RAZZAK et al. Application No.: 10/542,032 PCT No.: PCT/NZ03/00272 Int. Filing Date: 12 December 2003 Priority Date: 12 December 2002 Attorney Docket No.: 4502-1078 For: PHARMACEUTICAL FORMULATION AND A METHOD OF MAKING SAME	: : : : : : : :	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 13 July 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

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

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BASF Performance Products LLC
Patent Department
540 White Plains Road
P.O. Box 2005
Tarrytown, NY 10591

Mail Date: 04/20/2010

Applicant	: Patrice Bujard	: DECISION ON REQUEST FOR
Patent Number	: 7594962	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/542,035	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/13/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **937** 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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STMicroelectronics Inc.
c/o WOLF, GREENFIELD & SACKS, P.C.
600 Atlantic Avenue
BOSTON, MA 02210-2206

Mail Date: 04/20/2010

Applicant	: Jean-Pierre Schoellkopf	: DECISION ON REQUEST FOR
Patent Number	: 7638828	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/542,041	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/28/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **354** 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 Patent No. 7,553,868	:
Morley et al.	:
Issue Date: June 30, 2009	: DECISION ON REQUEST FOR
Application No. 10/542,044	: RECONSIDERATION OF
Filed: July 13, 2005	: PATENT TERM ADJUSTMENT
Attorney Docket No. 06275-460US1	:
100928-1P US	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)", filed August 28, 2009. Patentees request that the determination of patent term adjustment for the above-identified patent be corrected from eighty-eight (88) days to one hundred seventy-four (174) 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 88 days.

On June 30, 2009, the above-identified application matured into U.S. Patent No. 7,553,868 with a revised patent term adjustment of 88 days. The Office determined that the 85 days of Office delay, pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b),[1]

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[1] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides:

> Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

overlap with the 149 days of Office delay,[2] pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1),[3] accorded during the pendency of the application. As such, the Office allowed entry of only the period of adjustment for Office delay of 149 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the 61 days of applicant delay, the patent issued with a revised patent term adjustment of 88 days.

On August 28, 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 174 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees contend that the periods of delay attributable to grounds specified under 35 U.S.C. 154(b)(1)(A) and (B) overlap by zero days as

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(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

[2] A Restriction Requirement was mailed on February 9, 2007, 14 months and 149 days after the early commencement of the national stage of the application on July 13, 2005.

[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;

they do not occur on the same calendar days in both periods. Patentees maintain that the total non-overlapping period of Office delay is 235 days as these periods do not occur on the same days. Given the 61 days of applicant delay, patentees assert entitlement to 174 days of patent term adjustment.

On October 7, 2008, an RCE was filed. The filing of an RCE cuts off the ability to accumulate any additional patent term adjustment under the three-year pendency provision. The period beginning on the day the RCE is filed to the issue date of the patent is excluded from the period under § 1.702(b). Accordingly, the period in this instance is 85 days, rather than 86 days as calculated by patentees, counting the number of days in the period beginning on July 13, 2008, the date that is three years after the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) and ending on October 6, 2008, the day before the date the RCE was filed.

The Office has considered patentees' interpretation of the period of overlap, but finds it inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[4] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C.

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[4] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of

adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the date of early commencement of the national stage of the application under 35 U.S.C. 371(f) on July 13, 2005, and ending on October 6, 2008, the day before the date of the filing of the RCE (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). The relevant period ends with the filing of the RCE as the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) does not include the period subsequent to the filing of the RCE. 35 U.S.C. 154(b)(1)(B)(i).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 149 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), 85 days of patent term adjustment accrued for Office issuance of the patent more than three years after the filing date of the application.

All of the 85 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 149 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 85 days and the 149 days is neither permitted nor warranted. 149 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment, having considered the 85 days of Office delay under the three-year pendency provision.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 88 days.

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

Telephone inquiries specific to this matter should be directed to Gay Ann Spahn at (571) 272-0811.

Christina Tartera Donnell for

David A. Bucci
Petitions Examiner
Office of Petitions

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MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Andrew David Morley	: DECISION ON REQUEST FOR
Patent Number	: 7553868	: RECALCULATION of PATENT
Issue Date	: 06/30/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/542,044	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/13/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **169** 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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OFFICE OF PETITIONS

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

In re Application of	:	
Takashi Kamiya et al	:	
Application No. 10/542,061	:	ON PETITION
Filed: July 11, 2005	:	
Attorney Docket No. Q88117	:	

This is a decision on the petition, filed October 19, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on August 29, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2125 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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Paper No. _____

Date : October 20, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Takashi Kamiya et al
Application No. :10/542,061
Filed :July 11, 2005

The above-identified application has been assigned Patent No. 7,127,323 and an issue date of October 24, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of October 24, 2006:

"All reference to Patent No. 7,127,323 to Takashi Kamiya et al of Japan for AUTOMATIC PROGRAMMING METHOD AND DEVICE appearing in the Official Gazette of October 24, 2006 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

#3

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03 MAR 2006

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

In re Application of	: DECISION ON
Martine CAROFF	:
Application No.: 10/542,090	:
PCT No.: PCT/FR03/03617	:
Int. Filing Date: 08 December 2003	: PETITION UNDER
Priority Date: 09 December 2002	:
Attorney's Docket No.:275105US0XPCT	:
For: NOVEL METHOD FOR ISOLATING	:
ENDOTOXINS	: 37 CFR 1.137(b)

This decision is in response to applicants' "PETITION TO REVIVE UNDER 37 C.F.R. 1.137(b)," filed on 13 July 2005.

BACKGROUND

On 08 December 2003, this international application was filed, claiming an earliest priority date of 09 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 09 June 2005. This international application became abandoned with respect to the United States at midnight on 09 June 2005 for failure to pay the required basic national fee.

On 13 July 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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

Mail Date: 04/20/2010

Applicant	: Yoshimasa Ando	: DECISION ON REQUEST FOR
Patent Number	: 7625467	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/542,110	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/13/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1114** 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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DICKINSON WRIGHT, PLLC
1875 EYE STREET, NW
SUITE 1200
WASHINGTON, DC 20006

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OFFICE OF PETITIONS

In re Application of
Joachim Charzinski, et al.
Application No. 10/542,116
Filed: July 12, 2005
Attorney Docket No. 39090-37

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 27, 2010.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Dickinson Wright, PLLC has been revoked by the assignee of the patent application on May 27, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to 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

03 MAR 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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SETTER OLLILA, LLC
2060 BROADWAY
SUITE 300
BOULDER CO 80302

In re Application of	:	
DUTTON et al.	:	
Application No.: 10/542,119	:	DECISION
PCT No.: PCT/US03/03564	:	
Int. Filing Date: 05 February 2003	:	
Priority Date: None	:	
Attorney Docket No.: 35010/144US	:	
For: DETERMINATION OF AMOUNT OF	:	
PROPPANT ADDED TO A FRACTURE FLUID	:	
USING A CORIOLIS FLOW METER	:	

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 12 July 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 05 February 2003, applicants filed international application PCT/US03/03564, which designated the United States. A copy of the international application was communicated from the International Bureau to the USPTO on 26 August 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 05 August 2005.

On 12 July 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 instant petition under 37 CFR 1.47(a). The petition was accompanied by, *inter alia*, a declaration of the inventors and a copy of a statement by non-signing inventor Robert E. Dutton.

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 **12 July 2005**.

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

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TECHNOLOGY CENTER 3600

BOYLE FREDRICKSON NEWHOLM
STEIN & GRATZ, S.C.
250 E. WISCONSIN AVENUE
SUITE 1030
MILWAUKEE, WI 53202

In re application of William H. Punzel et al. Application No. 10/542,129 Filed: June 05, 2006 For: MODULAR SECURITY CABINET SYSTEM FOR STORING FIREARMS OR THE LIKE	**DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 CFR 1.102**

This is a decision on the petition filed on September 25, 2006 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The petition to make special under accelerated examination under 37 C.F.R. § 1.102(d) is not acceptable because it was not filed with the application as required in the above Federal Register Notice of June 26, 2006. It appears that the petition was filed under the guidelines for making an application special that were in effect prior to August 25, 2006. As of August 25, 2006 the new guidelines replaced the old guidelines. Since applicant's petition was received on September 29, 2006 the petition must be considered under the new guidelines and thus is properly **DENIED**.

For the above-stated reasons, the petition is denied. The application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to Kenneth J. Dorner, Quality Assurance Specialist, at (571) 272-6587.

Kenneth J. Dorner
Quality Assurance Specialist
Technology Center 3600

KJD/dew: 11/28/06

UNITED STATES PATENT AND TRADEMARK OFFICE

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BOYLE FREDRICKSON S.C.
840 NORTH PLANKINTON AVENUE
MILWAUKEE, WI 53203

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OFFICE OF PETITIONS

In re Application of	:	
William H. Punzel, et al.	:	
Application No.: 10/542,129	:	ON PETITION
Filed: June 5, 2006	:	
Attorney Docket No.: 353.327	:	

This is a decision on the petition, filed August 29, 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 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 3637 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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27 SEP 2006

KAGAN BINDER PLLC
221 MAIN ST N STE 200
MAPLE ISLAND BUILDING
STILLWATER, MN 55082

In re Application of	:	
MILLIS, et al.	:	
Application No.: 10/542,167	:	DECISION ON PETITION
PCT No.: PCT/US04/00841	:	
Int. Filing Date: 13 January 2004	:	UNDER 37 CFR 1.181
Priority Date: 13 January 2003	:	
Attorney Docket No.: 6682-67637-02	:	
For: METHOD OF MAKING INDUSTRIAL CHEMICALS	:	

This decision is in response to applicant's "Response to Notification of Abandonment" filed 31 August 2006 in the United States Patent and Trademark Office (USPTO). The communication is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 13 January 2001, applicant filed international application PCT/US04/00841, which claimed priority of an earlier application filed 13 January 2003. The deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 13 July 2005.

On 12 July 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).

On 27 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 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 07 August 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 27 December 2005 within the time period set therein and that above-identified application was abandoned as to the United States.

On 30 August 2004, 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 applicant, serial number, title and docket number. Among the items listed on the receipt is Executed Declaration (5 pgs.)." The receipt is stamped "IAP7 Rec'd PCT/PTO 28 FEB 2006." Thus, it is clear that applicant filed an executed declaration of the inventors on 28 February 2006. Applicant has stated that the current copies provided are a true and complete copy of the papers previously filed. The filed transmittal letter shows a certification under 37 CFR 1.8 that the papers were deposited for mailing on 24 February 2006 and therefore are considered timely filed. As such, it is proper to grant applicant's petition to withdraw the holding of abandonment at this time.

It is noted that an examination of the filed combined declaration and power of attorney finds that the document does not comply with 37 CFR 1.497(a)-(b). The Manual of Patent Examination Procedure (MPEP) states at section 201.03: "An oath or declaration under 37 CFR 1.63 by each actual inventor must be presented. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration." The filed declaration contains three signature pages "2" listing and signed individually by inventors MILLIS, TUPY and ABRAHAM. It appears that the filed declaration was assembled from numerous declarations or the inventors only returned the signature pages, either alternative renders the declaration non-compliant.

CONCLUSION

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

The NOTIFICATION OF ABANDONMENT mailed 07 August 2006 is hereby **VACATED**.

This application is being returned to the DO/EO/US for processing in accordance with this decision; specifically, the mailing of a "NOTIFICATION OF DEFECTIVE RESPONSE" (Form PCT/DO/EO/916) indicating that a compliant oath or declaration of the inventors is still required.

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

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NOVARTIS
CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 104/3
EAST HANOVER NJ 07936-1080

In re Application of	:
Peter Von Matt et al	:
Serial No.: 10/542,175	: PETITION DECISION
Filed: July 14, 2005	:
Attorney Docket No.: TX/4-32732A	:

This is in response to the petition under 37 CFR 1.144, filed February 16, 2007, requesting withdrawal of an improper Lack of Unity requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 371 and was accepted on July 14, 2005, and contained claims 1-10, as amended. In a first Office action mailed August 1, 2006, the examiner set forth a Lack of Unity requirement, as follows:

Groups I-VI, claims 1-5 and 7-9 drawn to compounds represented by specific structures (see restriction requirement for specifics);
Group VII, claim 6 drawn to a method of preparation of the compounds;
Group VIII, claim 10 drawn to methods of use of the compounds.

The examiner stated that the structure of Formula I was known and did not form a special technical feature and Unity was therefore lacking. The examiner also indicated that the listing of structures represented in the first six groups was not exhaustive and applicants could identify and elect any other species or group.

Applicants replied on October 18, 2006, electing, with traverse, the compound of Example I from the specification which did not appear to be encompassed within any of the Groups set forth. Applicants argued that the Lack of Unity set forth did not follow the guidelines set forth in the PCT Rules.

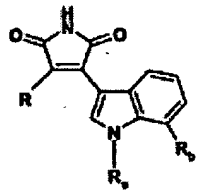
In the next Office action mailed to applicants on December 20, 2006, the examiner maintained the Lack of Unity requirement for the reasons set forth and made the requirement Final. The examiner then defined the scope of applicants' claims by defining the variables' values. Claim

10 was rejected under 35 U.S.C. 112, first paragraph, for lack of enablement. Claims 1-10 were rejected under 35 U.S.C. 103(a) as unpatentable over Albert et al.

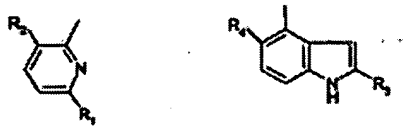
Applicants filed this petition of the restriction requirement on February 16, 2007.

DISCUSSION

Applicants basically reiterate the same arguments made in the first traversal of the Lack of Unity, specifically that Groups I-VI should be grouped together as they all have the same special technical feature and common activity. A review of the claims shows that all compounds are based on Formula I, as shown here:



The examiner found that the above structure absent the R groups was known in the art and could not be considered a special technical feature. However R could be one of two groups, as follows:



(a) (b)

Based on combining either (a) or (b) with Formula I the examiner created six structures with different values for the various other R groups on which Lack of Unity was based. Applicants have traversed this division, but not the separation of the method of making and method of using groups. Applicants urge that all compounds should be grouped together based on Formula I as it is the significant structural element possessed by all compounds and provides the activity thereof.

In order for Unity to be present in a grouping of compounds designated as a Markush group, the compounds must possess a common property or activity (as here) and must possess a significant structural element shared by all, or belong to a recognized class of chemical compounds. By significant structural element is meant a structure or structural portion which occupies a large portion of the structure and is structurally distinctive. Here Formula I occupies a large portion of the structure, but is not distinctive since it is known as evidenced by prior art cited by the examiner. However structures where (a) or (b) are combined with Formula I are larger structures which form two distinct significant structural elements which may each possess Unity of Invention with compounds having the same structural element.

Applicants' request for withdrawal of the Lack of Unity requirement is granted to the extent that compounds of Formula I combined with (a) form one Group and compounds of Formula I combined with (b) form a second Group. It is noted that the examiner has, in accordance with PCT guidelines included in the examination the method of making and method of using claims. The requirement is redrafted as follows:

> Group I – claims 1-10, drawn to compounds and corresponding methods of Formula I with R being structure (a); and
> Group II – claims 1-10, drawn to compounds and corresponding methods of Formula I with R being structure (b).

As applicants have elected a compound which falls within one of these groups, that group is constructively elected and applicants may respond to the Office action accordingly.

DECISION

The petition is **GRANTED-IN-PART.**

Applicants remain under obligation to reply to the Office action mailed December 20, 2006, within the time period set therein or as extended under 37 CFR 1.136(a).

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

John LeGuyader
Director, Technology Center 1600

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GLOBAL PATENT GROUP - APX
Ms. LaVern Hall
10411 Clayton Road, Suite 304
ST. LOUIS, MO 63131

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OFFICE OF PETITIONS

In re Application of
Borcherng Hong, et. al.
Application No. 10/542,176
Filed: January 6, 2006
Attorney Docket No. APX0024-504-US

ON PETITION

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

The application became abandoned for failure to respond to the Notice of Allowance and Fee(s) Due mailed May 12, 2008. A Notice of Abandonment was mailed on November 25, 2008.

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $720 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office acknowledges receipt of one sheet of replacement drawings containing Figures 1-2 filed on April 8, 2009.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PANITCH SCHWARZE BELISARIO & NADEL LLP
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA PA 19103

MAILED

MAY 25 2010

OFFICE OF PETITIONS

In re Application of
Marcus J. Seewald
Application No. 10/542,179
Filed: October 5, 2005
Attorney Docket No. **52460-60US(M/IPB-042-PC/**

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 8, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 18, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A one (1) 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 July 19, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4584.

This application is being referred to Technology Center AU 1794 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.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

PFIZER INC
10555 SCIENCE CENTER DRIVE
SAN DIEGO CA 92121

In re Application of	:	
Davies et al.	:	
Application No. 10/542,184	:	ON PETITION
Filed: February 6, 2006	:	
Attorney Docket No. PC19486A	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 21, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

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

This matter is being referred to Technology Center 1646 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

cc:

S. CHRISTOPHER BAUER
P.O. BOX 1027
ST. LOUIS, MO 63006

UNITED STATES PATENT and TRADEMARK OFFICE

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23 NOV 2005

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Smith, Gambrell & Russell, LLP
1230 Peachtree Street, N.E., Suite 3100
Promenade II, Atlanta GA 30309-3592

In re Application of	:	DECISION ON
Boara et al	:	
Application No.: 10/542,191	:	
PCT No.: PCT/EP02/014759	:	
Int. Filing Date: 23 December 2003	:	PETITION UNDER
Priority Date: 15 January 2003	:	
Attorney Docket No.: 033965.006	:	
For: SOL-GEL PROCESS FOR	:	
THE PRODUCTION OF GLASSY ARTICLES	:	37 CFR 1.47

This decision is in response to the "PETITION UNDER 37 CFR §1.47 REGARDING NON-SIGNING INVENTOR" received 26 October 2005.

BACKGROUND

On 14 July 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 application, and the requirement set forth by 35 U.S.C. 371(c)(4) because an executed Declaration was provided.

On 07 July 2005, applicants filed the instant petition under 37 CFR 1.47 stating the declaration under PCT Rule 4.17 was signed by all of the inventors and was filed with the application. However, all joint inventors, except Mr. Sparpaglione, have executed a Power of Attorney and Assignment. Therefore, applicants petition to submit the assignment without the signature of non-signing inventor Sparpablione.

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 file reveals that the USPTO has received the executed Declaration submitted under PCT Rule 4.17 singed by all joint inventors. Accordingly, petition is inapplicable because a proper declaration has been submitted signed by all inventors.

With respect to assignment, it is noted and it will be forwarded to the assignment branch. Each individual inventor may only assign the interest he or she holds; thus, assignment by one joint inventor renders the assignee a partial assignee. A partial assignee likewise may only assign the interest it holds; thus, assignment by a partial assignee renders a subsequent assignee a partial assignee. All parties having any portion of the ownership in the patent property must act **together** as a composite entity in patent matters before the Office. Note MPEP 301.

DECISION

The petition under 37 CFR 1.47 is **NOT APPLICABLE**.

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

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

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8 FEB 2006

Karl F. Milde, Jr.
MILDE & HOFFBERG, L.L.P.
10 Bank Street - Suite 460
White Plains, NY 10606

In re Application of WIECHERS	:	
U.S. Application No.: 10/542,218	:	
PCT Application No.: PCT/DE03/04147	:	
Int. Filing Date: 16 December 2003	:	DECISION
Priority Date Claimed: 19 December 2002	:	
Attorney Docket No.: HBC 253-KFM	:	
For: METHOD FOR MINIMIZING THE ERROR	:	
OF A MEASURED VARIABLE	:	

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 July 2005.

BACKGROUND

On 16 December 2003, applicant filed international application PCT/DE03/04147, which claimed priority of an earlier Germany 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 19 June 2005.

International application PCT/DE03/04147 became abandoned as to the United States for failure to timely pay the basic national fee.

On 14 July 2005, applicant filed the present petition under 37 CFR 1.137(b).

On 19 September 2005, applicant filed an executed declaration.

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 16 December 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 19 September 2005.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

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OFFICE OF PETITIONS

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

In re Application of

Fadi S. AMRAN
Application No. 10/542,222
Filed: May 1, 2007
Attorney Docket No. **023045-0001US**

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 17, 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 Hani Z. Sayed on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the sole named signing inventor at the address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed February 17, 2009 that requires a reply from the applicant.

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

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

cc: **FADI S. AMRAN**
18188 MESA VERDE COURT
FOUNTAIN VALLEY, CA 92708

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

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OFFICE OF PETITIONS

In re Application of :
Husemann. :
Application No. 10/542,226 : DECISION ON PETITION
Effective Date: July 14, 2005 :
Docket No.: 101769-320 KGB :

This is a decision on the petition under 37 CFR 1.181, filed September 8, 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 January 9, 2006. The Office communication set a two month shortened statutory period of time for reply. Notice of Abandonment was mailed August 18, 2006.

Petitioners assert that a reply to the Office communication was timely filed via facsimile on March 8, 2006, and, further, have included a copy of the reply purported submitted as well as a copy of USPTO Auto-Reply Facsimile Transmission. Moreover, the copy of the reply bears a certificate of mailing date of March 8, 2006 in accordance with 37 CFR 1.8.

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

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

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3-3-09

TO SPE OF : ART UNIT 3612

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/542250 Patent No.: 7478855

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

FOR IFW FILES: Should drawings be approved

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

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

Thank You For Your Assistance

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

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

Comments: _____

D. GLENN DAYOAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE 3612 **Art Unit**

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THELEN REID BROWN RAYSMAN & STEINER LLP
PO BOX 640640
SAN JOSE CA 95164-0640

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OFFICE OF PETITIONS

In re Application of	:	
AN, et al.	:	
Application No. 10/542,235	:	DECISION ON PETITION
Filed: January 23, 2006	:	TO WITHDRAW
Attorney Docket No. **6319-4020**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed October 26, 2007.

The request is **NOT APPROVED.**

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

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MCDERMOTT WILL AND EMERY**
4370 LA JOLLA VILLAGE DRIVE, SUITE 700
SAN DIEGO, CA 92122

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OFFICE OF PETITIONS

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

In re Patent No. 7,615,219	:	DECISION ON REQUEST FOR
FRESON et al.	:	RECONSIDERATION OF
Issue Date: November 10, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/542,238	:	AND
Filed: July 15, 2005	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No. 50304/091001	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 6, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred eighty-two (782) 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 eighty-two (782) 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 eighty-two (782) days**.

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

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,615,219 B2

DATED : Nov. 10, 2009 **DRAFT**

INVENTOR(S) : Freson 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 391 days

Delete the phrase "by 391 days" and insert – by 782 days--

Day : Friday
Date: 4/30/2010

Time: 10:27:20

PALM INTRANET

PTA Calculations for Application: 10/542238			
Application Filing Date:	07/15/2005	PTO Delay (PTO):	483
Issue Date of Patent:	11/10/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	92
Post-Issue Petitions:	0	Total PTA (days):	782
PTO Delay Adjustment:	391		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
79	04/30/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	391		
73.5	10/21/2009	PTA 36 MONTHS	92		
73	11/10/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
72	10/06/2009	EXPORT TO FINAL DATA CAPTURE			
71	10/05/2009	DISPATCH TO FDC			
70	10/05/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
69	09/25/2009	ISSUE FEE PAYMENT VERIFIED			
68	09/25/2009	ISSUE FEE PAYMENT RECEIVED			
67	08/14/2009	FINISHED INITIAL DATA CAPTURE			
66	07/31/2009	SEQUENCE FORWARDED TO PUBS ON TAPE			
64	07/15/2009	ELECTRONIC REVIEW			
62	07/14/2009	MAIL NOTICE OF ALLOWANCE			
61	07/09/2009	ISSUE REVISION COMPLETED			
60	07/09/2009	DOCUMENT VERIFICATION			
59	07/09/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
58	07/09/2009	CASE DOCKETED TO EXAMINER IN GAU			
57	07/01/2009	NOTICE OF ALLOWABILITY			
56	06/17/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
55	06/17/2009	ELECTRONIC INFORMATION DISCLOSURE STATEMENT		0	53
54	06/26/2009	DATE FORWARDED TO EXAMINER			
53	06/17/2009	AMENDMENT AFTER FINAL REJECTION			
52	06/17/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

51	03/18/2009	ELECTRONIC REVIEW			
50	03/18/2009	EMAIL NOTIFICATION			
49	03/18/2009	MAIL FINAL REJECTION (PTOL - 326)			
48	03/13/2009	FINAL REJECTION			
47	01/26/2009	DATE FORWARDED TO EXAMINER			
46	01/09/2009	RESPONSE AFTER NON-FINAL ACTION		92	42
45	01/09/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
44	07/09/2008	ELECTRONIC REVIEW			
43	07/09/2008	EMAIL NOTIFICATION			
42	07/09/2008	MAIL NON-FINAL REJECTION			
41	07/03/2008	NON-FINAL REJECTION			
40	04/18/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
39	09/01/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
35	04/18/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	33
34	05/01/2008	DATE FORWARDED TO EXAMINER			
33	04/18/2008	RESPONSE TO ELECTION / RESTRICTION FILED			
32	04/18/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	03/22/2008	ELECTRONIC REVIEW			
30	03/21/2008	EMAIL NOTIFICATION			
29	03/19/2008	MAIL RESTRICTION REQUIREMENT			
28	03/11/2008	REQUIREMENT FOR RESTRICTION / ELECTION			
27	01/17/2008	DATE FORWARDED TO EXAMINER			
26	01/11/2008	RESPONSE TO ELECTION / RESTRICTION FILED			
25	01/11/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
24	10/13/2007	ELECTRONIC REVIEW			
23	10/11/2007	EMAIL NOTIFICATION			
22	10/11/2007	MAIL RESTRICTION REQUIREMENT	391		7
21	09/27/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
20	01/19/2006	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
19	01/09/2006	CASE DOCKETED TO EXAMINER IN GAU			
18	01/09/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			

17	12/14/2005	MISCELLANEOUS INCOMING LETTER			
16.7	09/01/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	09/01/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	07/15/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
14	07/15/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
13	07/15/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
12	07/15/2005	PRELIMINARY AMENDMENT			
11	12/15/2005	CLEARED BY OIPE CSR			
10	12/11/2005	CLEARED BY OIPE CSR			
9	12/11/2005	CLEARED BY OIPE CSR			
8	12/11/2005	CLEARED BY OIPE CSR			
7	07/15/2005	371 COMPLETION DATE			
6	12/02/2005	APPLICATION DISPATCHED FROM OIPE			
5	12/02/2005	NOTICE OF DO/EO ACCEPTANCE MAILED			
4	07/28/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
3	07/28/2005	PCT CLASSIFICATION			
2	07/15/2005	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	07/15/2005	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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23869
HOFFMAN & BARON, LLP
6900 Jericho Turnpike
Syosset, NY 11791

In re Application of
PELLEGRINI *et al*
U.S. Application No.: 10/542,255
PCT No.: PCT/US04/00423
Int. Filing Date: 09 January 2004
Priority Date: 17 January 2003
Attorney Docket No.: 1368-8 PCT/US
For: METHODS AND SYSTEMS FOR THE IDENTIFICATION OF RNA REGULATORY SEQUENCES AND COMPOUNDS THAT MODULATE THEIR FUNCTION

DECISION

This is a decision on the "Petition to Withdraw Holding of Abandonment Pursuant to 37 C.F.R. 1.181(a)" filed on 05 December 2007. No fee is required.

BACKGROUND

On 24 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 that a declaration and CRF sequence listing was required. A two-month time period for response was set with extensions under 37 CFR 1.136(a).

On 25 May 2006, applicants filed a response which included a declaration and a CRF sequence listing diskette and statement regarding the sequence listing.

On 13 March 2007, the DO/EO/US mailed a Notification of a Defective Response (Form PCT/DO/EO/916) indicating that the response filed 25 May 2006 was received but that a CRF sequence listing diskette was required.

On 16 April 2007, applicants purportedly filed a response which included a substitute CRF sequence listing diskette and hard copy of the sequence listing. This response and substitute diskette were not located in the file.

On 23 November 2007, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that applicant failed to respond to the Form PCT/DO/EO/905 mailed 24 February 2006 within the time period set therein.

On 05 December 2007, applicants submitted the instant petition which was

accompanied by, *inter alia*, a copy of the documents purportedly filed 12 April 2007 and a date-stamped postcard receipt for the 12 April 2007 filing. Applicants did not submit a copy of the sequence listing diskette purportedly filed 12 April 2007.

On 26 March 2008, after a telephone call from the undersigned, applicants submitted two copies of the sequence listing on CD.

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 provided a copy of the date-stamped postcard receipt for the documents and diskette submitted 16 April 2007. The postcard receipt records that among other papers, applicants included "A Computer-Readable Form of Sequence Listing (1 disk)." The postcard receipt is stamped "IAP6 Rec'd PCT/PTO 16 APR 2007" across its face. The U.S. application number, attorney docket number, filing date and name of inventors were listed on the postcard receipt.

A check of USPTO records indicated that the CRF sequence listing diskette for the above-captioned application could not be located. After a telephone call from the undersigned, applicants provided two copies of the CRF sequence listing diskette. IN the response, applicants state that there is no change to the sequence listing submitted. The CRF sequence listing diskette was checked by the Office on 02 April 2007 and found to be acceptable.

Accordingly, applicants have provided *prima facie* evidence that a timely and proper response to the Form PCT/DO/EO/916 was originally received by the USPTO on 16 April 2007.

DECISION

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

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 23 November 2007 is hereby **VACATED**.

This application is being forwarded to the Office of Patent Application Processing

10/542,255

for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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Patent Legal Department
EASTMAN KODAK COMPANY
343 STATE STREET
ROCHESTER, NEW YORK 14650-2201

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JAN 25 2008

OFFICE OF PETITIONS

Applicant: Vu et al.
Appl. No.: 10/542,266
International Filing Date: December 20, 2003
Title: Method of Displaying an Image Captured by a Digital Camera
Attorney Docket: 85308/WRZ
Pub. No.: US 2007/0013721-A1
Pub. Date: January 18, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on February 14, 2007, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on the front page of the publication wherein "Method of Displaying an Image Captured by a Digital Camera" is misprinted as "Method of Displaying an Image Captured by a Digital" in the title of the invention.

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 on the front page of the publication wherein "Method of Displaying an Image Captured by a Digital Camera" is misprinted as "Method of Displaying an Image Captured by a Digital" in the title of the invention may be an Office error, but it is a not material Office error under 37 CFR 1.221. The omission of the words "Camera" in the title does not affect the understanding of the application. The mistake does not affect the public's ability to appreciate the technical

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

disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

On October 16, 2006, a Filing Receipt was mailed by the Office, which improperly listed the title. To avoid this type of problem in the future, applicant's representative should review the Filing Receipt and make a request for a Corrected Filing Receipt.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

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

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

By facsimile: 571-273-8300

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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BRIARCLIFF MANOR, NY 10510

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OFFICE OF PETITIONS

In re Application of	:	
Sint Baron, et. al.	:	
Application No. 10/542,285	:	ON PETITION
Filed: July 15, 2005	:	
Attorney Docket No. NL 030057	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 9, 2007, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed May 4, 2006. A Notice of Abandonment was mailed on January 5, 2007.

It is not apparent whether 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 Adam L. Stroud appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

The 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 3724 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Adam L. Stroud
Philips Electronics North America Corporation
370 W. Trimble Road MS 91/MG
San Jose, Ca 95131

24 FEB 2006

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UNIVERSITY OF MARYLAND, BALTIMORE
TEC-COM/ORD
515 W. LOMBARD STREET
BALTIMORE MD 21201

In re Application of GUILES (Deceased) Application No.: 10/542,313 PCT No.: PCT/US04/02543 Int. Filing Date: 30 January 2004 Priority Date: 30 January 2003 Attorney Docket no.: RG-2002-002 For: NOVEL COMPOUNDS FOR THE TREATMENT OF SICKLE CELL DISEASE	DECISION ON REQUEST UNDER 37 CFR 1.42

This is a decision on applicant's submission under 37 CFR 1.42 filed in the United States Patent and Trademark Office (USPTO) on 15 July 2005.

On 15 July 2005, prior to the expiration of the thirty month period, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371 with, *inter alia*, the requisite basic national fee. On the same day, applicant also submitted a declaration signed by and identifying Magdalena Guiles as the legal representative of deceased inventor, Ronald D. Guiles.

Applicant has provided a declaration executed by Magdalena Guiles, which identifies her as the legal representative of deceased inventor Ronald D. Guiles. The declaration identifies the deceased inventor and provides the citizenship, residency and mailing address for the deceased inventor and for his legal representative.

Accordingly, it is appropriate, at this time, to accord the application status under 37 CFR 1.42.

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 **15 July 2005.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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17 APR 2007

Renato L. Smith
Bell, Boyd & Lloyd, LLC
P.O. Box 1135
Chicago, Illinois 60690-1135

In re Application of	:	
Parker, Bradley	:	
Application No.: 10/542,324	:	DECISION ON PETITION
PCT No.: PCT/US04/00633	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 12 January 2004	:	
Priority Date: 15 January 2003	:	
Attorney Docket No.: 116840-007	:	
For: APPARATUS AND METHOD FOR LASER MARKING OF EGGS		

The petition to revive under 37 CFR 1.137(b) filed 04 April 2007 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that applicant has submitted an executed declaration 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

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P.O BOX 1022
MINNEAPOLIS, MN 55440-1022

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OFFICE OF PETITIONS

In re Patent of Faull et al.	:	DECISION ON REQUEST
Patent No. 7,572,826	:	FOR RECONSIDERATION OF
Issue Date: August 11, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/542,326	:	AND NOTICE OF INTENT TO
Filing Date: July 13, 2005	:	ISSUE CERTIFICATE OF
Attorney Docket No. 06275-0461US1	:	CORRECTION

This is a decision on the petition filed on October 9, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate that the term of the patent is extended or adjusted by one hundred seventy-three (173) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that term of the above-identified patent is extended or adjusted by one hundred seventy-three (173) days is **GRANTED to the extent indicated herein**.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the period of delay under 35 U.S.C. § 154(b)(1)(B), the over three year period began on July 16, 2008, and ended on September 12, 2008, *the day before* the RCE was filed, and is 60 (not 61) days. *See* 35 U.S.C. § 154(b)(1)(B)(i). As such, the patent term adjustment is 172 days, not 173 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 C.F.R. § 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 C.F.R. § 1.136.

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **one hundred seventy-two (172)** days.

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

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,572,826 B2
ISSUE DATE	:	August 11, 2009
INVENTOR(S)	:	Faull et al.

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 112 days.

Delete the phrase "by 112 days" and insert - by 172 days--

0 9 JUL 2007

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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

In re Application of	:	
Morrical et al.	:	
Application No.: 10/542,336	:	DECISION
PCT No.: PCT/US04/00665	:	
Int. Filing Date: 12 January 2004	:	ON
Priority Date: 13 January 2003	:	
Attorney Docket No.: V0139.70058US01	:	PETITION
For: Methods And Compositions For Optical Detection Of Single-Stranded Polynucleotides	:	

This is in response to the petition under 37 CFR 1.47(a) filed on 25 October 2006.

BACKGROUND

This international application was filed on 12 January 2004, claimed an earlier priority date of 13 January 2003, 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 July 2005. Applicants filed *inter alia* the basic national fee on 13 July 2005.

On 21 March 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of $1350.00 in additional claims fees, an executed oath or declaration compliant with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(h).

DISCUSSION

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

Regarding requirement (1), petitioner paid $130.00 toward the $200.00 petition fee on 25 October 2006. The remaining $70.00 is being charged to Deposit Account 23-2825, per the authorization filed on 25 October 2006.

Regarding requirement (2), petitioner alleges that "the non-signing inventor, Na Qian, cannot be found or reached after diligent effort." Counsel does not allege that Dr. Qian's conduct constitutes a refusal within the meaning of 37 CFR 1.47(a). 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.

Petitioner refers to letters allegedly sent to Na Qian on 05 August 2005, 11 January 2006, 06 April 2006 and 27 September 2006. Inspection of the accompanying documents reveals that the 05 August 2005 and 06 April 2006 letters were in fact addressed to Todd Keiller. It is not clear from the record what relationship, if any, existed between Mr. Keiller and Dr. Qian; as such, it is not clear whether Dr. Qian did receive or would have received copies of the letters through Mr. Keiller. Clarification of this point would be appropriate.

Petitioner indicates that a certified letter was sent to Dr. Qian on 27 September 2006 (included among the letters mentioned above). However, review of the letter from Carrie A. Richer of the USPS, dated 20 October 2006, suggests that the letter had not yet been returned by the USPS as undeliverable as of the filing date of the instant petition. The ultimate disposition of this letter should be made of record.

Petitioner refers to inquiries made by Scott Morrical in an attempt to locate Dr. Qian, but has provided no statement by Dr. Morrical attesting to the details of said inquiries on the basis of first-hand knowledge. Similarly, petitioner refers to "significant efforts" made to locate Dr. Qian via telephone, email and internet search, but has provided no statement(s) made on the basis of first-hand knowledge attesting to the details of such efforts; nor has petitioner provided copies of, e.g., relevant emails or search results. In the absence of adequate substantiation of the efforts undertaken to find or reach Dr. Qian, it would not be appropriate to conclude that she "cannot be found or reached after diligent effort" within the meaning of 37 CFR 1.47(a).

Regarding requirement (3), the petition includes a statement of Na Qian's last known address.

Regarding requirement (4), the declaration filed on 25 October 2006 nominates both of the inventors listed on the published international application (Scott W. Morrical and Na Qian), and it has been signed by Scott W. Morrical on behalf of himself and Na Qian. This declaration satisfies requirement (4).

DECISION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(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

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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

In re Application of	:	
Morrical et al.	:	
Application No.: 10/542,336	:	DECISION
PCT No.: PCT/US04/00665	:	
Int. Filing Date: 12 January 2004	:	ON
Priority Date: 13 January 2003	:	
Attorney Docket No.: V0139.70058US01	:	PETITION
For: Methods And Compositions For Optical Detection Of Single-Stranded Polynucleotides	:	

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 23 November 2007.

DISCUSSION

In a Decision mailed on 09 July 2007, the petition under 37 CFR 1.47(a) filed on 25 October 2006 was dismissed, without prejudice, because petitioner had not established that Dr. Qian "cannot be found or reached after diligent effort" within the meaning of 37 CFR 1.47(a).

In response, petitioner has provided a "Declaration of Scott Morrical" which, taken in combination with the remainder of the evidence of record, establishes that Dr. Na Qian cannot be found or reached within the meaning of 37 CFR 1.47(a). Therefore, requirement (2) 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 National Stage Processing Branch for processing as the U.S. National Stage of the above-identified international application. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **25 October 2006**.

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

07 JAN 2008

United States Patent and Trademark Office

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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Dr. Na Qian
35 University Lane, Apt. 119
Colchester, VT 05446

In re Application of
Morrical et al.
Application No.: 10/542,336
PCT No.: PCT/US04/00665
Int. Filing Date: 12 January 2004
Priority Date: 13 January 2003
Attorney Docket No.: V0139.70058US01
For: Methods And Compositions For Optical Detection Of Single-Stranded Polynucleotides

Dear Dr. Qian:

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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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 each non-signing inventor. The inventor whose signature is missing (Na QIAN) 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/US04/00665 and was filed on January 12, 2004 in the names of Scott MORRICAL and Na QIAN for the invention entitled METHODS AND COMPOSITIONS FOR OPTICAL DETECTION OF SINGLE-STRANDED POLYNUCLEOTIDES. The national stage application number is 10/542,336 and has a 35 U.S.C. 371(c)(1), (2) and (4) date of October 25, 2006.

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BOSTON MA 02210-2206

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OFFICE OF PETITIONS

Applicant: Morrical et al.
Appl. No.: 10/542,336
International Filing Date: January 12, 2004
Title: METHODS AND COMPOSITIONS FOR OPTICAL DETECTION OF SINGLE-STRANDED POLYNUCLEOTIDES
Attorney Docket No.: V0139.70058US01
Pub. No.: 2007/0178455 A1
Pub. Date: August 2, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on September 4, 2007, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
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CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Catherine Dogimont	: DECISION ON REQUEST FOR
Patent Number	: 7576264	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/542,337	: 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 **585** 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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INDIANAPOLIS IN 46204-4900

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In re Application of	:	
Haaksma, et al.	:	
Application No. 10/542,343	:	DECISION
Filed: 17 April, 2006	:	
Attorney Docket No. 8506-60087	:	

This is a decision on the petition filed on 12 September, 2007, to expunge from the application certain materials under the provisions of 37 C.F.R. §1.59.

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 to expunge under 37 C.F.R. §1.59 is **DISMISSED**.

As discussed hereinbelow, Petitioner has failed to satisfy the requirement that Petitioner make the affirmative showings as set forth in the guidance at MPEP §724.05(II) items (A) through (E).

The conditions for a petition pursuant to 37 C.F.R. §1.59 are set forth in the regulation, to wit:

> **§ 1.59 Expungement of information or copy of papers in application file.**
> (a)...
>
> (1) Information in an application will not be expunged, except as provided in paragraph (b) of this section or §41.7(a) of this title.
> (2)Information forming part of the original disclosure (*i.e.*, written specification including the claims, drawings, and any preliminary amendment specifically incorporated into an executed oath or declaration under §§1.63 and 1.175) will not be expunged from the application file.
>
> (b)An applicant may request that the Office expunge information, other than what is excluded by paragraph (a)(2) of this section, by filing a petition under this paragraph. Any petition to expunge information from an application must include the fee set forth in

§1.17(g) and establish to the satisfaction of the Director that the expungement of the information is appropriate in which case a notice granting the petition for expungement will be provided.

(c)Upon request by an applicant and payment of the fee specified in §1.19(b), the Office will furnish copies of an application, unless the application has been disposed of (*see* §§1.53(e), (f) and (g)). The Office cannot provide or certify copies of an application that has been disposed of.

Guidance in this matter is set forth at MPEP §724.05, which provides in pertinent part:

724.05 Petition To Expunge Information or Copy of Papers in Application File [R-6]

I.INFORMATION SUBMITTED UNDER MPEP §724.02

A petition under 37 C.F.R. §1.59(b) to expunge information submitted under MPEP §724.02, or that should have been submitted under MPEP §724.02 (as where proprietary information is submitted in an information disclosure statement but inadvertently not submitted in a sealed envelope as discussed in MPEP §724.02) will be entertained only if the petition fee (37 C.F.R. §1.17(g)) is filed and the information has been found *not* to be **>material to< patentability. If the information is found to be **>material to< patentability, any petition to expunge the information will be denied. Any such petition to expunge information submitted under MPEP §724.02 should be submitted at the time of filing the information under MPEP §724.02 and directed to the Technology Center (TC) to which the application is assigned. Such petition must contain:

(A) a clear identification of the information to be expunged without disclosure of the details thereof;
(B) a clear statement that the information to be expunged is trade secret material, proprietary material, and/or subject to a protective order, and that the information has not been otherwise made public;
(C) a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
(D) a statement that the petition to expunge is being submitted by, or on behalf of, the party in interest who originally submitted the information;
(E) the fee as set forth in 37 C.F.R. §1.17(g) for a petition under 37 C.F.R. §1.59(b).

Any such petition to expunge should accompany the submission of the information and, in any event, must be submitted in sufficient time that it can be acted on prior to the mailing of a notice of allowability or a notice of abandonment for original and reissue applications, or prior to>, or shortly after (i.e., in time to be addressed before the reexamination proceeding enters the reexamination certificate printing process),< the mailing of a Notice of Intent to Issue Reexamination Certificate (NIRC) for reexamination proceedings. Timely submission of the petition is, accordingly, extremely

important. If the petition does not accompany the information when it is initially submitted, the petition should be submitted while the application or reexamination is pending in the Technology Center (TC) and before it is transmitted to the Publishing Division. If a petition to expunge is not filed prior to the mailing of a notice of allowability or a notice of abandonment for original and reissue applications, or prior to>, or shortly after (i.e., in time to be addressed before the reexamination proceeding enters the reexamination certificate printing process),< the mailing of a NIRC for reexamination proceedings, any material then in the file will remain therein and be open to the public in accordance with 37 C.F.R. §1.14. Accordingly, it is important that both the submission of any material under MPEP §724.02and the submission of any petition to expunge occur as early as possible during the examination process. The decision will be held in abeyance and be decided upon the close of prosecution on the merits.

II.INFORMATION UNINTENTIONALLY SUBMITTED IN APPLICATION

A petition to expunge information unintentionally submitted in an application (other than information forming part of the original disclosure) may be filed under 37 C.F.R. §1.59(b), provided that:

> (A) the Office can effect such return prior to the issuance of any patent on the application in issue;
> (B) it is stated that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted;
> (C) the information has not otherwise been made public;
> (D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
> (E) it is established to the satisfaction of the Director that the information to be returned is not material information under 37 C.F.R. §1.56; and
> (F) the petition fee as set forth in 37 C.F.R. §1.17(g)is included.

A request to expunge information that has not been clearly identified as information that may be later subject to such a request by marking and placement in a separate sealed envelope or container shall be treated on a case-by-case basis. Applicants should note that unidentified information that is a trade secret, proprietary, or subject to a protective order that is submitted in an Information Disclosure Statement may inadvertently be placed in an Office prior art search file by the examiner due to the lack of such identification and may not be retrievable.

***

IV.INFORMATION FORMING PART OF THE ORIGINAL DISCLOSURE

A petition to expunge a part of the original disclosure must be filed under 37 C.F.R. §1.183, since such a request requires a waiver of the requirements of 37 C.F.R. §1.59(a). Petitions under 37 C.F.R. §1.183 should be directed to the Office of Petitions. The

petition must explain why justice requires waiver of the rules to permit the requested material to be expunged. It should be noted that petitions to expunge information which is a part of the original disclosure, such as the specification and drawings, will ordinarily not be favorably entertained. The original disclosures of applications are scanned for record keeping purposes. Accordingly, the grant of a petition to expunge information which is part of the original disclosure would require that the USPTO record of the originally filed application be changed, which may not be possible.

BACKGROUND

The record reflects that:

Petitioner avers that "the paper filed on August 8, 2007, with EFS ID 2063053 be expunged from the official record of the USPTO for this application. The paper was prepared responsively to an Office Action in a different application, and does not relate directly to the application identified above."

From the averment set forth in the petition, the indication is that the discussion at MPEP §724.05(II) is applicable here.

Petitioner has not followed the requirements set out therein. Specifically, Petitioner has failed to make the affirmative showings as to MPEP §724.05(II) items (A) through (E).

(The Office will not return documents from a/the physical file because it is Office policy not to remove paper from files that have been scanned. Even if a petition "to expunge" is granted as to one or more documents with regard to an application or patent, the image of the recorded document will remain in the records of the Office. However, the Office will close the images in the application or patent that was the subject of the petition so that no information about the recorded document will appear when someone searches for the application or patent number in the electronic file.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

---

[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). See specifically, the regulations at 37 C.F.R. §10.18.

CONCLUSION

The petition to expunge under 37 C.F.R. §1.59 is **DISMISSED**.

The instant application is released to Technology Center/AU 3626 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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30 MAY 2006

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

In re Application of YOKOYAMA et al	:	
U.S. Application No.: 10/542,358	:	
PCT Application No.: PCT/JP03/16579	:	DECISION
Int. Filing Date: 24 December 2003	:	
Priority Date Claimed: 17 January 2003	:	
Attorney Docket No.: 273117US0PCT	:	
For: COMPOSITION FOR FORMING A SILICON-ALUMINUM FILM. . .	:	

This is in response to the papers filed 14 July 2005, which is being treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 24 December 2003, applicant filed international application PCT/JP03/16579, which claimed priority of an earlier Japan application filed 17 January 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 05 August 2004. The thirty-month period for paying the basic national fee in the United States expired on 17 July 2005.

On 14 July 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.

DISCUSSION

The declaration filed 14 July 2005 states that joint inventor Yasuaki Yokoyama is deceased.

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

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

In the present case, the declaration meets the requirements of 37 CFR 1.497(b)(2). However, the declaration does not satisfy 37 CFR 1.69(b).

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.

The declaration is not in a form provided by the USPTO, i.e. USPTO Form PTO/SB/103. Applicant must submit either: (1) a declaration using USPTO Form PTO/SB/103 or (2) a statement that the translation contained in the submitted declaration is accurate.

CONCLUSION

For the reasons above, the request for status under 37 CFR 1.42 is DISMISSED without prejudice.

If reconsideration on the merits of the request is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Request for Status Under 37 CFR 1.42".

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

25 JUL 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Application of YOKOYAMA et al	:	
U.S. Application No.: 10/542,358	:	
PCT Application No.: PCT/JP03/16579	:	DECISION
Int. Filing Date: 24 December 2003	:	
Priority Date Claimed: 17 January 2003	:	
Attorney Docket No.: 273117US0PCT	:	
For: COMPOSITION FOR FORMING A SILICON-ALUMINUM FILM. . .	:	

This is in response to the "Renewed Request for Status Under 37 C.F.R. §1.42" filed 15 June 2006.

BACKGROUND

On 24 December 2003, applicant filed international application PCT/JP03/16579, which claimed priority of an earlier Japan application filed 17 January 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 05 August 2004. The thirty-month period for paying the basic national fee in the United States expired on 17 July 2005.

On 14 July 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), an executed declaration, and a request for status under 37 CFR 1.42.

On 30 May 2006, this Office mailed a decision dismissing the 14 July 2005 request for status.

On 15 June 2006, applicant filed the present renewed request for status under 37 CFR 1.42.

DISCUSSION

The declaration filed 14 July 2005 states that joint inventor Yasuaki Yokoyama is deceased.

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

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

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, the declaration filed 14 July 2005 meets the requirements of 37 CFR 1.497(b)(2). Furthermore, the declaration satisfies 37 CFR 1.69(b) in that applicant has provided a statement that the translation contained in the declaration is accurate.

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 24 December 2003, and a date under 35 U.S.C. 371(c) of 14 July 2005.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

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OFFICE OF PETITIONS

White-Welker & Welker, LLC
P.O. Box 199
Clear Spring, MD 21722-0199

In re Application of	:	
Roland C. Santa Ana	:	
Application No. 10/542,372	:	DECISION ON PETITION
Filed: May 3, 2006	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 21, 2006.

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

A review of the file record indicates that the power of attorney to the attorneys and/or agents associated with Customer Number 37476 has been revoked by the applicant of the patent application on November 7, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Roland Santa Ana**
224 North Van Buren Street
Rockville, MD 20850

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

JUL 22 2008

In re Application of	:	
Kensuke Ogawa et al	:	
Application No. 10/542,383	:	DECISION GRANTING PETITION
Filed: July 14, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q88674	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 18, 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 July 1, 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 2874 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.*

24 OCT 2005

#3

United States Patent and Trademark Office

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Martin Moynihan
c/o Anthony Castorina
Suite 207
2001 Jefferson Davis Highway
Arlington, VA 22202

In re Application of Zvuloni Application No.: 10/542,386 PCT No.: PCT/IL04/00043 Int. Filing Date: 15 January 2004 Priority Date: 16 January 2003 Attorney Docket No.: 30241 For: Device, System, And Method For Detecting And Localizing Obstruction Within A Blood Vessel	DECISION ON PETITION

The petition to revive under 37 CFR 1.137(b) filed 28 September 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant states that "the entire delay in filing the required reply until the filing of this grantable petition 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).

A review of the application file reveals that the required small entity petition fee of $750.00 has been paid. The Transmittal Letter filed on 14 July 2005 authorized the small entity basic national fee to be charged to counsel's deposit account. While the reason for abandonment was that insufficient funds were present at the time said charge was processed, counsel now asserts that the account has been replenished and has again authorized the charge. 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).

Leonard Smith
PCT Legal Examiner
PCT Legal Office

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

06 OCT 2005

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Martin Moynihan
c/o Anthony Castorina
Suite 207
2001 Jefferson Davis Highway
Arlington, VA 22202

In re Application of LEWINSKY, et al. Application No.: 10/542,387 PCT No.: PCT/IL04/00046 Int. Filing Date: 15 January 2005 Priority Date: 16 January 2003 Atty. Docket No.: 30252 For: DEVICE, SYSTEM, AND METHOD FOR DETECTING, LOCALIZING, AND CHARACTERIZING PLAQUE-INDUCED STENOSIS OF A BLOOD VESSEL	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 28 September 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" 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 forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed oath or declaration of the inventors is required.

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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,399	07/14/2005	Gregory J Kelly	STA-1	1753

63704 7590 05/09/2008
HESS PATENT LAW FIRM, P.C.
9 MIRAMAR LANE
STAMFORD, CT 06902

EXAMINER
PUROL, SARAH L

ART UNIT	PAPER NUMBER
3637	

MAIL DATE	DELIVERY MODE
05/09/2008	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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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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FROM DIRECTORS OFFICE

MAY 0 8 2008

TECHNOLOGY CENTER 3600

Hess Patent Law Firm, P.C.
9 Miramar Lane
Stamford, CT 06902

In re Application of:
Gregory J. Kelly
Serial No. 10/542,399
Filed: July 14, 2005
For: Truncated Pyramidal Golf Ball Positioning Device

: DECISION ON PETITION
: FOR WITHDRAWAL OF
: REQUIREMENT FOR
: RESTRICTION AND
: WITHDRAWAL OF FINALITY

Applicant's petition, filed on February 06, 2008, requests withdrawal of the restriction requirement and the finality of the action dated January 16, 2008 as being improper.

The petition is **GRANTED**.

Applicant alleges that the restriction requirement was improper because the claims 1-19 as amended by the amendment filed on January 18, 2008 are not restrictable according to MPEP 806.05(c). In addition, applicant alleges that the final rejection dated January 16, 2008 was improper because the amended claims 1-19 were not drawn to the same invention, and said claims would not have been properly rejected on the grounds and art of record if they have been entered in the earlier application.

A review of the application reveals that claims 1-19 were amended in an amendment after final on October 10, 2007 in which applicant changed the scope of claim 1 from a subcombination of a "golf ball positioning device" to a combination of a "golf ball positioning device" and "golf balls". An advisory action was issued on October 29, 2007 in which the examiner indicated that the proposed amendment was not deemed to place the application in better form for appeal and thus will not be entered.

Subsequently, applicant filed a Request for Continued Examination on October 31, 2007 in which the previously submitted amendment after final was entered. The examiner then issued a final rejection on January 16, 2008 indicating that the amended claims 1-19 are directed to the combination of a golf ball positioning device and golf balls, which is distinct and independent from the device originally claimed. The rationale for the restriction was that the combination is an invention within the prevue of class 206 and not class 211. The examiner went on and made the action final alleging that all claims are drawn to the same invention in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they have been entered in the earlier application.

On January 18, 2008 applicant filed an after final amendment in which a request for reconsideration of the restriction and a request for reconsideration of the finality were made. The examiner issued an advisory action on February 08, 2008 stating that the requests for reconsideration have been considered but the claims do not overcome the prior art rejection. On February 22, 2008 applicant filed a second after final amendment in which claim 1 was further amended. The examiner denied entry of this amendment in an advisory action issued on March 20, 2008.

It is noted that the examiner was correct in determining that the amendment after final filed on October 10, 2007 changed the scope of claims 1-19 to a combination by positively claiming the golf balls. However, applicant was correct in his argument set forth in the petition that since the combination claims require all the details of the positioning device of the subcombination as separately claimed in the version filed on June 25, 2007 the inventions are not distinct and the restriction requirement must not be made or maintained. See MPEP 806.05(c).

As for the applicant's argument that the finality of the rejection was improper, it is noted that the examiner denied entry of the after-final amendment filed October 10, 2007. This amendment was entered along with the RCE on October 31, 2007. Since an Office action following such an amendment cannot be made final (MPEP 706.07(b)), the final rejection issued on January 16, 2008 following the RCE is improper.

As for applicant's argument that the combination as claimed was not properly classified in class 211, the argument is moot in view of the fact that the restriction requirement was improper.

Based on these facts, it is determined that the both the restriction requirement and the finality of the rejection were improper. The amendment after final filed on February 22, 2008 will be entered and the finality will be withdrawn. The application will be returned to the examiner for issuing a non-final Office action on the merits of claims 1-19 as filed on February 22, 2008.

SUMMARY: The petition is GRANTED.

Any questions regarding this decision should be directed to SPE Lanna Mai at 571-272-6867.

Kathy Matecki

Kathy Matecki, Director
Technology Center 3600
(571) 272-5250

lm/sm: 4/28/08

SM

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01 FEB 2006

Venable LLP
P.O. Box 34385
Washington, D.C. 2043-9998

In re Application of HALLIBURTON et al. Application No.: 10/542,402 PCT No.: PCT/US03/29648 Int. Filing Date: 18 September 2003 Priority Date: 18 September 2002 Attorney Docket No.: 36871-191742 For: CRANE AMUSEMENT GAME WITH VERTICALLY ADJUSTABLE PLAY FIELD	:	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 15 July 2005 in the above-captioned application is hereby **GRANTED** as follows:

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

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

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

Anthony Smith

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Tel.: 571-272-3298
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08 AUG 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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Unilever Intellectual Property Group
700 Sylvan Street, Bldg. C2 South
Suite 400
Englewood Cliff, New Jersey 07632-3100

In re Application of THOMPSON et al. U.S. Application No.: 10/542,422 PCT No.: PCT/EP03/14824 Int. Filing Date: 19 December 2003 Priority Date: 16 January 2003 Attorney Docket No.: J3708 (C) For: METHOD OF CREATING A COSMETIC SPRAY	:	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is issued in response to applicants' "Petition under 37 CFR 1.47(a)" filed 26 July 2006 to accept the application without the signature of joint-inventor, Sean Warren.

BACKGROUND

On 19 December 2003, applicants filed international application PCT/EP03/14823 which claimed a priority date of 16 January 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 29 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 16 July 2005.

On 14 July 2005, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a preliminary amendment; and an unexecuted declaration.

On 27 February 2006, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 26 July 2006, applicants filed the present petition under 37 CFR 1.47(a).

DISCUSSION

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

A review of the papers filed 26 July 2006 reveals that petitioner has paid the requisite petition fee, provided sufficient proof that the non-signing inventor (Sean Warren) refused to sign, stated the last known address of the non-signing inventor (Sean Warren), 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 19 December 2003 under 35 U.S.C. 363, and a date of **26 July 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.

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Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton, NJ 08543-5312

Mail Date: 04/21/2010

Applicant	: Aaron Reel Bouillet	: DECISION ON REQUEST FOR
Patent Number	: 7583802	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/542,433	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1042** 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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14 JUL 2006

CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

In re Application of SCHROERS et al	:	
U.S. Application No.: 10/542,438	:	
PCT Application No.: PCT/US04/01575	:	
Int. Filing Date: 20 January 2004	:	DECISION
Priority Date Claimed: 17 January 2003	:	
Attorney Docket No.: 51835/JWP/L471	:	
For: METHOD OF MANUFACTURING	:	
AMORPHOUS METALLIC FOAM	:	

This is in response to applicant's "Petition to Add Inventor Under 37 C.F.R. 1.497" filed 02 May 2006.

BACKGROUND

On 20 January 2004, applicant filed international application PCT/US04/01575, which claimed priority of an earlier United States application filed 17 January 2003. The thirty-month period for paying the basic national fee in the United States expired on 17 July 2005.

On 15 July 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 08 March 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 02 May 2006, applicant filed the present petition under 37 CFR 1.497(d) along with an executed declaration.

DISCUSSION

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

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

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

With regard to item (2) above, the requisite processing fee has been provided.

With regard to item (3) above, the petition 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).

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.

Bryan Tung
PCT Legal Examiner
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01 AUG 2006

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In re Application of SCHROERS et al	:	
U.S. Application No.: 10/542,438	:	
PCT Application No.: PCT/US04/01575	:	
Int. Filing Date: 20 January 2004	:	DECISION
Priority Date Claimed: 17 January 2003	:	
Attorney Docket No.: 51835/JWP/L471	:	
For: METHOD OF MANUFACTURING	:	
AMORPHOUS METALLIC FOAM	:	

This is in response to applicant's "Renewed Petition Under 37 C.F.R. 1.497" filed 25 July 2006.

BACKGROUND

On 20 January 2004, applicant filed international application PCT/US04/01575, which claimed priority of an earlier United States application filed 17 January 2003. The thirty-month period for paying the basic national fee in the United States expired on 17 July 2005.

On 15 July 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 08 March 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 02 May 2006, applicant filed a petition under 37 CFR 1.497(d) along with an executed declaration.

On 14 July 2006, this Office mailed a decision dismissing the 02 May 2006 petition.

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

DISCUSSION

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

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

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

With regard to item (3) above, the renewed petition states that "no assignment has been filed for this application." This statement is construed as a statement that no assignment has been executed by any of the original inventors. If such an assignment exists, applicant must notify the Office accordingly.

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 20 January 2004, and a date under 35 U.S.C. 371(c) of 02 May 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
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SCHMEISER, OLSEN & WATTS
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LATHAM, NY 12110

Mail Date: 04/21/2010

Applicant	: Christian Mauceri	: DECISION ON REQUEST FOR
Patent Number	: 7657422	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/542,456	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1231** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/15/09

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10542457 Patent No.: 7393854 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

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

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

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1624

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SAN DIEGO, CA 92122

In re Application of DIMITROV et al	:	
U.S. Application No.: 10/542,458	:	
PCT Application No.: PCT/US02/21278	:	
Int. Filing Date: 03 July 2002	:	DECISION
Priority Date Claimed: 03 July 2001	:	
Attorney Docket No.: 066661-0050	:	
For: METHODS FOR DETECTION AND QUANTIFICATION OF ANALYTES IN COMPLEX MIXTURES	:	

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 July 2005.

BACKGROUND

On 03 July 2002, applicant filed international application PCT/US02/21278, which claimed priority of an earlier United States application filed 03 July 2001. The thirty-month period for paying the basic national fee in the United States expired on 03 January 2004.

International application PCT/US02/21278 became abandoned as to the United States for failure to timely pay the basic national fee.

On 14 July 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.

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IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: Franz Josef Becker	: DECISION ON REQUEST FOR
Patent Number	: 7591926	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/542,463	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **643** 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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MADISON WI 53701

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DEC 15 2009

OFFICE OF PETITIONS

In re Patent No. 7,514,212
Issued: April 7, 2009
Application No. 10/542,464
Filed: June 28, 2006
Dkt. No.: 023542-0147

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed April 7, 2009. Patentees request correction of the patent term adjustment from 182 days to 446 days. Patentees requested this correction on the sole basis that the Office took in excess of three years to issue the above-referenced patent.

The application for patent term adjustment (PTA) under 37 CFR 1.705(d) is **GRANTED TO THE EXTENT INDICATED HEREIN**.

The above-identified application matured into U.S. Pat. No. 7,514,212 on April 7, 2009. The patent issued with a patent term adjustment of 182 days. The instant application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(d). Applicants argued that in view of Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), the patent was entitled to an adjustment of 446 days (253 days pursuant to 35 USC 154(b)(1)(A) *plus* 264 days pursuant to 35 USC 154(b)(1)(B) *less* 71 days applicant delay).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office asserts that as of the issuance of the patent on April 7, 2009, the application was pending three years and 264 days after national stage commenced under 35 U.S.C. 371(b) or (f) in an international application. The Office agrees that certain action was not taken within the specified time frame, and thus, the adjustment of 253 days pursuant to 37 CFR 1.702(a)(1) is correct. At issue is whether patentees should accrue 264 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 253 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 253 days of examination delay under 37 CFR 1.702(a)(1) overlaps with the period of 264 days of delay in issuance of the patent under 37 CFR 1.702(b).

Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the
> patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[1] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after national stage commenced, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

---

[1] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the date that national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, July 17, 2005, and ending on the date that the patent issued, April 7, 2009.

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), the application was pending 14 months and 253 days prior to the issuance of the restriction requirement on May 7, 2008. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), the application was pending three years and 264 days prior to the issuance of the patent on April 7, 2009.

The 253 days of examination delay under 37 CFR 1.702(a)(1) overlaps with the period of 264 days of delay in issuance of the patent under 37 CFR 1.702(b). Entry of both the 253 days and the 264 days is neither permitted nor warranted given that 264 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office should have considered the 264 days of Office delay under the three-year pendency provision in conjunction with the 253 days of examination delay, reduced 71 days for applicant delay, and entered 193 days of patent term adjustment.

In view thereof, this application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 193 days.

Any request for reconsideration of this decision must be submitted within ONE MONTH of the mail date indicated herein. The time period for seeking reconsideration is not subject to extension under 37 CFR 1.136.

Receipt is hereby acknowledged of the required patent term adjustment application fee of $200.00. See, 37 CFR 1.18(e). As submission of the application fee of $200.00 is a prerequisite prior to review of any request for reconsideration of the patent term adjustment, the request for refund is hereby DISMISSED.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,514,212 B2
DATED	:	April 7, 2009
INVENTOR(S)	:	Prudent, 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 182 days

Delete the phrase "by 182 days" and insert – by 193 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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ERAGEN BIOSCIENCES, INC. C/O FOLEY & LARDNER LLP
P.O. BOX 1497
150 E. GILMAN STREET
MADISON WI 53701

MAILED

JUN 15 2010

OFFICE OF PETITIONS

In re Patent No. 7,514,212
Issued: April 7, 2009
Application No. 10/542,464
Filed or 371(c) date: June 28, 2006
Dkt. No.: 023542-0147

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the petition filed on January 7, 2010, which is being treated as a petition under 37 CFR 1.181 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 446 days.

The petition was filed within two months of a decision by the Office mailed on December 15, 2009 dismissing applicant request for reconsideration of PTA under 37 CFR 1.705(d).

The application for patent term adjustment is **GRANTED TO THE EXTENT INDICATED HEREIN.**

The calculation of delay pursuant to 37 CFR 1.702(b) is based on a national stage commencement date of July 18, 2005, not July 17, 2005. 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, July 18, 2005. Therefore, the patent term adjustment is 263 days, not 264 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days,** whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **445** days.

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,514,212 B2

DATED : **April 7, 2009** **DRAFT**

INVENTOR(S) : Prudent, 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 193 days

Delete the phrase "by 193 days" and insert – by 445 days--

09 AUG 2005

#3

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Bradley N. Ruben
Bradley N. Ruben PC
463 First Street, Suite 5A
Hoboken, NJ 07030-1859

In re Application of :
De Leon FIERRO, Rigoberto :
Application No.: 10/542,496 :
PCT No.: PCT/MX03/00004 :
Int. Filing Date: 22 January 2003 :
Priority Date: 23 January 2002 :
Attorney Docket No.: 157RF-001 :
For: MULTI-USE WALLS COMPRISING TONGUE-AND-GROVOVE TILES AND A METAL STRUCTURE WHICH IS INTENDED FOR . . .

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 14 July 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.

The declaration submitted on 19 July 2005 has been placed in the application folder. Deposit Account No. 50-2144 has been charged a $65.00 surcharge fee under 37 CFR 492(h) for supplying an oath or declaration later than 30 months from the earliest claimed priority date.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is **19 July 2005.**

Anthony Smith

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

Best Available Copy

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MAILED

JUL 02 2010

OFFICE OF PETITIONS

BRADLEY N. RUBEN
503 MITCHELL COURT
CHAMPAIGN IL 61821-3535

ON PETITION

In re Application of
Rigoberto De Leon Fierro
Application No. 10/542,496
Filed: July 19, 2005
Attorney Docket No. 157RF-001

This is a decision on the petition under 37 CFR 1.137(b), filed, May 23, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 10, 2008, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on October 11, 2008. A Notice of Abandonment was mailed February 17, 2009.

The amendment filed May 23, 2010, is noted.

The application is being forwarded to Technology Center 3600, GAU 3633 for further processing. Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

6/17/08

Patent No. :7358384
Inventor(s) : Morii et al.
Issued : 4/15/2008
Title : COMPOUNDS THAT MODULATE PPAR ACTIVITY AND METHODS OF PREPARATION
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals that col. 5 line 62 is printed in accordance with the record. Being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

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

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

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

T. Daniel Christenbury
DLA Piper US LLP
1650 Market Street Suite 4900
Philadelphia, PA 19103

HR/CBN

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

JUL 30 2008

OFFICE OF PETITIONS

Applicant: Werner Boltshauser
Appl. No.: 10/542,504
International Filing Date: May 1, 2006
Title: METHOD AND DEVICE FOR APPLYING A FILM PIECE TO A CAN BODY
Attorney Docket No.: 37960-000108/US
Pub. No.: 2006/0237118 A1
Pub. Date: October 26, 2006

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), received on February 21, 2007 and again 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 as the specification, drawings, and abstract were 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 request for corrected publication, received on February 21, 2007, was not timely filed under 37 CFR 1.221(b).

The patent application publication was published with the specification and drawings of another application. Due to the nature of the errors in this publication, the office will *sua sponte* publish a corrected patent application publication. The corrected patent application publication will be published in due course, unless the application is allowed and the patent issues before the application is republished.

---

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

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

It would greatly benefit the Office if **applicant did not provide copies of papers**, which were previously submitted and/or **a complete copy of the pre-grant 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
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____1____

DATE : 3/2/2010

TO SPE OF : ART UNIT 1644 (1600)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/542,508 Patent No.: 7,541,033

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Ernest C. White, LTE
Randolph Sq. Ste 9D62A
703-756-1590

Thank You For Your Assistance

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

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

SAM R. SHUKLA, PH.D.
SPE SUPERVISORY PATENT EXAMINER

ART UNIT __1644____

27 SEP 2005

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

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REED SMITH, LLP
P.O. BOX 488
PITTSBURGH, PA 15230-0488

REED SMITH
599 LEXINGTON AVENUE
NEW YORK, NY 10022-7650

In re Application of WEST et al. Application No.: 10/542,511 (10/542,263) PCT No.: PCT/AU04/00056 Int. Filing Date: 16 January 2004 Priority Date: 17 January 2003 Attorney Docket No.: 05-164-WO (JG-TOC-5212) For: COMPOUNDS HAVING ANTI-PROLIFERATIIVE PROPERTIES	DECISION on MERGING APPLICATION FILES

The above-identified application is before the PCT Legal Office for matters arising under 35 U.S.C. 371. This is also responsive to a 21 September 2005 communication received in the United States Patent and Trademark Office (USPTO) from New York counsel to withdraw the national stage application papers in favor of the national stage application papers filed by Pittsburgh counsel.

BACKGROUND

On 16 January 2005 , applicant filed international application No. PCT/AU04/00056, which claimed priority of an earlier international application filed 17 January 2003 and designating the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 05 August 2004. The deadline for entering the U.S. national stage to 30 months or as of midnight on 18 July 2005 (17 July 2005 was a Sunday).

On 15 July 2005, applicant filed, through the law firm of Reed Smith (New York, NY) a transmittal letter for entry into the national stage in the United States (Form PTO-1390) which was accompanied by, *inter alia*, the basic national filing fee and a copy of the international application PCT/AU03/00740. The submission, identifying PCT/AU04/00056, was assigned U.S. application number: 10/542,263.

On 18 July 2005, applicant, through the law firm of Reed Smith (Pittsburgh, PA), filed a second Transmittal Letter referencing PCT/AU04/00056 and requesting entry into the national stage in the United States. The communication was accompanied by, *inter alia*, authorization to charge fees to applicant's deposit account including the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and an executed declaration. These papers were assigned U.S. application number 10/542,511.

DISCUSSION

As is evident from the above recited facts, applicant submitted papers to enter the national stage for the same international application on 15 July 2005 and 18 July 2005. The end result for an international application designating the United States of America is a single U.S. national stage application. Therefore, assigning a second U.S. application number arising from PCT/AU04/00056 was improper.

Counsel for applicant in U.S. application no. 10/542,263 requested that the application be withdrawn in favor of the second application. Applicant is advised that there is no provision for the withdrawal of the national stage application, only for the withdrawal of the PCT international application under PCT Rule 90bis.1. The request for withdrawal is hereby DISMISSED. The papers assigned no. 10/542,263 will be merged with application file 10/542,511. Application no. 10/542,511 is considered the U.S. national stage application arising from PCT/AU04/00056.

CONCLUSION

The request for withdrawal of application 10/542,263 is hereby DISMISSED. U.S. application no. 10/542,511 is the national stage application arising from PCT/AU04/00056. The papers assigned application no. 10/542,263 will be retained in the application file no. 10/542,511.

Applicant is advised that all future communication regarding **PCT/AU04/00056** should reference U.S. serial no. **10/542,511**.

U.S. application 10/542,511 is being forwarded to the United States Designated/Elected Office for further processing in accord with this decision. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **18 July 2005.**

Cynthia M. Kratz

Cynthia M. Kratz
Attorney/Advisor
PCT Legal Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

JUN 13 2007

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P.O. Box 1450
Alexandria, VA 22313-1450
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REED SMITH LLP
P.O. BOX 488
PITTSBURGH PA 15230-0488

In re Application of	:
Simon M. West et al	:
Serial No.: 10/542,511	: PETITION TO MAKE SPECIAL
Filed: July 18, 2005	:
Attorney Docket No.: JG-TOC-5212	:

This is in response to applicants' petition filed July 29, 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

04 APR 2006

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patent Department
BAYER CROPSCIENCE LP
100 Bayer Road
Pittsburgh, PA 15205-9741

In re Application of: FISCHER, Reiner, et al.	:	
U.S. Application No.: 10/542,514	:	
PCT No.: PCT/EP04/00036	:	DECISION ON PAPERS
International Filing Date: 07 January 2004	:	SUBMITTED UNDER
Priority Date: 20 January 2003	:	37 CFR 1.42
Attorney's Docket No.: CS8562/BCS023008	:	
For: 2.4-DIHLAOGEN-6-(C2-C3-ALKYL)-PHENYL	:	
SUBSTITUTED TETRAMIC ACID	:	
DERIVATIVES	:	

This decision is issued in response to the 02 February 2006 submission of a declaration executed on behalf of deceased inventor Christoph EREDELEN by his heiress Angelika LUBOS-ERDELEN, treated herein as a submission under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 18 July 2005, applicants filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. The Transmittal Letter was accompanied by, among other materials, payment of the basic national fee and a translation of the international application into English.

On 02 February 2006, applicants filed a declaration executed by the surviving inventors and on behalf of the deceased inventor by his heiress. The submission also authorized a charge to Deposit Account No. 50-2510 for the $130 surcharge for filing the declaration later than thirty days after the priority date, and it was accompanied by a copy of a certificate of inheritance (with English translation).

On 17 February 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date.

On 13 March 2006, applicants resubmitted the materials originally filed 02 February 2006.

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."

Section 409.01(a) of the Manual of Patent Examining Procedure (MPEP) states that the application can also be executed by all of the heirs of the deceased inventor, where no legal representative has been appointed or is required to be appointed by law.

37 CFR 1.497(b)(2) states 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.

The declaration submitted on 02 February 2006 identifies the deceased inventor and states the inventor's country of citizenship and residence, as required for compliance with 37 CFR 1.497(a)(3). The declaration indicates the relationship to the deceased (i.e., "heiress") and provides the legal representative's country of citizenship and residency. Accordingly, the declaration complies with the requirements of 37 CFR 1.497(b)(2).

In addition, applicants have provided a certificate of inheritance indicating that Angelika LUBOS-ERDELEN is the sole heir of the deceased inventor.

The submission of the declaration executed by the sole heir of the deceased inventor is hereby construed as an indication that no legal representative of the deceased's estate has been appointed and that no legal representative is required by applicable law to be appointed. If this interpretation is incorrect, applicant is required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to this decision.

CONCLUSION

Applicants' request for status under 37 CFR 1.42 with respect to deceased inventor Christoph ERDELEN is **GRANTED**.

Deposit Account No. 50-2510 will be charged the $130 surcharge for filing the declaration later than thirty months after the priority date.

The Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 17 February 2006, based as it was on applicants' purported failure to file a declaration under 37 CFR 1.497 and the required surcharge, is 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. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 02 February 2006.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 29, 2009

TO SPE OF : ART UNIT 1638 - (Examiner Russell Kallis/Brent T. Page

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/542,516 Patent No.: 7,563,944 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: _____

RAM R. SHUKLA, PH.D.
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.: 7563944

DATED: December 10, 2009

INVENTOR(S): Heim, Ute, Herbers, Karin, Sonnewald, Uwe, Glickmann, Eric

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

The corrections are attached

/BRENT PAGE/
Examiner.Art Unit 1638

/Anne Marie Grunberg/
Supervisory Patent Examiner.Art Unit 1638

Docket No.: 13173-00015-US
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Ute Heim et al.

Application No.: 10/542,516

Confirmation No.: 5416

Filed: July 18, 2005

Art Unit: 1638

For: EXPRESSION CASSETTE FOR NUCLEIC ACIDS IN PLANT TISSUE CONTAINING STARCH

Examiner: Brent T. Page

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 Sir:

Upon reviewing the above-identified patent, Patentee noted typographical errors which should be corrected.

On Page 2:

Other Publications, column 1, line 16, "Deikman, Jim, et al., "Interaction of a DNA Binding Factor with 5'-" should read -- Deikman, Jill, et al., "Interaction of a DNA Binding Factor with 5'- --

In the Claims:

In Claim 4, in column 171, on line 23, "cassette having specificity for at least one-starch-comprising" should read -- cassette having specificity for at least one starch-comprising --.

In Claim 7, in column 171, on line 54, "nucleic acid sequence according to claim **5**." should read -- nucleic acid sequence according to claim **3**. --.

In Claim 16, in column 172, on line 32, "**5**, an expression cassette comprising the nucleic acid, or a" should read -- **3**, an expression cassette comprising the nucleic acid, or a --.

In Claim 18, in column 172, on line 50, "**18**. The isolated nucleic acid of claim **5**, wherein the iso-" should read -- **18**. The isolated nucleic acid of claim **3**, wherein the iso- --.

In Claim 24, in column 174, on lines 7 and 8, " **24**. The method of claim **2**, wherein the isolated nucleic acid sequence comprises a nucleic acid sequence having at" should read -- **24**. The method of claim **2**, wherein the promoter sequence comprises a nucleic acid sequence having at --.

In Claim 24, in column 174, on line 10, "1 or 44 which directs trans genie expression of a nucleic acid" should read -- 1 or 44 which directs transgenic expression of a nucleic acid --.

In Claim 25, in column 174, on lines 12 and 13, "**25**. The method of claim **19**, wherein the isolated nucleic acid sequence comprises a nucleic acid sequence having at" should read -- **25**. The method of claim **19**, wherein the promoter sequence comprises a nucleic acid sequence having at --.

The errors in claims 7, 16, 18, and 24 (line 10) are printer errors (see claims in the amendment filed December 19, 2008). The errors were not in the application as filed by Applicants.

The errors on Page 2 and in claims 4, 24 (lines 7 and 8), and 25 are inadvertent typographical errors the correction of which does not involve new matter or require reexamination.

Transmitted herewith is a proposed Certificate of Correction effecting such amendments. Patentee respectfully solicits the granting of the requested Certificate of Correction.

No fee is believed due. However, if a fee is due, the Director is hereby authorized to charge our Deposit Account No. 03-2775, under Order No. 13173-00015-US from which the undersigned is authorized to draw.

Respectfully submitted,

By Roberte Makowski

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Attorney for Patentee

/13714

PTO/SB/44 (09-07)
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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,563,944
APPLICATION NO.	:	10/542,516
ISSUE DATE	:	July 21, 2009
INVENTOR(S)	:	Ute Heim

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:

On Page 2:

Other Publications, column 1, line 16, "Deikman, Jim, et al., "Interaction of a DNA Binding Factor with 5'-" should read -- Deikman, Jill, et al., "Interaction of a DNA Binding Factor with 5'- --

In the Claims:

In Claim 4, in column 171, on line 23, "cassette having specificity for at least one-starch-comprising" should read -- cassette having specificity for at least one starch-comprising --.

In Claim 7, in column 171, on line 54, "nucleic acid sequence according to claim **5**." should read -- nucleic acid sequence according to claim **3**. --.

In Claim 16, in column 172, on line 32, "**5**, an expression cassette comprising the nucleic acid, or a" should read -- **3**, an expression cassette comprising the nucleic acid, or a --.

In Claim 18, in column 172, on line 50, "**18**. The isolated nucleic acid of claim **5**, wherein the iso-" should read -- **18**. The isolated nucleic acid of claim **3**, wherein the iso- --.

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PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,563,944
APPLICATION NO.	:	10/542,516
ISSUE DATE	:	July 21, 2009
INVENTOR(S)	:	Ute Heim

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 Claim 24, in column 174, on lines 7 and 8, " **24**. The method of claim **2**, wherein the isolated nucleic acid sequence comprises a nucleic acid sequence having at" should read -- **24**. The method of claim **2**, wherein the promoter sequence comprises a nucleic acid sequence having at --.

In Claim 24, in column 174, on line 10, "1 or 44 which directs trans genic expression of a nucleic acid" should read -- 1 or 44 which directs transgenic expression of a nucleic acid --.

In Claim 25, in column 174, on lines 12 and 13, "**25**. The method of claim **19**, wherein the isolated nucleic acid sequence comprises a nucleic acid sequence having at" should read -- **25**. The method of claim **19**, wherein the promoter sequence comprises a nucleic acid sequence having at --.

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25 OCT 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

HAHN LOESER & PARKS LLP
ONE GOJO PLAZA
SUITE 300
AKRON, OH 44311

In re Application of: KUMAR, Rajendra U.S. Application No.: 10/542,539 PCT No.: PCT/US2003/025577 International Filing Date: 14 August 2003 Priority Date: 15 August 2002 Attorney's Docket No.:117210.00045 For: PORTABLE DATA ENTRY DEVICE WITH A DETACHABLE HOST PDA	DECISION ON PETITION FOR REVIVAL OF ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

The petition for revival under 37 CFR 1.137(b) filed 18 July 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.

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

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

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HAHN LOESER & PARKS, LLP
ONE GOJO PLAZA
SUITE 300
AKRON OH 44311-1076

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OFFICE OF PETITIONS

In re Application of

KUMAR, Rajendra
Application No. 10/542,539
Filed: December 29, 2005
Attorney Docket No. **117210.00045**

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 13, 2007.

The request is **APPROVED**.

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

The request was signed by Scott Oldham on behalf of all attorneys of record who are associated. All attorneys/agents associated with the have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed October 22, 2007 that requires a reply from 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: **RAJENDRA KUMAR**
712 STONECLIFF DRIVE
AKRON, OH 44313

cc: **HAHN LOESER & PARKS LLP**
ONE GOJO PLAZA
SUITE 300
AKRON, OH 44311

13 OCT 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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Martin Moynihan
c/o Anthony Castorina
Suite 207
2001 Jefferson Davis Highway
Arlington, VA 22202

In re Application of	:	
WEISSMAN, Yitzhak	:	
Serial No.: 10/542,552	:	
PCT No.: PCT/IL03/00291	:	
Int. Filing Date: 07 April 2003	:	DECISION ON PETITION
Priority Date: 21 January 2003	:	
Atty. Docket No.: 29811	:	
For: STEREOSCOPIC DISPLAY	:	
APPARATUS PARTICULARLY	:	
USEFUL WITH LCD PROJECTORS	:	

This decision is in response to applicants' "Petition to Revive an Unintentionally Abandoned Application under 37 CFR 1.137(b)" filed on 28 September 2005.

BACKGROUND

On 07 April 2003, applicant filed international application no. PCT/IL03/00291 which claimed a priority date of 21 January 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 23 October 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, or at midnight on 21 July 2005.

On 18 July 2005, applicants filed a Transmittal Letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, *among others*, an authorization to charge the basic national fee to Deposit Account no. 50-1407; a copy of the international application; and a preliminary amendment.

On 23 September 2005, applicant filed a Petition to Revive an Unintentionally Abandoned Application under 37 CFR 1.137(b).

DISCUSSION

A review of the application file and present petition reveals that on 18 July 2005, applicant filed a transmittal letter for entry into the national stage in the United States and authorized the PTO to charge Deposit Account no. 50-1407 the appropriate basic national fee. However, at the time of processing the PTO was unable to deduct the full basic national fee from the Deposit Account due to insufficient funds. Applicant has filed the present petition under 37 CFR 1.137(b).

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

With regard to Item (1), the proper response was the payment of the basic national fee of $150.00.

As to Item (2), the appropriate petition fee of $750.00 as required by 37 CFR 1.17(m) has been submitted.

With regard to Item (3), applicant's statement that "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" complies with 37 CFR 1.137(b)(3).

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

CONCLUSION

Therefore, the petition under 37 CFR 1.137(b) is **GRANTED**.

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

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

23 MAR 2006

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD, FL 33022-2480

In re Application of:	:	
SABO, Oto	:	DECISION ON PETITION
Application No.: 10/542,563	:	
PCT No.: PCT/AT03/00393	:	
Int. Filing Date: 30 December 2003	:	
Priority Date: 17 January 2003	:	
Attorney Docket No.: WBW-13107	:	
For: METHOD FOR INITIALIZING A GAME, AND	:	
A GAMING MACHINE	:	

This decision is issued in response to applicant's "Petition Under 37 CFR 1.10(c)" filed 16 November 2005. No petition fee is required.

BACKGROUND

On 30 December 2003, applicant filed international application PCT/AT03/00393. The international application claimed a priority date of 17 January 2003 and designated the United States. On 05 August 2004, the International Bureau (IB) forwarded 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., 18 July 2005 (17 July 2005 was a Sunday).

On 18 July 2005, applicant filed a transmittal letter for entry into the national stage accompanied by, among other materials, payment of the basic national fee and a translation of the international application into English.

On 01 November 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date.

On 16 November 2005, applicant filed the petition considered herein. The petition seeks confirmation of the filing of the national stage materials on 18 July 2005 and requests that these materials be accorded a filing date of 18 July 2005.

On 01 December 2005, applicant filed 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.

DISCUSSION

The original materials filed by applicant on 18 July 2005, including the basic national fee payment, have been received by the USPTO, assigned the present application number (10/542,563), and accorded the filing date of 18 July 2005. Applicant's petition under 37 CFR 1.10(c) is therefore moot.

CONCLUSION

Applicant's petition under 37 CFR 1.10(c) is **DISMISSED AS MOOT**.

The materials filed to initiate this national stage application, including the payment of the basic national fee and the English translation of the international application, have been received by the USPTO and accorded a filing date of 18 July 2005.

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 01 December 2005 (the date of submission of the executed declaration).

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ELI LILLY & COMPANY
PATENT DIVISION
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OFFICE OF PETITIONS

In re Application of	:	
Conner, et al.	:	
Application No. 10/542579	:	ON REQUEST FOR
Filing or 371(c) Date: 07/15/2005	:	RECONSIDERATION OF
Attorney Docket No.	:	PATENT TERM ADJUSTMENT
X16180	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 CFR 1.705), filed September 22, 2009. Applicants petition for reconsideration of the patent term adjustment calculation to 1031 days, not 717 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. The request for reconsideration is properly treated under 37 CFR 1.705(b).

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

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

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is

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

The required patent term adjustment application fee under 37 CFR 1.705(b) of $200.00 has been charged to applicants' deposit account, as authorized. See, 37 CFR 1.18(e).

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

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

Telephone inquiries specific to this decision should be directed to Attorney Derek Woods at (571) 272-3232.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[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.

30 MAR 2006

#5

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24498
THOMSON LICENSING INC.
Patent Operations
P.O. Box 5312
Princeton, NJ 08543-5312

In re Application of :
HÜTTER, Ingo :
U.S. Application No.: 10/542,585 :
PCT No.: PCT/EP03/14931 :
Int. Filing Date: 29 December 2003 : **DECISION**
Priority Date: 23 January 2003 :
Attorney's Docket No.: PD030010 :
For: UPDATING PARAMETERS IN A :
BRIDGED MULTISTANDARD HOME :
NETWORK :

This is a decision on the request to add an inventor in the above-captioned application filed 06 January 2006 which is treated under 37 CFR 1.497(d).

BACKGROUND

On 17 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 of $130.00 was required. Applicants were given two months to respond with extensions of time available.

On 05 January 2006, applicant filed the subject petition which was accompanied by, *inter alia*, the surcharge fee and a declaration listing two inventors. The underlying international application records only one inventor.

DISCUSSION

Applicant requests to add Michael Weber 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.

The processing fee of $130.00 was charged to Deposit Account No. 07-0832 as authorized. However, applicant failed to provide the requisite statement from Michael Weber. The statement by counsel regarding the omission is not sufficient. Moreover, applicant has not provided the written consent of the assignee.

Therefore, all the requirements of 37 CFR 1.497(d) are not complete.

CONCLUSION

For the reason discussed above, applicant's 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. Applicants must address items (1) and (3) of 37 CFR 1.497(d) with any response. Extensions of time may be obtained under 37 CFR 1.136(a).

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

#7

UNITED STATES PATENT AND TRADEMARK OFFICE

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23 AUG 2006

24498
THOMSON LICENSING INC.
Patent Operations
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Princeton, NJ 08543-5312

In re Application of :
HÜTTER, Ingo :
U.S. Application No.: 10/542,585 :
PCT No.: PCT/EP03/14931 :
Int. Filing Date: 29 December 2003 : **DECISION**
Priority Date: 23 January 2003 :
Attorney's Docket No.: PD030010 :
For: UPDATING PARAMETERS IN A :
BRIDGED MULTISTANDARD HOME :
NETWORK :

This is a decision on the renewed request to add an inventor in the above-captioned application filed 08 May 2006 which is treated under 37 CFR 1.497(d).

BACKGROUND

On 30 March 2006, a decision dismissing applicants' petition under 37 CFR 1.497(d) was mailed. Applicants were given two months to respond.

On 08 May 2006, applicants filed the renewed petition.

DISCUSSION

As previously indicated, 37 CFR 1.497(d) applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)). 37 CFR 1.497(d) states, in part:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or a change to the inventive entity has been effected under PCT Rule 92 *bis* subsequent to the execution of any declaration which was filed under PCT Rule 4.17(iv), the oath or declaration must be accompanied by:
>
> > (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without

deceptive intention on his or her part;

(2) The processing fee set forth in § 1.17(i); and

(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

Applicants failed to complete items (1) and (3) of 37 CFR 1.497(d) in the initial petition filed 05 January 2006.

In the renewed petition, applicants submitted a statement from Michael Weber who declares that the error in inventorship in the international application occurred without deceptive intention on his part. Item (1) of 37 CFR 1.497(d) is now complete.

Regarding item (3), applicants submitted a copy of an assignment to Thomson Licensing signed by both inventors. Applicants assert in the petition that the copy of the assignment is "proof of written consent of the assignees." This is not sufficient. The assignee must provide actual written consent of the addition of the inventor, Michael Weber. Moreover, the person granting the consent for the assignee must have the authority to sign for the organization. *See* MPEP § 324.

Therefore, all the requirements of 37 CFR 1.497(d) are not 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

James Thomson
Attorney Advisor

Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

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3 1 JAN 2008

24498
THOMSON LICENSING INC.
Patent Operations
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Princeton, NJ 08543-5312

In re Application of HÜTTER, Ingo U.S. Application No.: 10/542,585 PCT No.: PCT/EP03/14931 Int. Filing Date: 29 December 2003 Priority Date: 23 January 2003 Attorney's Docket No.: PD030010 For: UPDATING PARAMETERS IN A BRIDGED MULTISTANDARD HOME NETWORK	:	**DECISION**

This is a decision on the second renewed request to add an inventor in the above-captioned application filed 29 January 2007.

BACKGROUND

On 23 August 2006, a decision dismissing applicants' petition under 37 CFR 1.497(d) was mailed. Applicants failed to satisfy item (3) of 37 CFR 1.497(d). Applicants were given two months to respond.

On 29 January 2007, applicants filed the renewed petition which was accompanied by, *inter alia*, a four-month extension and a document titled "Consent of Assignee."

DISCUSSION

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 submitted a copy of an assignment to Thomson Licensing signed by both inventors in the prior petition. However, applicants failed to provide actual written consent of the assignee. It was also noted that the person granting the consent for the assignee must have the authority to sign for the organization.

In the renewed petition, applicants submitted a "Consent of Assignee." signed by counsel, Catherine A. Ferguson. However, an attorney is not presumed to have authority to sign for a corporation unless the attorney asserts that she has the authority to sign for the corporation. As such, the consent of the assignee cannot be accepted. *See* MPEP § 324[1].

For this reason, item (3) of 37 CFR 1.497(d) is still not satisfied.

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

---

[1] MPEP § 324 states, in part that "[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). . . 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).

Legal Administration.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

0 1 MAY 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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24498
THOMSON LICENSING INC.
Patent Operations
P.O. Box 5312
Princeton, NJ 08543-5312

In re Application of HÜTTER, Ingo U.S. Application No.: 10/542,585 PCT No.: PCT/EP03/14931 Int. Filing Date: 29 December 2003 Priority Date: 23 January 2003 Attorney's Docket No.: PD030010 For: UPDATING PARAMETERS IN A BRIDGED MULTISTANDARD HOME NETWORK	:	**DECISION**

This is a decision on the third renewed request to add an inventor in the above-captioned application filed 21 February 2008.

BACKGROUND

On 31 January 2008, a decision dismissing applicants' petition under 37 CFR 1.497(d) was mailed. Applicants failed to satisfy item (3) of 37 CFR 1.497(d). Applicants were given two months to respond.

On 21 February 2008, applicants filed the renewed petition which was accompanied by, *inter alia*, another "Consent of Assignee."

DISCUSSION

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).

In the prior decision, item (3) was not satisfied as the attorney granting the consent for the assignee did not assert that she has the authority to sign for the corporation. In the renewed petition, applicants have cured this defect as the attorney has now asserted that she has the authority to sign for the assignee. Item (3) of 37 CFR 1.497(d) is now satisfied.

All items of 37 CFR 1.497(d) are now complete.

CONCLUSION

Applicants' request under 37 CFR 1.497(d) to add an inventor is **GRANTED**.

The declaration filed 06 January 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 29 December 2003, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 06 January 2006.

This application is being forwarded to the DO/EO/US for further processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

28 OCT 2005

#3

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Martin Moynihan
C/O ANTHONY CASTORINA
SUITE 207
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VIRGINIA 22202

In re Application of	:	DECISION ON
Cohen et al.	:	
Application No.: 10/542,591	:	
PCT No.: PCT/IL2004/000044	:	
Int. Filing Date: 15 January 2004	:	PETITION
Priority Date: 17 January 2003	:	
Attorney's Docket No.: 30070	:	
For: REACTIVE ANIMATION	:	UNDER 37 CFR 1.137(b)

This decision is in response to applicants' "PETITION TO REVIVE AN UNINTENTIONALLY ABANDONED APPLICATION UNDER 37 CFR 1.137(b)," filed on 28 September 2005.

BACKGROUND

On 15 January 2004, this international application was filed. A copy of the intentional application was transmitted on 5 August 2004 to the USPTO from the International Bureau.

The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 18 July 2005, since July 17, 2005 fell on a Sunday. However, when the office attempted to charge Deposit Account 501407 on 22 July 2005, there were insufficient funds to cover the basic filing fee. Accordingly, the international application became abandoned with respect to the United States for failure to pay the required basic national fee.

On 28 September 2005, applicants filed the instant petition under 37 CFR 1.137(b), which was accompanied by the petition fee.

DISCUSSION

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

terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by authorizing on 28 September 2005 to recharge the deposit account and having sufficient funds in the deposit account for the basic national 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.

Applicants, however, have submitted a composite declaration that is defective because 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 three sets of declarations, and only one set is complete because it has the complete number of sheets – 3 (three). Each declaration must contain the names of all the inventors on it and all sheets and not as here in which two sets were incomplete because only page 3 has been provided. The signatures of the inventors may be on separate declarations but each declaration must list all the inventors and have all the require sheets, which is three (3). Therefore the composite Declaration is defective.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Slater & Matsil, L.L.P.
17950 Preston Road, Suite 1000
Dallas, TX 75252

Mail Date: 04/26/2010

Applicant	: Bin Li	: DECISION ON REQUEST FOR
Patent Number	: 7636781	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/542,593	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **141** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 400
MCLEAN VA 22102

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SEP 17 2007

OFFICE OF PETITIONS

In re Application of

TAKEDA, et al.
Application No. 10/542,594
Filed: April 5, 2006
Attorney Docket No. 360842011900

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 **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 Barry Bretschneider 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 assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: TORAY INDUSTRIES, INC.
1-1 NIHONBASHI-MUROMACHI 2-CHOME, CHUO-KU
TOKYO, JAPAN 103-8666

cc: DARBY & DARBY PC
1500 K STREET NW, SUITE 250
WASHINGTON, DC 20005-1714

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DARBY & DARBY P.C.
P.O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770

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JUL 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Takeda et al.	:	
Application No. 10/542,594	:	DECISION ON PETITION
Filed: April 5, 2006	:	
Attorney Docket No. 21089/0207150-US0	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 27, 2009, to revive the above-identified application.

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 23, 2009, as required by the Notice of Allowance and Fee(s) Due mailed December 22, 2008. A Notice of Abandonment was mailed April 16, 2009.

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of 300, (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

Since Raj S. Dave is not the current attorney of record, the Change of Correspondence Address, filed April 27, 2009, cannot be accepted.

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

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: RAJ S. DAVE
PILLSBURY WINTHROP SHAW PITTMAN LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 10500
MCLEAN, VA 22102

UNITED STATES PATENT AND TRADEMARK OFFICE

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BERESKIN AND PARR
40 KING STREET WEST
BOX 401
TORONTO, ON M5H3Y2

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Applicant: Berger
Appl. No.: 10/542,602
International Filing Date: May 24, 2006
Title: PHARMACEUTICAL COMPOSITIONS AND METHODS FOR TREATING MULTIDRUG RESISTANT CANCER
Attorney Docket: 10723-107
Pub. No.: US 2006/0252714 A1
Pub. Date: November 9, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on September 7, 2007, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains several errors and the preliminary amendment 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 request for corrected publication received on September 7, 2007, was not timely filed under 37 CFR 1.221(b).

Even if the petition had been timely received, the request would have been moot as the application is now abandoned. Further, the error noted by requestor with respect to the preliminary amendment is <u>not</u> an Office error. The patent application publication does not

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

include a mistake regarding the failure to include the preliminary 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 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).

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

Applicants' request for a corrected patent application publication on September 7, 2007, 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.

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

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

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

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

By facsimile: 571-273-8300

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALBIHNS STOCKHOLM AB
BOX 5581, LINNEGATAN 2
SE-114 85 STOCKHOLM; SWEDENn
STOCKHOLM SE SWEDEN

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OCT 18 2006

OFFICE OF PETITIONS

In re Application of

AASTRUP, et al.
Application No. 10/542,616
Filed: July 18, 2005
Attorney Docket No. 70407-79785

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, 2006.

The request is **NOT APPROVED**.

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

The request to withdraw less than all attorneys appointed by customer number 26288 cannot be approved. The addition and/or deletion of a practitioner from the list of practitioners associated with a Customer Number should be made by submitting a "Request for Customer Number Data Change" (PTO/SB/124) which will result in the addition or deletion of such practitioner from the list of persons authorized to represent any applicant or assignee of the entire interest who appointed all of the practitioners associated with such Customer Number. See MPEP 403 Section I. Customer Number Practice. The correspondence address of record remains unchanged.

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

David Bucci
Petitions Examiner
Office of Petitions

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Olivia Tolan
British American Tobacco
R & D Centre
Patents Department
Regents Park Road, Mailbrook
Southhampton, SO15-8TL

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OFFICE OF PETITIONS

In re Application of	:	
FORSLUND	:	
Application No. 10/542,617	:	DECISION ON PETITION
Filed: December 28, 2005	:	TO WITHDRAW
Attorney Docket No. 69258-79593	:	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.

for David Bucci
Petitions Examiner
Office of Petitions

cc: **Albihns Stockholm AB**
Box 5581, Linnegatan 2
SE-114 85 Stockholm; SWEDENn
Stockholm, Sweden

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OFFICE OF PETITIONS

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

In re Application of	:	
Mikael Forslund	:	
Application No.: 10/542,617	:	ON PETITION
Filed: December 28, 2005	:	
Attorney Docket No.: 1876.137US1	:	

This is a decision on the petition, filed May 4, 2009, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1797 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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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/30/2010

Applicant	: Mikael Forslund	: DECISION ON REQUEST FOR
Patent Number	: 7621989	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/542,617	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/28/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **795** 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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Alex Porat
Magna International Inc.
337 Magna Drive
Aurora, ON L4G 7K1
CANADA

Mail Date: 04/21/2010

Applicant	: John Antchak	: DECISION ON REQUEST FOR
Patent Number	: 7591357	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/542,625	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **60** 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.

2 0 MAY 2008

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OLIFF & BERRIDGE, PLC
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ALEXANDRIA VA 22320-4850

In re Application of	:	
Kaneko	:	
Application No.: 10/542,626	:	
PCT No.: PCT/JP03/13834	:	
Int. Filing Date: 29 October 2003	:	DECISION
Priority Date: 26 February 2003	:	
Attorney Docket No.: 124775	:	
For: Flow Soldering Apparatus	:	

This is in response to the "Request For Correction of PALM Records" filed on 21 June 2006, 19 December 2006 and 16 May 2007, as well as the Status Request filed on 18 July 2007.

BACKGROUND

This international application was filed on 29 October 2003, claimed an earliest priority date of 26 February 2003, and designated the United States. The International Bureau transmitted a copy of the published international application to the USPTO on 10 September 2004. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 26 August 2005. On 18 July 2005, applicants filed *inter alia* the basic national fee.

On 16 November 2005, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(h).

On 12 January 2006, applicants filed a response, including a copy of the declaration.

On 17 May 2006, a Notice of Acceptance (Form PCT/DO/EO/903) was mailed, indicating that the date of this application with respect to 35 U.S.C. 371(c)(1), (2) and (4) was "01/12/2006."

DISCUSSION

Petitioner indicates that the "FILING OR 371(c) DATE" shown on the filing receipt is incorrect in view of the alleged earlier filing of a declaration on 24 August 2005, and also that the "DRAWINGS" number shown is incorrect.

Review of the application file shows that the declaration filed on 24 August 2005 is present, and that it complies with 37 CFR 1.497(a) and (b). Therefore, both the Notification of Missing Requirements mailed on 16 November 2005 and the Notice of Acceptance mailed on 17 May 2006 were issued in error, and both are hereby **VACATED**.

Further review of the application file reveals that 7 sheets of drawings were included in the English translation of the international application filed on 18 July 2005.

DECISION

The request is **GRANTED** to the extent noted above.

This application is being returned to the Office of Patent Application Processing for further processing, including the issuance of a new Notice of Acceptance (Form PCT/DO/EO/903) and a new Filing Receipt, showing a date under 35 U.S.C. 371(c)(1), (2) and (4) of **24 August 2005**, as well as showing – 7 – sheets of "DRAWINGS" on the Filing Receipt.

/George Dombroske/
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2 8 APR 2008

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FITZPATRICK CELLA HARPER & SCINTO
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NEW YORK NY 10112

In re Application of	:	
YASUFUMI ASAO	:	
Application No.: 10/542,631	:	DECISION ON
PCT No.: PCT/JP04/009285	:	
Int. Filing Date: 24 June 2004	:	PETITION
Priority Date: 09 July 2003	:	
Attorney's Docket No.: 03500.018240	:	UNDER 37 CFR 1.181
For: ECB-TYPE COLOUR...	:	
DEPENDENCY OF COLOUR TONE	:	

This decision is in response to the "PETITION UNDER 37 CFR 1.181 TO CORRECT ERRONEOUS NOTIFICATION OF ACCEPTANCE," filed on 03 April 2008, which is being treated as a petition under 37 CFR 1.181 requesting that the 371(c)(1), (c)(2), and (c)(4) date of the above application be corrected to July 19, 2005.

BACKGROUND

On 19 July 2005, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), and a copy of the international application. Applicant also allegedly filed an executed declaration on such date.

On 30 November 2007, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a), and (b), identifying the application by International application number and international filing date" must be submitted within two months from date of mailing or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 08 January 2008, applicant filed another copy of the executed declaration allegedly filed on 19 July 2005.

On 01 February 2008, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495" which informed applicants that the 371(c)(1), (c)(2) and (c)(4) and that the date of completion of all 35 U.S.C. 371 is 08 January 2008.

On 03 April 2008, applicant submitted the present petition.

DISCUSSION

The postcard lists the items submitted on 19 July 2005, and it indicates that, inter alia, an Executed Declaration was submitted to the U.S. Patent Office on such date.

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 by the PTO.

Applicant's postcard is accepted as *prima facie* that, inter alia, that the Executed Declaration **was** submitted to the U.S. Patent Office on 19 July 2005.

Accordingly, this is the date that all of the requirements under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) have been satisfied.

DECISION

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

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 01 February 2008 is **VACATED** with the mailing of this decision.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **19 July 2005.**

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21 JUL 2006

Intellectual Property Law Department
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In re Application of:	:	
CRASTER, Bernadette, et al.	:	DECISION ON PETITION UNDER
U.S. Application No.: 10/542,654	:	37 CFR 1.47(a)
PCT No.: PCT/GB2004/000575	:	
Int'l Filing Date: 20 February 2004	:	
Priority Date: 20 February 2003	:	
Atty Docket No.: 57.0513 US PCT	:	
For: SYSTEM AND METHOD FOR	:	
MAINTAINING ZONAL ISOLATION	:	
IN A WELLBORE	:	

This decision is issued in response to applicants' petition under 37 CFR 1.47(a) filed 05 May 2006. Applicants have submitted the required $200 petition fee.

BACKGROUND

On 20 February 2004, applicants filed international application PCT/GB2004/000575. The international application claimed a priority date of 20 February 2003, and it designated the United States. On 02 September 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., 20 August 2005.

On 19 July 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 02 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) requiring submission of an oath or declaration in compliance with 37 CFR 1.497.

On 05 May 2006, applicants filed a response to the Notification Of Missing Requirements which included a declaration executed by seven of the eight 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, Roger CARD, 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 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, and the petition expressly states the last known address of the non-signing 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 what appears to be a partial declaration executed by seven of the eight named inventors. The declaration indicates that it is a nine-page document; however, only eight pages have been submitted, and these eight pages do not identify Roger Card as an inventor and do not include an unsigned signature block for Dr. CARD.[1] The declaration as filed is therefore unacceptable with respect to all the inventors, as it fails to identify all the inventors herein. Item (3) is therefore not satisfied.

Regarding item (4), the petition appears to assert that the non-signing 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 <u>not</u> 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

[1] The missing page ("Page 3 of 9") might have been the unsigned signature page for the non-signing inventor, but this cannot be confirmed without applicants' submission of a copy of the complete declaration executed by the cooperating inventors.

> 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 not provided the required statement from a person with firsthand knowledge of the attempts made to locate the inventor (a document that lists some such efforts has been provided, but it is not accompanied by a confirming statement from the person(s) who actually undertook these actions, as required). Applicants must supplement the present submission with the required firsthand statement(s) confirming the actions taken to locate the non-signing inventor. As discussed in the MPEP section quoted above, such statements should be accompanied by available documentary support (i.e., a copy of the results of the internet searches conducted, copies of the letters and facsimile directed to the inventor, a copy of the returned envelopes confirming that the inventor's address is no longer current, etc.). Until such materials are provided, item (4) is not considered satisfied.[2]

CONCLUSION

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

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)" and must include the materials required to satisfy items (3) and (4) of a grantable petition, as discussed above, that is: (1) a complete and acceptable declaration in compliance with 37 CFR 1.497 that is executed by each of the co-operating inventors and includes an unsigned signature block for the non-signing inventor, and (2) the firsthand and documentary evidence required to demonstrate that a diligent effort has been made to locate a current address for the non-signing inventor and obtain his signature at such address.

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

---

[2] It is noted that the petition also includes a "Confidential Information Agreement" relating to the non-signing inventor's obligations towards the assignee with respect to the invention. However, any such obligations are irrelevant with respect to the inquiry here, that is, whether the inventor has refused to execute the application or cannot be located after diligent effort.

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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0 5 MAR 2007

Intellectual Property Law Department
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In re Application of: CRASTER, Bernadette, et al. U.S. Application No.: 10/542,654 PCT No.: PCT/GB2004/000575 Int'l Filing Date: 20 February 2004 Priority Date: 20 February 2003 Atty Docket No.: 57.0513 US PCT For: SYSTEM AND METHOD FOR MAINTAINING ZONAL ISOLATION IN A WELLBORE	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

This decision is issued in response to applicants' renewed petition under 37 CFR 1.47(a) filed 25 September 2006. No petition fee is required.

BACKGROUND

The procedural background for this application was set forth in the decision mailed on 21 July 2006. That decision dismissed applicant's petition without prejudice for failure to satisfy all the requirements for a grantable petition. Specifically, applicants had failed to provide: (1) a copy of the complete declaration executed by the co-operating inventors, and (2) an adequate showing that the non-signing inventor can not be located after diligent effort.

On 25 September 2006, applicants filed the renewed petition considered herein.

DISCUSSION

The renewed petition includes the complete nine page declaration executed by the seven co-operating inventors and including an unsigned signature block for the non-signing inventor, Roger CARD. This declaration may be treated as having been executed by the co-operating inventors on their own behalf and on behalf of the non-signing inventor. Accordingly, applicants have now satisfied the declaration requirement for a grantable petition.

The final requirement is an acceptable showing that the non-signing inventor has refused to execute the declaration or cannot be located after diligent effort. The renewed petition provides two firsthand statements, with supporting evidence, confirming that mailings to the last known address in 2005 were returned, and that no response was received to a facsimile sent to a facsimile number identified in an August 2005 internet search. The materials provided are

proper evidence of these actions. However, the actions described are not sufficient to show a diligent effort to locate the non-signing inventor. Applicants have provided no showing that any efforts have been made to locate the inventor in the year between the actions described in the petition and the September 2006 filing of the renewed petition. Applicants must provide the required evidence of a more recent search for the inventor's current address (i.e., a new internet search, etc.) before it can be concluded that the inventor cannot be located after diligent effort.

Based on the above, applicants have not, on the present record, satisfied the final requirement of a grantable petition.

CONCLUSION

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

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)" and must include the firsthand and documentary evidence required to demonstrate that a diligent effort has been made to locate a current address for the non-signing inventor and obtain his signature at such address.

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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2 6 SEP 2007

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In re Application of: CRASTER, Bernadette, et al. U.S. Application No.: 10/542,654 PCT No.: PCT/GB2004/000575 Int'l Filing Date: 20 February 2004 Priority Date: 20 February 2003 Atty Docket No.: 57.0513 US PCT For: SYSTEM AND METHOD FOR MAINTAINING ZONAL ISOLATION IN A WELLBORE	DECISION ON SECOND RENEWED PETITION UNDER 37 CFR 1.47(a)

In a decision mailed by this Office on 05 March 2007, applicants' renewed petition under 37 CFR 1.47(a) for acceptance of the application without the signature of co-applicant Roger CARD was dismissed without prejudice for failure to satisfy the requirements of a grantable petition.

On 05 June 2007, applicants filed the second renewed petition considered herein (with required one-month extension fee). The petition includes an acceptable declaration executed by all the inventors herein, including the previously non-signing inventor Roger CARD. Applicants have therefore now submitted a fully executed declaration in compliance with 37 CFR 1.497. Accordingly, the petition under 37 CFR 1.47(a) is **MOOT**.

This application is being forwarded to the National Stage Processing Branch of the PCT Operations Division for further processing in accord with this decision.

The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 05 June 2007.

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In re Application of MAINGUET	:	
U.S. Application No.: 10/542,658	:	
PCT Application No.: PCT/FR2004/000092	:	
Int. Filing Date: 16 January 2004	:	DECISION
Priority Date Claimed: 21 January 2003	:	
Attorney Docket No.: 4590-433	:	
For: PERSON RECOGNITION SECUREMENT	:	
METHOD AND DEVICE	:	

This is in response to applicant's "Petition to Revive Application Under 37 CFR §1.137(b)" filed 02 April 2008.

BACKGROUND

On 16 January 2004, applicant filed international application PCT/FR2004/000092, which claimed priority of an earlier France application filed 21 January 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 12 August 2004. The thirty-month period for paying the basic national fee in the United States expired on 21 July 2005.

On 19 July 2005, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 14 February 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 an oath or declaration in compliance with 37 CFR 1.497 must be filed.

International application PCT/FR2004/000092 became abandoned as to the United States for failure to timely respond to the Notification of Missing Requirements.

On 02 April 2008, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless

previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

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

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

With regard to item (3), the petition states that "the entire period of delay was unintentional." This statement is interpreted as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

Applicant is advised that it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. 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.

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 16 January 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 02 April 2008.

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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FOLEY AND LARDNER LLP
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WASHINGTON, DC 20007

Mail Date: 04/21/2010

Applicant	: Hirokazu Matsumoto	: DECISION ON REQUEST FOR
Patent Number	: 7662380	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/542,664	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/11/2006	: 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.

22 JUN 2006

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In re application of :
BENGTSSON et al. :
US Application No.: 10/542,671 :
International Application No.: PCT/EP2003/014530:
Filing Date: 18 December 2003 : COMMUNICATION
Priority Date: 30 January 2003 :
Attorney Docket No.: 47253-00064USPX :
For: TRUNCATION AND LEVEL ADJUSTMENT OF RAKE OUTPUT SYMBOLS :

This communication is in response to applicant's letter "to request a review to determine the status of the Notice of Acceptance, filing receipt and fees", filed 08 March 2006.

BACKGROUND

On 18 December 2003, applicants filed international application PCT/EP2003/014530 with the European Patent Office (RO/EP). The submission was assigned the above-identified International Application Number and International Filing Date.

On 18 July 2005, applicant filed a U.S. national stage application under 35 U.S.C. 371.

A Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) was mailed on 17 November 2005 indicating that an Oath or Declaration of the inventor in compliance with 37 CFR 1.497(a) and (b) must be provided. Additionally, the Notification stated that to avoid abandonment, a surcharge, as set forth in 37 CFR 1.492(h), of $130.00, for a non-small entity, must be submitted. The summary of fees due, in the Notification of 17 November 2005, stated that, for this application, $-230.00 is due for a large entity.

On 28 December 2005, Applicant filed a response to the Notification of Missing Requirements including a check in the amount of $130.00.

On 12 January 2006, a Withdrawal of Previously Sent Notice and a second Notification of Missing Requirements were mailed to the applicant. In the Withdrawal of Previously Sent

Notice, it was stated that "[t]he Acceptance Notice mailed on 11/17/2005 was sent in error and is hereby withdrawn". The second Notification of Missing Requirements re-iterated that the Oath or Declaration of the inventor in compliance with 37 CFR 1.497(a) and (b) must be provided.

On 08 March 2006, applicant filed the present letter requesting review of the file history.

DISCUSSION

There was no Notice of Acceptance (PCT/DO/EO/903) mailed to the applicants. The recitation of such on the Withdrawal of Previously Sent Notice was in error. Rather, the Withdrawal of Previously Sent Notice should have stated that the previously sent Notification of Missing Requirements is hereby withdrawn.

Additionally, upon reviewing the contents of the application file, no signed Oath or Declaration was found. If applicants have filed an Oath or Declaration in compliance with 37 CFR 1.497(a) and (b), as required by the first Notification of Missing Requirements, applicant will need to submit a petition under 37 C.F.R. 1.181 establishing that an Oath or Declaration was filed 28 December 2005. The petition should be accompanied by evidence than an Oath or Declaration was filed, e.g., an itemized post card receipt (see MPEP 503), a copy of the Oath or Declaration originally filed 28 December 2005, and a statement that the copy is a true copy of what was submitted 28 December 2005.

CONCLUSION

The period for reply to the Notification of Missing Requirements, mailed 12 January 2006, continues to run. However, if it is established that an Oath or Declaration in compliance with 37 C.F.R. 1.497(a) and (b) was filed 28 December 2005, the Notification of Missing Requirements mailed 12 January 2006 will be vacated.

Additionally, it is noted that the address on the letterhead of the letter requesting review of the file history, received 08 March 2006, is different than the address the U.S. Patent and Trademark Office has been using. The letterhead states "suite 3700" and the address used by the U.S. Patent and Trademark Office states "suite 3200". All other address information is identical. It is requested that applicant indicate what is the correct suite number. Additionally, if "suite 3700" is the correct address, a change of correspondence address will need to be filed.

Any further correspondence with respect to this matter , including any petition, 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.

Terrence R. Till
Petitions Detailee
Office of PCT Legal Administration
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313

Daniel Stemmer
PCT Legal Examiner
Office of PCT Legal Administration
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313

19 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

Stanley R. Moore
JENKENS & GILCHRIST
1445 Ross Avenue, Suite 3200
Dallas, Texas 75202

In re Application of	:	
BENGTSSON et a	:	DECISION ON
Application No.: 10/542,671	:	
PCT No.: PCT/EP2003/014530	:	
Int. Filing Date: 18 December 2003	:	PETITION UNDER
Priority Date: 30 January 2003	:	
Attorney Docket No.: 47253-00064USPX	:	
For: TRUNCATION AND LEVEL ADJUSTMENT	:	
OF RAKE OUTPUT SYMBOLS	:	37 CFR 1.181

This decision is in response to the "PETITION UNDER 37 CFR 1.181," filed 28 June 2006 requesting acceptance of a copy of the Declaration filed on 28 December 2005. Applicants have submitted, inter alia, a copy of the 28 December 2005 USPTO stamped itemized postcard receipt. The itemized postcard lists, *inter alia*, the following item: Executed Declaration (5 pages).

BACKGROUND

In a communication from this Office on 22 June 2006, the communication stated that no signed Oath or Declaration was found in the application, and that applicants would need to file a 37 C.F.R. 1.181 petition.

On 28 June 2006, USPTO received this petition stating that applicants submitted a response to the Notification of Missing Requirements on December 28, 2005 as evidenced by the stamped USPTO postcard.

DISCUSSION

Applicants' present petition accompanied by a copy of the following documents, filed purportedly, *inter alia*, with the USPTO as indicated in the stamped postcard:

(1) Executed Declaration (5 pages)
(2) Check in the amount of $130.00

The postcard lists the above items and bears a USPTO date of stamp as 28 December 2005.

BEST AVAILABLE COPY

MPEP 503 provides:

> A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Applicants' postcard is accepted as *prima facie* that an Executed Declaration was deposited with the U.S. Patent and Trademark Office on 28 December 2005.

Accordingly, the date of receipt for the Declaration is 28 December 2005.

DECISION

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

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision. The 35 U.S.C.§ 371(c)(1), (c)(2), and (c)(4) date is **28 December 2005**.

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

BEST AVAILABLE COPY

14 JUN 2006

UNITED STATES PATENT and TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Graham E. Taylor
The Dow Chemical Company
Intellectual Property
P.O. Box 1967
Midland, Michigan 48641-1967

In re Application of	:	DECISION ON
Myers et al	:	
Application No.: 10/542,681	:	
PCT No.: PCT/US2004/002890	:	
Int. Filing Date: 03 February 2004	:	PETITION UNDER
Priority Date: 05 February 2003	:	
Attorney Docket No.: 43229A	:	
For: RUBBER MODIFED POLYMERS FROM	:	
VINYL AROMATIC MONOMERS	:	37 CFR 1.181

This decision is in response to the "RESPONSE TO NOTICE TO FILE MISSING PARTS" filed 06 March 2006, requesting acceptance of a complete copy (4 pages) of the Declaration purportedly filed in the USPTO on 19 July 2005. Applicants have submitted, inter alia, a copy of the 19 July 2005 itemized postcard receipt.

BACKGROUND

On 19 July 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 a copy of the international application. Applicant, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because the Office received only 2 pages out of the 4 page executed Declaration at such time.

On 15 February 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." It indicated that the current oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it: missing two inventors' signatures. It also stated that to avoid abandonment all of the items set forth above must be submitted within two (2) months from date of this Notice or by 32 months from date for the application.

On 06 March 2006 applicants submitted this petition indicating that the complete 4 page executed declaration was filed on July 19, 2005 and that the filed petition included a copy of the declaration submission on that date.

DISCUSSION

Applicant's present petition accompanied by a copy of the following documents, filed purportedly with the USPTO as indicated in the stamped postcard:

(1) Executed Declaration (4 pages)
(2) Transmittal Letter
(3) Itemized Postcard

The postcard lists the above items and but is not date stamped by the USPTO .

MPEP 503 provides:

> If a receipt for any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. To ensure the receipt of return receipt postcards, users must either: (A) purchase already stamped postcards from the United States Postal Service (USPS) or affix postage stamps to their postcards; or (B) if a postage meter is used, ensure that the meter postmark does not show the date. Any return receipt postcard containing a dated meter postmark may not be delivered by the USPS to the address provided on the postcard. Users are reminded that they are solely responsible for placing the proper postage on self-addressed postcards that are submitted to the USPTO for the purpose of obtaining a receipt for correspondence being filed in the USPTO. Users should check with the USPS regarding postage and what size cards are acceptable to the USPS. Any return receipt postcard that does not contain sufficient postage or is not acceptable may not be delivered by the USPS to the address provided on the postcard, and, if returned to the USPTO, may be discarded.
>
> The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the **date stamped** thereon by the USPTO.
>
> The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the postcard initialed by the person receiving the items.
>
> Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received

by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO.

Applicant's postcard is not accepted as *prima facie* that a complete Declaration was deposited with the U.S. Patent and Trademark Office on 19 July 2005 because the coy of the itemized postcard submitted is not date stamped by the USPTO.

Therefore, the date of receipt of the Declaration is 06 March 2006, which is the date that a complete declaration was received at the Office. Accordingly, The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **06 March 2006**

DECISION

The petition under 37 CFR 1.181 is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181". Failure to respond will result in the ABANDONMENT of the application. Extensions of time may be obtained under 37 CFR 1.136(a).

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

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
Facsimile: (703) 308-6459

UNITED STATES PATENT and TRADEMARK OFFICE

22 SEP 2006

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Graham E. Taylor
The Dow Chemical Company
Intellectual Property
P.O. Box 1967
Midland, Michigan 48641-1967

In re Application of	DECISION ON
Myers et al	
Application No.: 10/542,681	
PCT No.: PCT/US2004/002890	
Int. Filing Date: 03 February 2004	RENEWED PETITION
Priority Date: 05 February 2003	
Attorney Docket No.: 43229A	
For: RUBBER MODIFED POLYMERS FROM	
VINYL AROMATIC MONOMERS	UNDER 37 CFR 1.181

This decision is in response to the "RENEWED PETITION UNDER 37 CFR 1.181" filed 01August 2006, requesting reconsideration of the decision mailed on 14 June 2006 in that a complete copy (4 pages) of the Declaration was purportedly filed in the USPTO on 19 July 2005.

BACKGROUND

In a decision from this Office on 14 June 2006 the petition filed on 06 Mach 2006 was dismissed because applicant's postcard was not accepted as prima facie evidence because the copy provided was not stamped by the USPTO.

On 01August 2006, applicant filed the instant renewed petition. Applicant's position is that even though the postcard was lost by the USPTO that applicant has shown by uncontested evidence that a complete declaration was submitted.

DISCUSSION

Applicant's arguments are unpersuasive because MPEP §503 specifies the necessary requirements for prima facie evidence of receipt in the USPTO of all the items listed on the postcard as summarized in the Office's decision of 14 June 2006. Thus, applicant has not met the requirement to show that a complete of the declaration was received on 19 July 2005.

Applicant's postcard is not accepted as *prima facie* that a complete Declaration was deposited with the U.S. Patent and Trademark Office on 19 July 2005 because the copy provided of the itemized postcard submitted is not date stamped by the USPTO as required.

Accordingly, the filing date of the application for purposes of 35 USC 371(c)(1), (c)(2), and (c)(4) remains March 6, 2006. Applicant is correct that the sentence "failure to respond will result in the Abandonment of the application" was a mistake and the application would not go abandon.

Therefore, the date of receipt of the Declaration is 06 March 2006, which is the date that a complete declaration was received at the Office. Accordingly, The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **06 March 2006**

DECISION

The petition under 37 CFR 1.181 is **DISMISSED**, without prejudice.

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

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

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

24 JAN 2007

UNITED STATES PATENT and TRADEMARK OFFICE

24 JAN 2007

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Graham E. Taylor
The Dow Chemical Company
Intellectual Property
P.O. Box 1967
Midland, Michigan 48641-1967

In re Application of	: DECISION ON SECOND
Myers et al	:
Application No.: 10/542,681	:
PCT No.: PCT/US2004/002890	:
Int. Filing Date: 03 February 2004	: RENEWED PETITION
Priority Date: 05 February 2003	:
Attorney Docket No.: 43229A	:
For: RUBBER MODIFED POLYMERS FROM	:
VINYL AROMATIC MONOMERS	: UNDER 37 CFR 1.181

This decision is in response to the "SECOND RENEWED PETITION UNDER 37 CFR 1.181" filed 10 October 2006, requesting reconsideration of the decision mailed on 22 September 2006 in that a complete copy (4 pages) of the Declaration was purportedly filed in the USPTO on 19 July 2005.

BACKGROUND

In a decision from this Office on 22 September 2006 the petition filed on 01 August 2006 was dismissed because applicant's postcard was not accepted as prima facie evidence because the copy provided was not stamped by the USPTO.

On 10 October 2006, applicants filed the instant renewed petition. Applicants state that on or about August 28, 2006 they found the missing, date-stamped receipt confirmation postcard as it had been filed in the wrong case folder.

DISCUSSION

Applicants' present petition accompanied by a copy USPTO stamped postcard lists the following items:

(1) Executed Declaration (4 pages)
(2) PTO-1390 with Cover

The postcard lists the above items and bears a USPTO date of stamp as 19 July 2005.

MPEP 503 provides:

> A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Applicants' postcard is accepted as *prima facie* that an Executed Declaration was deposited with the U.S. Patent and Trademark Office on 19 July 2005.

Accordingly, the date of receipt for the Declaration is 19 July 2005.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 24 July 2006 is **VACATED** with the mailing of this decision.

Applicants' will be refunded $130.00 (the surcharge under 1.492(h) for late filing of the executed declaration) to applicants' Deposit Account No.: 04-1512 because the declaration was filed timely.

DECISION

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

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision. The 35 U.S.C.§ 371(c)(1), (c)(2), and (c)(4) date is **19 July 2005**.

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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,683	07/19/2005	Kouji Miura	2005_1138A	9315

513 7590 12/22/2008
WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON, DC 20006-1021

EXAMINER
ZEENDER, FLORIAN M

ART UNIT	PAPER NUMBER
3627	

MAIL DATE	DELIVERY MODE
12/22/2008	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

DEC 22 2008

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

In re Application of:	:	DECISION ON REQUEST TO
Miura, Kouji et al.	:	PARTICIPATE IN PATENT
Application No.: 10/542,683	:	PROSECUTION HIGHWAY PILOT
Filed: July 19, 2005	:	PROGRAM AND PETITION TO
Attorney Docket: 2005_1138A	:	MAKE SPECIAL UNDER 37 CFR
For: Digital Content Distribution	:	1.102(d)
System	:	

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed November 12, 2008 to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the Office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO Office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program comply with the above requirements. Therefore, the above-identified application has been accorded "special" status and is being forwarded to the examiner for action on the merits commensurate with this decision

Telephone inquires concerning this decision should be directed to Robert Weinhardt at 571-272-6633. All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.

Robert Weinhardt
TC3600
Business Practice Specialist

12 APR 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ernest J. Beffel, Jr.
HAYNES BEFFEL & WOLFELD LLP
P.O. Box 366
Half Moon Bay, CA 94019

In re Application of :
STENSTROM, Pontus *et al* :
U.S. Application No.: 10/542,695 :
PCT No.: PCT/SE2004/000069 :
Int. Filing Date: 22 January 2004 :
Priority Date: 22 January 2003 :
Attorney Docket No.: MLSE 1055-1 :
For: ELECTROMAGNETIC RADIATION :
PULSE TIMING CONTROL :

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 24 March 2006 is hereby **GRANTED** as follows:

The basic national fee and petition fee 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.

No declaration was provided. Accordingly, this application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) is required.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

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CARL M. NAPOLITANO, PH.D.
ALLEN DYER DOPPELT MILBRATH & GILCHRIST, P.A.
255 SOUTH ORANGE AVE., SUITE 1401
P.O. BOX 3791
ORLANDO, FL 32802-3791

COPY MAILED

NOV 19 2007

OFFICE OF PETITIONS

In re Application of :
Mark Wells :
Application No. 10/542,702 : ON PETITION
Filed: March 24, 2006 :
Attorney Docket No. 39497

This is a decision on the petition, filed November 13, 2007 and supplemented on November 16, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 6, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2839 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,708	11/10/2005	Annie Borgne	BJS-1721-96	5777

23117 7590 10/15/2008
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER
GIBBS, TERRA C

ART UNIT	PAPER NUMBER
1635	

MAIL DATE	DELIVERY MODE
10/15/2008	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.

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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OCT 1 5 2008

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

In re Application of:
Borgne et al.
Serial No.: 10/542,708
Filed: November 10, 2005
Attorney Docket No.: **BJS-1721-96**

DECISION ON PETITION FOR A COMPLETE OFFICE ACTION AND TO RESET REPLY PERIOD

This is in response to petitioner's petition under 37 CFR. § 1.181(a), filed on October 6, 2008, to issue a complete Office action and to reset the period for responding from the mail date of the new Office action.

BACKROUND

Specifically, petitioner states the Office action of August 28, 2008 is incomplete because the Office action does not include consideration of claims 7-9 on the merits.

DISCUSSION

Petitioner's argument is persuasive that the Office action of August 28, 2008 was incomplete because the Office action failed to consider claims 7-9 which, as amended in the November 10, 2005 response, were not improperly multiply dependent at the time of the first Office action.

Applicants' petition is **GRANTED**.

This application will be forwarded to the examiner for an action not inconsistent with this decision.

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

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 04/20/2010

Applicant	: Yasuko Fukuda	: DECISION ON REQUEST FOR
Patent Number	: 7606474	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/542,752	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/12/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **869** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of
TAKAO, KOJI, et al.
Application No. 10/542,765
Filed: July 20, 2005
For: **RECORDING APPARATUS**

DECISION ON PETITION
TO RESTART PERIOD

This is a decision on the Petition to Reset the Period for Reply under 37 CFR § 1.181(a) filed July 13, 2007. No fee is required.

Petitioner alleges non-receipt of the non-final Office action mailed April 2, 2007. In support of the petition, petitioner has provided a statement that the office communication was not received by the petitioner. On July 10, 2007 petitioner states, a routine review of the applications status by accessing the PAIR database, was performed. It was at that time when applicants noticed an office action was mailed on April 2, 2007. Subsequently the office action was downloaded and docketed. A copy of the docket record where the nonreceived office communication would have been entered had it been received and docketed was also provided.

A review of the file finds that the U.S. Postal Service returned the original non-final Office action. Although, there was no finding of irregularity in the correspondence address, there was an obvious irregularity in mailing since the Office action was returned.

The petition is **GRANTED.**

The application file will be forwarded to the Technology Center's technical support staff for re-mailing of the non-final Office action originally mailed on April 2, 2007. The shortened statutory period of three months will be set to begin as of the mailing thereof.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,767	07/20/2005	Kiyotaka Moriizumi	124642	1612

25944 7590 03/14/2008
OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

EXAMINER
BEHNCKE, CHRISTINE M

ART UNIT	PAPER NUMBER
3661	

MAIL DATE	DELIVERY MODE
03/14/2008	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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TECHNOLOGY CENTER 3600

Oliff & Berridge, PLC
P.O. Box 320850
Alexandria, VA 22320-4850

In re application of Kiyotaka Moriizumi et al Application No. 10/542,767 Filed: July 20, 20065 For: COLLISION PREDICTING APPARATUS AND COLLISION PREDICTING METHOD	: : : : : :	**DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)**

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed December 11, 2207, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of the latest Office action from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO Office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

In light of the preliminary amendment filed December 11, 2007 with the petition, the request to participate in the PPH program complies with the above requirements. Therefore, the above-identified application has been accorded "special" status.

All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Any inquiry regarding this decision should be directed to Steven N. Meyers, Quality Assurance Specialist, at (571) 272-6611.

Steven N. Meyers,
Quality Assurance Specialist
Technology Center 3600

Sm/sm: 3/12/08

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09-08-08

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/542790 Patent No.: 7381761

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

FOR IFW FILES: X

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Certificates of Correction Branch
703-308-9390 ext. 127

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 **Art Unit** 1796

10 MAR 2006

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1635 MARKET STREET
PHILADELPHIA, PA 19103-2212

In re Application of KERR	:	
U.S. Application No.: 10/542,798	:	
PCT Application No.: PCT/GB03/05584	:	DECISION
Int. Filing Date: 19 December 2003	:	
Priority Date Claimed: 19 December 2002	:	
Attorney Docket No.: S1011/20185	:	
For: PROTECTIVE GARMENT	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 19 July 2005.

BACKGROUND

On 19 December 2003, applicant filed international application PCT/GB03/05584, which claimed priority of an earlier United Kingdom 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 19 June 2005.

International application PCT/GB03/05584 became abandoned as to the United States for failure to timely pay the basic national fee.

On 19 July 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
PCT Legal Office

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

0 9 SEP 2008

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Javier Lasa Berasategui
Victor De La Serna 3-5
(parking)
28016 Madrid
SPAIN

In re Application of	:	
Azurmendi Inchausti et al.	:	
Application No.: 10/542,806	:	DECISION
PCT No.: PCT/ES2004/000273	:	
Int. Filing Date: 14 June 2004	:	ON
Earlier Priority Date: none claimed	:	
Attorney Docket No.: none	:	PETITION
For: Traction System For Lifts, Escalators, Moving Walkways, And Aerogenerators Provided With Asynchronous Motor For Said System	:	

This is in response to the "Request To Withdraw Abandonment" filed on 15 November 2007 (and 16 November 2007).

BACKGROUND

This international application was filed on 14 June 2004, claimed no earlier priority date , and designated the United States. The International Bureau transmitted a copy of the published international application to the USPTO on 19 January 2006. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 14 December 2006. On 20 July 2005, applicants filed *inter alia* the basic national fee.

On 28 November 2005, a Notice of Acceptance (Form PCT/DO/EO/903) was mailed to applicants, showing a date under 35 U.S.C. 371(c)(1), (2) and (4) of 20 July 2005.

On 14 February 2007, a restriction requirement was mailed to applicants.

On 06 March 2007, applicants filed a reply. Another reply was filed on 08 March 2007.

On 19 March 2007, a Notice of Non-Compliant Amendment was mailed to applicants, regarding the amendment filed on "3-17-07;" on 26 March 2007, a second Notice of Non-Compliant Amendment was mailed to applicants, regarding the amendment filed on "3/6/07."

On 17 October 2007, a Notice of Abandonment was mailed to applicants, indicating that this application had become abandoned for failure to timely reply to the Notice mailed on 26 March 2007.

DISCUSSION

Petitioner urges withdrawal of the holding of abandonment because applicants allegedly "indeed duly replied by fax on April 17, 2007 (attached please find copy of the automatic receipt issued by the fax machine including the confirmation that the result of the transmission was "ok" = correct- as well as the reply to said Notice)." 37 CFR 1.8(b) provides that

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

In the instant case, petitioner has not provided adequate evidence that the correspondence was timely filed or transmitted in accordance with 37 CFR 1.8(a). Specifically, the correspondence does not appear to have been accompanied by a certificate of transmission under 37 CFR 1.8(a)(1)(ii). As such, petitioner has not satisfied the conditions for relief set forth in the preamble of 37 CFR 1.8(b). Therefore, it would not be appropriate to grant the requested relief on the basis of the present record. Nonetheless, the following observations are made on the merits under 37 CFR 1.8(b).

Petitioner has satisfied requirement (1).

Requirement (2) is satisfied because petitioner has filed a copy of the correspondence allegedly transmitted on 17 April 2007.

Regarding requirement (3), petitioner has not provided an appropriate statement, made on the basis of first-hand knowledge, attesting to the timely transmission of the reply. MPEP 711.03(c) explains in part that

As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).

Petitioner has not provided a copy of a transmission log, but has provided a copy of the fax report generated by applicants' fax machine appearing to show the transmission status of an 11-page fax as "ok;" however, the salient portion of this report appears to be in the Spanish language, and petitioner has not provided a translation. For the reasons stated above, it would not be appropriate to grant the requested relief on the basis of the present record.

DECISION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision (extendable 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 correspondence to the attention of the Office of PCT Legal Administration.

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

0 2 FEB 2009

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Javier Lasa Berasategui
Victor De La Serna 3-5
(parking)
28016 Madrid
SPAIN

In re Application of	:	
Azurmendi Inchausti et al.	:	
Application No.: 10/542,806	:	DECISION
PCT No.: PCT/ES2004/000273	:	
Int. Filing Date: 14 June 2004	:	ON
Earlier Priority Date: none claimed	:	
Attorney Docket No.: none	:	PETITION
For: Traction System For Lifts, Escalators, Moving Walkways, And Aerogenerators Provided With Asynchronous Motor For Said System	:	

This is in response to the "Reply To Final Decision" filed on 10 November 2008.

DISCUSSION

In a Decision mailed on 09 September 2008, the "Request To Withdraw Abandonment" filed on 15 November 2007 (and 16 November 2007) was dismissed, without prejudice. The reasons for dismissal were that

> *In the instant case, petitioner has not provided adequate evidence that the correspondence was timely filed or transmitted in accordance with 37 CFR 1.8(a). Specifically, the correspondence does not appear to have been accompanied by a certificate of transmission under 37 CFR 1.8(a)(1)(ii). As such, petitioner has not satisfied the conditions for relief set forth in the preamble of 37 CFR 1.8(b). Therefore, it would not be appropriate to grant the requested relief on the basis of the present record. Nonetheless, the following observations are made on the merits under 37 CFR 1.8(b).*

and that

> *Regarding requirement (3), petitioner has not provided an appropriate statement, made on the basis of first-hand knowledge, attesting to the timely transmission of the reply... Petitioner has not provided a copy of a transmission log, but has provided a copy of the fax report generated by applicants' fax machine appearing to show the transmission status of an 11-page fax as "ok;" however, the salient portion of this report appears to be in the Spanish language, and petitioner has not provided a translation. For the reasons stated above, it would not be appropriate to grant the requested relief on the basis of the present record.*

In response, petitioner argues that

> The other information the report gives ("fecha, hora, numero de fax, paginas") can be deduced with bona fide with any translation, such as the date and the hour or the number of the pages (in fact, you even wrote <<the petitioner has provided

a copy of the fax report generated by applicants' fax machine appearing to show the transmission status of an 11-page fax as "ok">> so you did understand it).

Petitioner is respectfully advised that deduction and surmise do not constitute an appropriate basis for the grant of a petition. Documentation submitted in support of a petition must either be in the English language or be accompanied by a translation, so that the record will clearly reflect the basis for any decision rendered. *See* 37 CFR 3.26, which provides that

> *The Office will accept and record non-English language documents only if accompanied by an English translation signed by the individual making the translation.*

See also 37 CFR 1.52(b)(1)(ii), which states that

> *The application or proceeding and any amendments or corrections to the application (including any translation submitted pursuant to paragraph (d) of this section) or proceeding, except as provided for in § 1.69 and paragraph (d) of this section, must:*
>
> *(ii) Be in the English language or be accompanied by a translation of the application and a translation of any corrections or amendments into the English language together with a statement that the translation is accurate.*

Petitioner has not provided a formal translation of the fax report in question. Petitioner also has not provided "an appropriate statement, made on the basis of first-hand knowledge, attesting to the timely transmission of the reply." In addition, petitioner has not addressed the apparent fact that no certificate of transmission appears to have been used with the initial transmission. Accordingly, petitioner has not adequately established a sufficient basis to warrant granting the requested relief.

DECISION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision (extendable 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 correspondence to the attention of the Office of PCT Legal Administration.

/George Dombroske/
George Dombroske
PCT Legal Examiner
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Michael J. Striker
103 East Neck Road
Huntington, NY 11743

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OFFICE OF PETITIONS

In re Application of	:	
Roland Hoefs	:	
Application No. 10/542,815	:	DECISION ON PETITION
Filed: July 20, 2005	:	
Attorney Docket No. 3363	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 15, 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 April 10, 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 July 11, 2007. A Notice of Abandonment was mailed on November 5, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment after non-final, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 3682 for appropriate action by the Examiner in the normal course of business on the reply received January 15, 2008.

Carl Friedman
Petitions Examiner
Office of Petitions

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Osha Liang L.L.P.
1221 McKinney Street
Suite 2800
Houston, Texas 77010

In re Application of
HALBIN et al.
Application No.: 10/542,820
PCT No.: PCT/FR04/00130
Int. Filing Date: 21 January 2004
Priority Date: 21 January 2003
Attorney Docket No.: 17170/012001
For: METHOD OF MOUNTING A RETAINING RING ON AN ELECTRIC STARTER SHAFT COMPRISING A STARTER DRIVE ASSEMBLY AND CORRESPONDING STARTER

DECISION

This decision is issued in response to applicants' "Request for Corrected Filing Receipt" filed in the United States Patent and Trademark Office (USPTO) on 24 May 2006 and 27 March 2007.

BACKGROUND

On 20 July 2005, applicants timely filed a request to enter into the national stage under 35 U.S.C. 371 along with the appropriate basic national filing fee, a copy of the international application, and a preliminary amendment.

On 06 December 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements (PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge under 37 CFR 1.492(h).

On 20 December 2005, applicants filed a declaration and power of attorney.

On 29 March 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 30 December 2005.

On 24 May 2006 and 27 March 2007, applicants filed the present request to correct the filing date to 20 December 2005. The request to correct the filing date included a copy of the Customer Receipt of the United States Postal Service "Express Mail" mailing label #EL710215583US.

DISCUSSION

On 24 May 2006 and 27 March 2007, applicants filed the present petition requesting that the filing date on the filing receipt be corrected to indicate the correct date on which the declaration was filed and on which the requirements under 35 U.S.C. 371 (c) were completed; i.e. 20 December 2005.

A copy of the Customer Copy of the "Express Mail" label No. #EL710215583US filed with the petition bears a "Date In" of 20 December 2005, and further information obtained from the United States Postal Service (USPS) Express Mail database shows that "EL710215583US" was accepted by the USPS on 20 December 2005. The same "Express Mail" label number was placed on the transmittal letter located in the application file.

Pursuant to 37 CFR 1.10 (c), the promptly presented evidence is convincing that the transmittal letter and executed declaration together with the other listed items on the transmittal letter were filed on 20 December 2005. Thus, the application met the requirements of 35 U.S.C. 371(c) and thus entered the national stage in the United States on 20 December 2005. Therefore, the indication of a filing date of 30 December 2005 on the NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 and the Official Filing Receipt are incorrect.

CONCLUSION

Applicants' request for issuance of a corrected Notification of Acceptance and Official Filing Receipt is **GRANTED**.

The Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) mailed on 29 March 2006 is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision, that is, for mailing of a NOTIFICATION OF ACCEPTANCE OF APPLICATION (Form PCT/DO/EO/903) which identifies a date of **20 December 2005** U.S.C. 371(c) and preparation and mailing of a corrected Filing Receipt in accordance with this decision, that is a filing receipt that identifies a filing date of **20 December 2005**.

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

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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE
NEW YORK NY 10151

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OFFICE OF PETITIONS

In re Application of	:	
Inaba, et al.	:	
Application No. 10/542,844	:	DECISION
Filed: 20 July, 2005	:	
Attorney Docket No. 450100-04903	:	

This is a decision on the petition, filed on 13 February, 2009, considered as one under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition as considered under 37 C.F.R. §1.181 is **DISMISSED**.

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment."

In the alternative, Petitioner may properly file a petition to the Commissioner under 37 C.F.R. §1.137(b) requesting revival of an application abandoned due to unintentional delay.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner's attention is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

Petitioner appears not to satisfy the showing requirements set forth in the guidance in the Commentary at MPEP §711.03(c)(I).

For reference: Petitioner's attentions are directed to the guidance set forth in the Commentary at MPEP §711.03(c)(I)—and with particularity to the requirements therein of statements of non-receipt at the address of record, search and non-discovery, with a description of docketing system and a statement of its reliability, and support for those the statements with copies of the docket record/file jacket cover and due date calendar/docket. (The requirements of the regulations at under 37 C.F.R. §1.181 also impose upon a Petitioner a duty to seek relief there under within two (2) months of the act complained of.)

BACKGROUND

The record reflects as follows:

Petitioner failed to reply to the non-final Office action mailed on 13 June, 2008, with reply due absent extension of time on or before 13 September, 2008.

The application went abandoned by operation of law after midnight 13 September, 2008.

The Office mailed a Notice of Abandonment on 29 January, 2009.

On 13 February, 2009, Petitioner filed a petition pursuant to 37 C.F.R. §1.181, averring non-receipt with statements of non-receipt, search and non-discovery, and included a copy of what was averred to be a docket sheet for the instant application. However, failed to attach a copy of the due date calendar, and failed to make the statements/showings required under the rule, and particularly as to statements of non-receipt at the address of record, with a description of docketing system and a statement of its reliability. It appears that Petitioner did not follow the guidance in the Commentary at MPEP §711.03(c)(I) as required.

The guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part:

***

> 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.
>
> Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding

of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [1]

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Petitioner failed to satisfy the requirements set forth in the guidance in the Commentary at MPEP §711.03(c)(I), and must do so now to obtain relief pursuant to 37 C.F.R. §1.181. Petitioner's alternative is to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b).

Out of an abundance of caution, Applicants always are reminded that those registered to practice and all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

---

[1] *See*: MPEP §711.03(c) (I)(B).

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Applicant's duty of candor and good faith and accepting a statement made by Applicant. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[3],[4]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[5]

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[3] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[4] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[5] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how and when it is to be made and supported.

Petitioner appears not to have made the showing required or do so within the time required.

CONCLUSION

Accordingly, the petition as considered under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional" (the statement is in the form available online), and a terminal disclaimer and fee where appropriate.

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

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

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

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[6] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WILLIAM S FROMMER
FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE
NEW YORK NY 10151

COPY MAILED

MAY 26 2009

OFFICE OF PETITIONS

In re Application of	:	
Inaba, et al.	:	
Application No. 10/542,844	:	DECISION
Filed: 20 July, 2005	:	
Attorney Docket No. 450100-04903	:	

This is a decision on the petition, filed on 24 March, 2009, considered as one under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners' attentions always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply to the non-final Office action mailed on 13 June, 2008, with reply due absent extension of time on or before 13 September, 2008.

The application went abandoned by operation of law after midnight 13 September, 2008.

The Office mailed a Notice of Abandonment on 29 January, 2009.

On 13 February, 2009, Petitioner filed a petition pursuant to 37 C.F.R. §1.181, averring non-receipt with statements of non-receipt, search and non-discovery, and included a copy of what

was averred to be a docket sheet for the instant application; however, Petitioner failed to attach a copy of the due date calendar, and failed to make the statements/showings required under the rule, and particularly as to statements of non-receipt at the address of record, with a description of docketing system and a statement of its reliability. It appears that Petitioner did not follow the guidance in the Commentary at MPEP §711.03(c)(I) as required. The petition was dismissed on 16 March, 2009

On 24 March, 2009, Petitioner filed a petition pursuant to 37 C.F.R. §1.181, and completed the showing required consistent with the guidance in the Commentary at MPEP §711.03(c)(I), which provides in pertinent part:

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> 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.[1]

***

Out of an abundance of caution, Applicants always are reminded that those registered to practice and all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

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[1] *See*: MPEP §711.03(c) (I)(A).

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Applicant's duty of candor and good faith and accepting a statement made by Applicant. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[3],[4]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[5]

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[3] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[4] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[5] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how and when it is to be made and supported.

Petitioner appears to have made the showing required or do so within the time required.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.181 is **granted**, and the 29 January, 2009, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center/AU 2622 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[6] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

09 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria, VA 22313-1404

In re Application of: PALMER, Tim, et al. U.S. Application No.: 10/542,864 PCT No.: PCT/CH2003/000820 International Filing Date: 17 December 2003 Priority Date: 08 January 2003 Attorney's Docket No.: 030705-187 For: METHOD AND APPARATUS FOR DETECTING DEFECTS IN A TEXTILE STRUCTURE	DECISION ON PETITION FOR REVIVAL OF ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

The petition for revival under 37 CFR 1.137(b) filed 21 July 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the attached Filing Under 35 U.S.C. § 371 from the due date for filing the attached Filing Under 35 U.S.C. § 371 until the filing of this Petition was unintentional" satisfies the requirements of 37 CFR 1.137(b)(3).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,864	05/16/2006	Tim Palmer	030705-187	8652

7590 07/25/2008
BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

EXAMINER
KOONTZ, TAMMY J

ART UNIT	PAPER NUMBER
3974	

NOTIFICATION DATE	DELIVERY MODE
07/25/2008	ELECTRONIC

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☒ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

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

Betty Powell

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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P.O. BOX 770
CHURCH STREET STATION
NEW YORK NY 10008-0770

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OCT 0 6 2008

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,367,533 :
Application No. 10/542,866 :
Filed: October 13, 2005 :
Issued: May 6, 2008 :
Attorney Docket No. 09867/0203135-US0 :

This is a decision on the petition filed September 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**.

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

Telephone inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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

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Commissioner for Patents
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Alexandria, VA 22313-1450
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27 MAR 2008

ELI LILLY & COMPANY
Patent Division
P.O. Box 6288
Indianapolis IN 46206-6288

In re Application of	:	
REMICK, David Michael	:	
Application No.: 10/542,872	:	DECISION
PCT No.: PCT/US04/00020	:	
Int. Filing Date: 21 January 2004	:	
Priority Date: 25 February 2003	:	
Attorney Docket No.: X15930	:	
For: CRYSTALLINE NON-SOLVATED 1-(4-(2-PIPERIDINYLETHOXY)PHENOXY)-2-(4-METHANESULFONYLPHENYL)-6-HYDROXYNAPHTHALENE HYDROCHLORIDE		

This decision is in response to applicant's "Request for Corrected Filing Receipt" filed 28 June 2006. Applicants are requesting that International Application no. PCT/IB03/03349 filed 16 July 2003 be added under 'Domestic Priority data as claimed by applicant' to the Official Filing Receipt of the above-identified application.

BACKGROUND

On 21 January 2004, applicant filed international application PCT/US04/00020 which claimed a priority date of 25 February 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, 25 July 2005.

On 20 July 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. The international application furnished by the International Bureau included an executed Declaration of Inventorship under PCT Rules 4.17(iv) and 51bis.1(a)(iv).

On 18 April 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 indicated a date under 35 U.S.C. 371 of 20 July 2005.

On 28 June 2006, applicant filed "Request for Corrected Filing Receipt."

DISCUSSION

Applicant requests that International Application no. PCT/IB03/03349 filed 16 July 2003 be added under 'Domestic Priority data as claimed by applicant' of the Official Filing Receipt for the above-identified application. 37 CFR 1.78(a) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications or international application designating the United States of America must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date and indicating the relationship of the applications. The relationship between the application is whether the subject application is a continuation, divisional, or continuation-in-part of a prior filed nonprovisional application. In this case, the benefit claim to PCT/IB03/03349 does not comply with 37 CFR 1.78 since the proper relationship between the present application and PCT/IB03/03349 has not been stated. Therefore, applicant's request for corrected filing receipt cannot be granted at this time.

Applicant may wish to consider filing a petition under 37 CFR § 1.78(a)(3) in the present application indicating the relationship to application no. PCT/IB03/03349. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application.

CONCLUSION

Applicant's request for corrected filing receipt is **REFUSED**.

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

Anthony Smith

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
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Alexandria, Virginia 22313-1450
www.uspto.gov

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

Mail Date: 04/23/2010

Applicant	: Pieter De Jong	: DECISION ON REQUEST FOR
Patent Number	: 7645128	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/542,898	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **193** 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
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Alexandria, VA 22313-1450
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01 NOV 2006

CONLEY ROSE, P.C.
P. O. BOX 3267
HOUSTON TX 77253-3267

In re Application of	:	
DRESSEL et al.	:	
Application No.: 10/542,899	:	DECISION ON PETITION
PCT No.: PCT/US2004/001533	:	
Int. Filing Date: 21 January 2004	:	UNDER
Priority Date: 21 January 2003	:	
Attorney Docket No.: 1216-04302	:	37 CFR 1.497(d)
For: METHOD AND APPARATUS FOR	:	
APPLYING A FOAM LAYER	:	

This decision is in response to applicants' "PETITION TO CORRECT INVENTORSHIP BY THE ADDITION OF INVENTOR(S) (37 CFR 1.497(d)(1)" filed in the United States Patent and Trademark Office (USPTO) on 31 August 2006.

BACKGROUND

On 21 January 2004, applicants filed international application PCT/US2004/001533, which designated the United States and claimed a priority date of 21 January 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 05 August 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 21 July 2005.

On 20 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 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 27 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, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 17 January 2006, applicants filed a declaration of inventors naming David C. Dressel and Peter N. Longtin as inventors.

On 01 August 2006, the DO/EO/US mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) indicating that the second inventor listed on the declaration filed 17 January 2006 did not appear on the international application.

On 31 August 2006, applicants filed the instant "PETITION TO CORRECT INVENTORSHIP BY THE ADDITION OF INVENTOR(S) (37 CFR 1.497(d)(1)". The petition was accompanied by a statement by Peter N. Longtin, a consent of assignee statement, and a statement under 37 CFR 3.73(b).

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.

Applicants have satisfied items (1) and (2).

Item (3) has not been satisfied. Assignment to Foam Enterprises, Inc. has been established. However, acquisition of Foam Enterprises, Inc. by BASF has not been established. Although the consent of assignee statement states that a copy of a Stock Purchase Agreement is included, no such copy appears in the file.

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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
www.uspto.gov

20 DEC 2006

CONLEY ROSE, P.C.
P. O. BOX 3267
HOUSTON TX 77253-3267

In re Application of	:	
DRESSEL et al.	:	
Application No.: 10/542,899	:	DECISION ON PETITION
PCT No.: PCT/US2004/001533	:	
Int. Filing Date: 21 January 2004	:	UNDER
Priority Date: 21 January 2003	:	
Attorney Docket No.: 1216-04302	:	37 CFR 1.497(d)
For: METHOD AND APPARATUS FOR	:	
APPLYING A FOAM LAYER	:	

This decision is in response to applicants' "RENEWED PETITION UNDER 37 CFR 1.497(d)" filed in the United States Patent and Trademark Office (USPTO) on 13 November 2006.

BACKGROUND

On 21 January 2004, applicants filed international application PCT/US2004/001533, which designated the United States and claimed a priority date of 21 January 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 05 August 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 21 July 2005.

On 20 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 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 27 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, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 17 January 2006, applicants filed a declaration of inventors naming David C. Dressel and Peter N. Longtin as inventors.

On 01 August 2006, the DO/EO/US mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) indicating that the second inventor listed on the declaration filed 17 January 2006 did not appear on the international application.

On 31 August 2006, applicants filed a "PETITION TO CORRECT INVENTORSHIP BY THE ADDITION OF INVENTOR(S) (37 CFR 1.497(d)(1)". The petition was accompanied by a statement by Peter N. Longtin, a consent of assignee statement, and a statement under 37 CFR 3.73(b).

On 01 November 2006, a decision was mailed dismissing applicant's petition under 37 CFR 1.497(d) without prejudice for failure to establish acquisition of Foam Enterprises, Inc. by BASF.

On 13 November 2006, applicants submitted the instant "RENEWED PETITION UNDER 37 CFR 1.497(d)" which was accompanied by a copy of a Stock Purchase Agreement establishing the acquisition of Foam Enterprises, Inc. by BASF.

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 01 November 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 17 January 2006 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 processing the application in the name of David C. Dressel and Peter N. Longtin as inventors.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/22/2010

Applicant	: Emma Terricabras Belart	: DECISION ON REQUEST FOR
Patent Number	: 7662814	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/542,940	: 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 **728** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 9, 2010

TO SPE OF : ART UNIT 1624 - SPE James O. Wilson.

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/542,940 Patent No.: 7,662,814 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

Should the request for cofc be approved? Determine if the error at Claim 5,, col 77, lines 1-2(which is approximately located in patent, lines 2-3) is approved. There is an examiner's amendment present in the file (See CLM dated 10-07-2009) stating that the word "zero" be replaced with the word "one" in that location along with others. The applicant is requesting that "zero" be inserted at that location. Should this change be made? **(See COCIN date 06-10-2010)**

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

Comments: claim 5, col. 77, lines 2-3, "one or one heteroatoms" should read --one to four heteroatoms--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE /James. O. Wilson/

Art Unit 1624

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 9, 2010

TO SPE OF : ART UNIT 1624 - SPE James O. Wilson.

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/542,940 Patent No.: 7,662,814 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

Should the request for cofc be approved? Determine if the error at Claim 5,, col 77, lines 1-2(which is approximately located in patent, lines 2-3) is approved. There is an examiner's amendment present in the file (See CLM dated 10-07-2009) stating that the word "zero" be replaced with the word "one" in that location along with others. The applicant is requesting that "zero" be inserted at that location. Should this change be made? **(See COCIN date 06-10-2010)**

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

Comments: claim 5, col. 77, lines 2-3, "one or one heteroatoms" should read –one to four heteroatoms--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE

/James. O. Wilson/

Art Unit 1624

2 1 JUL 2009

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P.O. Box 1450
Alexandria, VA 22313-1450
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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

In re Application of:	:	
SOMMERMEYER, Klaus	:	DECISION
U.S. Application No.: 10/542,944	:	
PCT No.: PCT/EP2004/000488	:	
International Filing Date: 22 January 2004	:	
Priority Date: 23 January 2003	:	
Atty Docket No.: 3675.1002-000	:	
For: CARBONIC ACID DIESTERS,	:	
METHODS FOR THE PRODUCTION	:	
THEREOF ... WITH POLY-	:	
SACCHARIDE OR POLY-	:	
SACCHARIDE DERIVATIVES	:	

This decision is issued in response to the "Petition Under 37 CFR 1.182 To Correct The Date Of Completion Of The 35 U.S.C. 371 Requirements" filed 03 March 2009, treated herein under 37 CFR 1.181. No petition fee is required.[1]

BACKGROUND

On 22 January 2004, applicant filed international application PCT/EP2004/000488. The international application claimed a priority date of 23 January 2003, and it designated the United States. On 05 August 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 July 2005.

On 20 July 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 and a purported translation into English of the international application.

On 27 September 2005, applicant filed an executed German language declaration (with purported English translation).

On 03 February 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) identifying the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements" as 20 July 2005.

[1] Applicant included a $400 petition fee with the present petition. This unnecessary petition fee will be refunded to Deposit Account No. 08-0380.

On 22 April 2008, an Office Action was mailed herein containing a restriction requirement.

On 24 July 2008, applicant filed a response to the Office Action that included a substitute specification. Among the changes incorporated in the substitute specification was the replacement of "carboxylic acid" with "carbonic acid" throughout the specification and claims. Applicant's response indicates that the term "carbonic acid" was improperly translated as "carboxylic acid" in the English translation of the application filed herein.

On 06 October 2008, a non-final Office Action was mailed rejecting the claims. The Office Action also objected to applicant's amendment as introducing new matter into the application regarding "carbonic acid diesters."

On 03 March 2009, applicant filed the Petition Under 37 CFR 1.182 To Correct The Date Of Completion Of The 35 U.S.C. 371 Requirements" considered herein. The petition indicates that the original English translation of the international application filed 20 July 2005 was defective based on the improper translation of the German term for carbonic acid. The petition requests that the defective English translation be replaced with a corrected English translation included with the present petition, that a revised Notification Of Acceptance be issued, and that the application then be examined based on the revised English translation.

DISCUSSION

A. English Translation of the International Application

Pursuant to 35 U.S.C. 371(c)(2), a national stage application filed under 35 U.S.C. 371 must include an English translation of the international application as filed. Applicant's original national stage submission purportedly included such an English translation; however, as indicated in the present petition, the translation was defective in that the German term for "carbonic" acid was mistranslated as "carboxylic" acid throughout the translation. Because applicant had not filed a proper English translation of the international application as filed, the "Notification Of Acceptance" (Form PCT/DO/EO/903) mailed 03 February 2006, which indicated that applicant had satisfied the requirements of 35 U.S.C. 371(c)(2), was issued in error and is appropriately vacated.

It is noted that the present petition indicates that it was accompanied by a copy of a corrected English translation of the international application. However, the purported English translation provided with the petition is not acceptable. Specifically, the English translation fails to correspond to the international application as filed. For example, the translation includes the "Related Applications" paragraph that was added by amendment when the application entered the national stage and is not present in the international application as filed. In addition, the translation also includes section headings which are not present in the published international application. Thus, applicant has still failed to submit an acceptable English translation of the international application as filed. A "Notification of Missing Requirements" (Form PCT/DO/EO/905) will be issued requiring submission of an acceptable English translation of the

international application as filed and the $130 processing fee for filing the translation later than thirty months after the priority date.

B. The Declaration

The present application file includes two declaration documents. One is a copy of a declaration filed during the international phase pursuant to PCT Rule 4.17(iv). The declaration was not included with the international application as filed (it was executed on 02 February 2004, after the international filing date). A declaration under PCT Rule 4.17(iv) may be filed after the international filing date (see PCT Rule 26ter); however, as stated on the face of the declaration form and in the instructions thereto, any declaration filed after the international filing date must set forth the international application number. The declaration filed by applicant here did not set forth the international application number. Accordingly, the declaration is not acceptable as filed and cannot be accepted in satisfaction of the declaration requirements set forth in 35 U.S.C. 371(c)(4) and 37 CFR 1.497.

The second declaration present in the application file is the German language declaration filed 27 September 2005. This declaration includes a purported English translation of the German portion of the declaration; however, the form used by applicants is not a form provided by the USPTO. Accordingly, pursuant to 37 CFR 1.68(b), applicant was required to provide an English translation together with a statement that the translation is accurate. No statement confirming the accuracy of the English translation of this declaration was filed by applicant here. Moreover, it is evident that the English translation of the title contained on the declaration is inaccurate, because it includes the term "carboxylic acid," which applicant confirms in the present petition is not an accurate translation of the original German. Based on the failure of applicant to provide a correct English translation of the declaration filed 27 September 2005, such declaration is not acceptable as filed.

In view of the above, applicant has not submitted herein an acceptable declaration in compliance with 37 CFR 1.497. Accordingly, a "Notification of Missing Requirements" (Form PCT/DO/EO/905) will be issued requiring submission of an acceptable oath or declaration in compliance with 37 CFR 1.497 and the $65 small entity surcharge for filing the oath or declaration later than thirty months after the priority date.

C. Office Actions Mailed 22 April 2008 and 06 October 2008

As discussed above, applicant has not yet satisfied the English translation requirement of 35 U.S.C. 371(c)(2) or the oath or declaration requirement of 35 U.S.C. 371(c)(4). The mailing of an Office action based on an examination of the application is not appropriate prior to applicant's successful completion of the requirements set forth in 35 U.S.C. 371(c). Moreover, the Office Actions issued herein were based on an incorrect English translation of the international application. Under these circumstances, the Office Actions mailed on 22 April 2008 and 06 October 2008 are appropriately vacated as having been issued prematurely and on the basis of an incorrect translation.

CONCLUSION

The petition to correct the 35 U.S.C. 371(c) date is **GRANTED** to the extent that the "Notification Of Acceptance" (Form PCT/DO/EO/903) mailed on 03 February 2006 is hereby **VACATED**.

As discussed above, applicant has not yet satisfied the English translation requirement of 35 U.S.C. 371(c)(2) or the oath or declaration requirement of 35 U.S.C. 371(c)(4).

In addition, because applicant has not yet satisfied the requirements of 35 U.S.C. 371(c), the mailing of Office Actions on 22 April 2008 and 06 October 2008 was premature (and based on an incorrect English translation of the international application). These Office Actions are therefore hereby **VACATED**.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing, including the mailing of a Notification Of Missing Requirements" (Form PCT/DO/EO/905) requiring submission of an acceptable English translation of the international application as filed, the $130 processing fee for filing the translation later than thirty months after the priority date, an acceptable oath or declaration in compliance with 37 CFR 1.497, and the $65 small entity surcharge for filing the oath or declaration later than thirty months after the priority date.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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FROM DIRECTOR'S OFFICE

DEC 18 2007

TECHNOLOGY CENTER 3600

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

In re Application of:	:	DECISION ON REQUEST TO
Toshiya KUDO et al.	:	PARTICIPATE IN PATENT
Application No.: 10/542,949	:	PROSECUTION HIGHWAY PILOT
Filed: July 21, 2005	:	PROGRAM AND PETITION TO
Attorney Docket No.: 08295.0003	:	MAKE SPECIAL UNDER 37 CFR
For: SEAT BELT DEVICE FOR	:	1.102(d)
VEHICLE	:	

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed November 13, 2007, to make the above-identified application special.

The request and petition are **DISMISSED AS MOOT**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the Office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO Office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot is not grantable as per item (4) above in that examination of the U.S. application has already begun. A non-final rejection was mailed out on October 31, 2007, before receipt of the PPH request on November 13.

No time period for reply to this decision is available since an Office action on the merits has already been mailed.

Telephone inquires concerning this decision should be directed to Robert Weinhardt at 571-272-6633. All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.

Robert Weinhardt
TC3600
Business Practice Specialist

05 SEP 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

AMSTER, ROTHSTEIN & EBENSTEIN LLP
90 PARK AVENUE
NEW YORK, NY 10016

In re Application of JACOBS et al	:	
U.S. Application No.: 10/542,958	:	
PCT Application No.: PCT/US04/01773	:	DECISION
Int. Filing Date: 23 January 2004	:	
Priority Date Claimed: 24 January 2003	:	
Attorney Docket No.: 96700/1031	:	
For: USE OF MYCOBACTERIAL VACCINES. . .	:	

This is in response to the papers filed 06 July 2006, which is being treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 23 January 2004, applicant filed international application PCT/US04/01773, which claimed priority of an earlier United States application filed 24 January 2003. The thirty-month period for paying the basic national fee in the United States expired on 24 July 2005.

On 21 July 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 13 March 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 06 July 2006, applicant filed executed declarations.

DISCUSSION

The correspondence filed 06 July 2006 states that joint inventor Stoyan Bardarov is deceased.

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

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

The declaration executed by the legal representative of Stoyan Bardarov is in compliance with 37 CFR 1.497.

The declaration executed by the other joint inventors is improper. Specifically, the declaration does not list Stoyan Bardarov as an inventor as required by 37 CFR 1.497(a)(3). Furthermore, the declaration is an impermissible composite declaration which consists of one each of pages 1 and 2 and three of page 3. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. MPEP 201.03. Applicant must furnish: (1) a single complete declaration which is presented to and executed by all of the living inventors or (2) multiple complete declarations, each of which is presented to and executed by at least one of the inventors.

CONCLUSION

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

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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30 APR 2007

AMSTER, ROTHSTEIN & EBENSTEIN LLP
90 PARK AVENUE
NEW YORK, NY 10016

In re Application of JACOBS et al	:	
U.S. Application No.: 10/542,958	:	
PCT Application No.: PCT/US04/01773	:	COMMUNICATION
Int. Filing Date: 23 January 2004	:	
Priority Date Claimed: 24 January 2003	:	
Attorney Docket No.: 96700/1031	:	
For: USE OF MYCOBACTERIAL VACCINES. . .	:	

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 30 January 2007.

BACKGROUND

On 23 January 2004, applicant filed international application PCT/US04/01773, which claimed priority of an earlier United States application filed 24 January 2003. The thirty-month period for paying the basic national fee in the United States expired on 24 July 2005.

On 21 July 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 13 March 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 06 July 2006, applicant filed a request for status under 37 CFR 1.42, including executed declarations.

On 05 September 2006, this Office mailed a decision granting the 06 July 2006 request for status but indicating that several of the declarations were improper.

On 13 September 2006, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which indicated that new declarations must be submitted.

On 08 January 2007, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to properly respond to the Notification of Defective Response.

On 30 January 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 23 January 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 30 January 2007.

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

BryanLin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

20 SEP 2006

#5

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SCHIFF HARDIN, LLP
PATENT DEPARTMENT
6600 SEARS TOWER
CHICAGO, IL 60606-6473

In re Application of	:	
KAMPERT, Werner et al.	:	
Application No.: 10/542,960	:	
PCT No.: PCT/EP04/00505	:	
Int. Filing Date: 22 January 2004	:	DECISION
Priority Date: 22 January 2003	:	
Attorney's Docket No.: P05,0224	:	
For: MOBILE DATA TRANSMISSION	:	
METHOD AND SYSTEM	:	

This decision responds to "Submission of Signed Declarations," filed with the United States Patent and Trademark Office on 16 March 2006.

BACKGROUND

On 22 January 2004, applicants filed international application PCT/EP04/00505, claiming a priority date of 22 January 2003. A copy of the international application was transmitted to the Office by the International Bureau on 05 August 2004. The deadline for entry into the national stage in the United States was midnight 22 July 2005.

On 21 July 2005, applicants filed a transmittal letter for entry into the national phase in the United States, accompanied by the basic national fee.

On 13 December 2005, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the search fee, examination fee or oath or declaration were required.

On 16 March 2006, applicants submitted a declaration of the inventors, the $130 surcharge, the fee for a one month extension of time and a statement that inventor Knee-Forrest had legally changed his name. The certificate of mailing indicated that it was deposited on 13 March 2006.

DISCUSSION

Under 37 CFR 1.41(a)(4), the inventorship of the international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application,

which includes any change effected under PCT Rule 92*bis*. The record does indicate that any changes were made under PCT Rule 92*bis*.

The international application lists the second inventor as Paul Knee-Forrest. The 16 March 2006 declaration lists inventor Paul Knee-Forrest as Pavel Knee, but is not accompanied by a petition under 37 CFR 1.182, as described in MPEP 605.04(c). As such, it does not comply with 35 U.S.C. 371(c)(4) and 37 CFR 1.497(a)-(b).

Further, notwithstanding the page numbers on the declaration (1 of 2, 2 of 2, and 3 of 2) it is assumed that all pages of the declaration were presented to each of the inventors and the declarations submitted are as they were executed by the inventors. If this is not the case, new oaths or declarations in compliance with 37 CFR 1.497(a)-(b) are required.

CONCLUSION

An oath or declaration in compliance with 37 CFR 1.497(a)-(b) or a petition under 37 CFR 1.182 must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under §1.136(a) are permitted. **Failure to file a timely and proper reply will result in ABANDONMENT of the application as to the United States of America.**

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

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

28 MAR 2007

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SCHIFF HARDIN, LLP
PATENT DEPARTMENT
6600 SEARS TOWER
233 SOUTH WACKER DRIVE
CHICAGO, IL 60606-6473

In re Application of	:	
KAMPERT et. al.	:	
Application No.: 10/542,960	:	
PCT No.: PCT/EP04/00505	:	
Int. Filing Date: 22 January 2004	:	DECISION
Priority Date: 22 January 2003	:	
Attorney's Docket No.:P05,0224	:	
For: Mobile Data Transmission Method and System	:	

This decision is in response to the "Request for Refund under 37 CFR 1.26(a)" filed 15 May 2006 and to the petition filed 12 March 2007 under 37 CFR 1.182 to amend the name of inventor Paul Knee-Forest to Pavel Knee. The request and the petition are GRANTED without prejudice.

BACKGROUND

On 22 January 2004, applicants filed international application PCT/EP04/00505, claiming a priority date of 22 January 2003.

On 21 July 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the basic national fee and a preliminary amendment.

On 13 December 2005, the United States Designated/Elected Office mailed applicants a Notice of Missing requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 C.F.R. 1.497(a)-(d) and the surcharge for late filing of the oath or declaration were required.

On 16 March 2006, applicants submitted a declaration of the inventors, the $130 surcharge, a one-month extension of time and a statement that inventor Paul Knee-Forrest had legally changed his name.

On 15 May 2006, applicants filed a request for refund under 37 CFR 1.26(a), indicating that the Office has overcharged Deposit Account No. 501519 an amount of $1,460.

On 20 September 2006, the Office found that the submitted declaration does not comply with 35 U.S.C. 371(c)(4) and 37 C.F.R. 1.497(a)-(b) because inventor Paul Knee-Forrest is listed as Pavel Knee. The Office required applicants to file a petition under 37 C.F.R. 1.182 in order to change the name of inventor Paul Knee-Forrest to Pavel Knee.

On 12 March 2007 applicant filed the present petition, a four-month extension of time and a declaration by inventor Pavel Knee.

REQUEST FOR REFUND DISCUSSION

Applicants were charged $100 for having more than three independent claims (code 1614), $1,000 for having more than 20 total claims (code 1615) and $360 for having multiple dependent claims. However, on 21 July 2005, concomitantly with filing the papers for entry into the national stage, applicants filed a preliminary amendment canceling claims 2-37 and maintaining a single independent claim. Accordingly, applicants were overcharged $1,460 which will be refunded to applicant's Deposit Account No. 501519.

PETITION DISCUSSION

A review of inventor Pavel Knee's declaration describes clearly the circumstances of his name change, thereby satisfying the requirements of MPEP 605.04(c). In view of inventor Pavel Knee's declaration, the declaration of the inventors filed 16 March 2006 is found to comply with 35 U.S.C. 371(c)(4) and 37 C.F.R. 1.497(a)-(b).

CONCLUSION

Applicant's petition filed 12 March 2007 under 37 CFR 1.182 and, request for refund filed 15 May 2006, are **GRANTED.**

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing for treatment in accordance with this decision.

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

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

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DAY PITNEY LLP
7 TIMES SQUARE
NEW YORK NY 10036-7311

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OCT 26 2009

OFFICE OF PETITIONS

In re Application of
Shuhei Nishiyama
Application No. 10/542,967
Filed: March 6, 2006
Attorney Docket No. **404777.114911**

DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 24, 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, September 17, 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 18, 2007.

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

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 2164 for appropriate action by the Examiner in the normal course of business.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: SHUHEI NISHIYAMA
3-10-8-203 AINOKAWA
ICHIKAWA CHIBA, JAPAN 27201-43

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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.
10/542,975	07/21/2005	Alastair J. Martin	PHUS030017US	1970

38107 7590 05/13/2010
PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P. O. Box 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER
MCEVOY, THOMAS M

ART UNIT	PAPER NUMBER
3731	

MAIL DATE	DELIVERY MODE
05/13/2010	PAPER

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

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

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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BRIARCLIFF MANOR NY 10510

In re Application of: MARTIN, ALASTAIR J. Serial No. 10/542,975 Filed: Jul. 21, 2005 Docket: PHUS030017US Title: MAGNETIC RESONANCE COMPATIBLE STENT	DECISION ON PETITION UNDER 37 CFR § 1.181

This is a decision on the petition filed May 7, 2010 under 37 CFR 1.181 requesting withdrawal of the finality of the last Office action mailed March 9, 2010.

The petition is **Granted.**

In finding petitioner's points of argument persuasive and after consulting with the examiner, the requested relief is granted. As such, the finality of the Office action issued on March 9, 2010 is premature and thus the finality of the action is hereby withdrawn. The Office action mailed on March 9, 2010 will be designated as non-final Office action. The amendment filed on May 7, 2010 has been entered as Rule 111 Amendment. The examiner has been requested to consider the claim amendment of May 7, 2010 and issue an Office action consistent with this decision.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

Robert Olszewski, Director
Technology Center 3700

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BOX 5581, LINNEGATAN 2
SE-114 85 STOCKHOLM
STOCKHOLM SWEDEN

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APR 0 5 2007

OFFICE OF PETITIONS

In re Application of	:	
Gunnar NORDMARK and Thomas BODEN	:	
Application No. 10/542,986	:	DECISION ON PETITION
Filed: July 21, 2005	:	TO WITHDRAW
Attorney Docket No. 69449-79714	:	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** as moot.

A review of the file record indicates that the power of attorney to the attorneys associated with Customer Number 26288 has been revoked by the applicants of the patent application on October 10, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Young & Thompson
745 South 23rd Street
2nd Floor
Arlington, VA 22202

UNITED STATES PATENT AND TRADEMARK OFFICE

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WHITE-WELKER & WELKER, LLC
P.O. BOX 199
CLEAR SPRING, MD 21722-019

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NOV 29 2006
OFFICE OF PETITIONS

In re Application of	:	
SANTA ANA	:	
Application No. 10/542,987	:	DECISION ON PETITION
Filed: July 21, 2005	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 21, 2006.

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

A review of the file record indicates that the power of attorney to WHITE-WELKER & WELKER, LLC has been revoked by the applicant of the patent application on November 07, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: BLANKENSHIP LAW, PLLC
2815 HARTLAND ROAD
SUITE 120
FALLS CHURCH, VA 22043

cc: Roland C. Santa Ana
224 North Van Buren Street
Rockville, MD 20850

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WHITE-WELKER & WELKER, LLC
P.O. BOX 199
CLEAR SPRING, MD 21722-019

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OFFICE OF PETITIONS

In re Application of	:	
Roland Santa Ana	:	
Application No. 10/542,990	:	DECISION ON PETITION
Filed: July 21, 2005	:	TO WITHDRAW
Attorney Docket No. ORIG_0004-US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed August 21, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to White-Welker & Welker, LLC has been revoked by the applicant of the patent application on November 7, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the current address of record until otherwise notified by applicant.

There is an outstanding Office action mailed October 19, 2006, that requires a reply by the applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: ROLAND SANTA ANA
224 NORTH VAN BUREN STREET
ROCKVILLE, MD 20850

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DENNIS G LAPOINTE
LAPOINTE LAW GROUP PL
PO BOX 1294
TARPON SPRINGS FL 34688-1294

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JUL 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Roland C. Santa Ana	:	
Application No. 10/542,990	:	ON PETITION
Filed: July 21, 2005	:	
Attorney Docket No. 4137.3	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed June 29, 2009.

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

The above-identified application became abandoned for failure to timely file a reply in response to the final Office action, mailed October 28, 2008. This Office action set a shortened statutory period for reply of three months. No reply having been received, the application became abandoned on January 29, 2009. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, applicant paid the petition fee, made the proper statement of unintentional delay, and filed the required reply in the form of an RCE.

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 is being forwarded to Group Art Unit 3723 for consideration of the RCE, filed June 29, 2009.

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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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

Mail Date: 04/20/2010

Applicant	: Shuichi Watanabe	: DECISION ON REQUEST FOR
Patent Number	: 7624326	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/543,005	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **858** 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.

31 AUG 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231
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Neil S. Bartfeld, Ph.D.
Knobbes, Martens, Olson & Bear, LLP
2040 Main Street, 14th Floor
Irvine, CA 92614

In re Application of	:	
MILLAR, et al.	:	DECISION ON PETITION
Serial No.: 10/543,017	:	
PCT No.: PCT/AU04/00083	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 23 January 2004	:	
Priority Date: 24 January 2003	:	
Atty Docket No.: ALAR18.001APC	:	
For: ASSAY FOR DETECTING METHYLATION CHANGES IN NUCLEIC ACIDS USING AN INTERCALATING NUCLEIC ACID	:	

This decision is in response to applicant's "PETITION UNDER 37 C.F.R. 1.47(a)" filed 24 July 2006 in the United States Patent and Trademark Office (USPTO) to accept the application without the signature of joint inventor George Miklos.

BACKGROUND

On 23 January 2004, applicant filed international application PCT/AU04/00083, which claimed priority of an earlier application filed 24 January 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 05 August 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 24 July 2005.

On 22 July 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 23 February 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 24 July 2006, applicant filed the present petition under 37 CFR 1.47(a) to accept the application without the signature of joint inventor George Miklos accompanied by a petition for a three-month extension of time and payment of the appropriate extension of time fee.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant has satisfied items1, 3 and 4.

As to item (2), as stated in the Manual of Patent Examination Procedure (MPEP), Section 409.03(d) Proof of Unavailability or Refusal, "Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature." 409.03(d) also states that:

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.

In the present case, applicant has provided a declaration from Dr. Trevor J. Davies detailing his attempts to obtain the signature of inventor Miklos. Dr. Davies states that the inventor refused to sign the declaration during a meeting on May 25, 2006 and again during a telephone conversation on June 28, 2006. However, applicant has not included any evidence that would show that Dr. Miklos knew specifically which invention was being discussed when he refused to sign the declaration. In a situation such as this where applicant is seeking to proceed on the basis of an oral refusal combined with non-receipt of a complete set of the application papers, applicant must provide a showing that the inventor was aware of the particulars of what he was being asked to sign; either through the mailing of the papers to the inventor or through a statement from Dr. Davies that shows that it was clear at the meeting of May 25, 2006 that Dr. Miklos was aware of the particulars of the application in question, i.e. that there was a complete set of application papers available for his review.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

13 NOV 2006

Neil S. Bartfeld, Ph.D.
Knobbes, Martens, Olson & Bear, LLP
2040 Main Street, 14th Floor
Irvine, CA 92614

In re Application of	:	
MILLAR, et al.	:	DECISION ON
Serial No.: 10/543,017	:	
PCT No.: PCT/AU04/00083	:	RENEWED PETITION
Int. Filing Date: 23 January 2004	:	
Priority Date: 24 January 2003	:	UNDER 37 CFR 1.47(a)
Atty Docket No.: ALAR18.001APC	:	
For: ASSAY FOR DETECTING METHYLATION CHANGES IN NUCLEIC ACIDS USING AN INTERCALATING NUCLEIC ACID	:	

This decision is in response to applicant's "RENEWED PETITION UNDER 37 C.F.R. § 1.47(a)" filed 19 October 2006 in the United States Patent and Trademark Office (USPTO) to accept the application without the signature of joint inventor George Miklos.

BACKGROUND

On 31 August 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 19 October 2006, applicant filed the present renewed petition.

DISCUSSION

As detailed in the decision mailed 31 August 2006, a petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant previously satisfied items1, 3 and 4.

As to item (2), applicant has presently confirmed through an additional declaration of Dr. Trevor Davies that the inventor refused to sign the declaration during a meeting on May 25, 2006 and that Dr. Miklos was aware of the particulars of the application in question, i.e. that there was a complete set of application papers available for the inventor's review.

In light of the above, it is proper to grant applicant's renewed petition at this time.

CONCLUSION

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

The application has an international filing date of 23 January 2004 under 35 U.S.C. 363, and will be given a date of **24 July 2006** 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 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. 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Emmanuel Legrand	: DECISION ON REQUEST FOR
Patent Number	: 7587828	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/543,029	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **231** 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

FASSE PATENT ATTORNEYS, P.A.
P.O. BOX 726
HAMPDEN, ME 04444-0726

Mail Date: 04/21/2010

Applicant	: Johannes Schweiger	: DECISION ON REQUEST FOR
Patent Number	: 7597285	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/543,037	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **684** 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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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN CT 06510

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OFFICE OF PETITIONS

In re Application of	:	
Gery Bernard Marie Dambricourt	:	
Application No. 10/543,077	:	ON PETITION
Filed: December 16, 2005	:	
Attorney Docket No. 05-531	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 10, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed December 23, 2008, which set a shortened statutory period for reply of three (3) months. A (3) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on June 24, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and fee; (2) the petition fee of $1,620; and (3) an adequate 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 Terri Williams at (571) 272-2991.

The application file is being forwarded to Technology Center AU 1794 for appropriate action on the concurrently filed Notice of Appeal.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN VA 22102

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JUL 05 2007

OFFICE OF PETITIONS

In re Application of

MURHAMMER, Leopold et al.
Application No. 10/543,086
Filed: July 22, 2005
Attorney Docket No. **449122082300**

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 17, 2007.

The request is **APPROVED**.

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

The request was signed by Deborah S. Gladstein on behalf of all attorneys of record who are associated. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed April 13, 2007 that requires a reply from 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: **LEOPOLD MURHAMMER**
LAIMGRUBENG 15/5/21
WIEN, AUSTRIA 1060

cc: **KEVIN SPIVAK, BELL BOYD & LLOYD LLC**
70 WEST MADISON STREET
SUITE 3100
CHICAGO, IL 60602

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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COMPUTER PATENT ANNUITIES INC.
901 N. WASHINGTON STREET
SUITE 305
ALEXANDRIA, VA 22314

Mail Date: 04/21/2010

Applicant	: Dieter Dorsch	: DECISION ON REQUEST FOR
Patent Number	: 7598241	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/543,109	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1023** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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
Southhampton, SO15-8TL

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OFFICE OF PETITIONS

In re Application of	:	
ISOZ	:	
Application No. 10/543,133	:	DECISION ON PETITION
Filed: July 22, 2005	:	TO WITHDRAW
Attorney Docket No. 79730	:	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.

for David Bucci
Petitions Examiner
Office of Petitions

cc: **Albihns Stockholm AB**
Box 5581, Linnegatan 2
SE-114 85 Stockholm; SWEDENn
Stockholm, Sweden

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SCHMEISER OLSEN & WATTS
18 E UNIVERSITY DRIVE
SUITE #101
MESA AZ 85201

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FEB 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Soo-Hwan Kim	:	
Application No. 10/543,161	:	DECISION ON PETITION
Filed: July 20, 2005	:	
Attorney Docket No. MAC-10791	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 26, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 3, 2008, as required by the Notice of Allowance and Fee(s) Due mailed April 3, 2008. Accordingly, the date of abandonment of this application is July 4, 2008. A Notice of Abandonment was mailed July 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 payment of the issue fee of $720.00 and publication fee of $300.00; (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay.

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

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

/Liana Walsh/
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

KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 SW YAMHILL STREET
PORTLAND OR 97204

MAILED
JUL 02 2010
OFFICE OF PETITIONS

In re Patent No. 7,718,573 :
Issue Date: May 18, 2010 :
Application No. 10/543,162 : DECISION ON PETITION
Filed: July 21, 2005 :
Attorney Docket No. SHX 354 :

This is a decision on the Request For Correction Of Assignee Under 37 C.F.R. §3.81(b) And Request For Certificate Of Correction Under 37 C.F.R. §1.323, filed on May 7, 2010, requesting correction on the Title Page of the subject patent to identify the correct assignees' names. The Requests are being treated as a Petition. A completed Certificate of Correction Form (PTO/SB/44) was submitted with the petition.

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

Petitioner urges that the present Petition was submitted to correct the assignees' names on the previously submitted PTOL-85B and such error was made by the patentee. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of a Certificate of Correction, to correct the assignees' names identified thereon from:

"Origin Electric Company, Ltd, Tokyo (JP)"

to:

--International Superconductivity Technology Center, The Juridical Foundation, Tokyo (JP) and Railway Technical Research Institute, Tokyo (JP)--

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

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

The requisite $100.00 fee (Fee Code 1811) as set forth under 37 CFR 1.20(a), and the requisite $130.00 processing fee (Fee Code 1464) as set forth under 37 CFR 1.17(i) have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the form (PTO/SB/44) that was submitted with petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

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

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,718,573.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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STOEL RIVES LLP - SLC
201 SOUTH MAIN STREET, SUITE 1100
ONE UTAH CENTER
SALT LAKE CITY, UT 84111

Mail Date: 04/21/2010

Applicant	: Sumita S. Ranganathan	: DECISION ON REQUEST FOR
Patent Number	: 7662322	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/543,165	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/26/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **936** 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.

10/543,165

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date :June 29, 2010

Patent No. :7662322
Inventor(s) :Musser, Barbara, J.
Issued :February 16, 2010
Title :IMPROVED HIGH TEMPERATURE AND HIGH HUMIDITY RELEASE COATING ;FOR POLYMER FILM

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.

Applicants' proposed request to change data on the Title Page; Item [54] Title is not warranted correction. The changes as presented in the Letters Patent is the result of a style change where certain words such as "A, Improvement etc.. are not included as the first word of the title.

In view of the forgoing applicants' request in this matter is hereby denied, however, a certificate of correction will issue to correct the remaining errors noted in applicants request.

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-7541.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756--1580 or (703) 756- 1541

Paul S. Evans
Stoel Rives LLP
One Utah Center
291 South Main Street, Ste 1100
Salt Lake City, UT 84111

/arg

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/25/09

TO SPE OF : ART UNIT 1794

SUBJECT : Request for Certificate of Correction for Appl. No.: 10543214 Patent No.: 7407696 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 Director's 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: _____

Deleted: _____

/Keith Hendricks/ 1794
SPE **Art Unit**

Deleted: ____

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MAR 29 2010
OFFICE OF PETITIONS

KLARQUIST SPARKMAN, LLP
121 S.W. SALMON STREET
SUITE #1600
PORTLAND OR 97204-2988

In re Application of	:	
Michael R. Emmert-Buck, et al.	:	
Application No. 10/543,218	:	DECISION ON PETITION
Filed: July 22, 2005	:	
Attorney Docket No. 4239-66334-04	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 6, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 4, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed October 1, 2009. Accordingly, the date of abandonment of this application is January 5, 2010. The Notice of Abandonment was mailed January 14, 2010.

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

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

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

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAW OFFICES OF JAMES E. WALTON, PLLC
1169 N. BURLESON BLVD.
SUITE 107-328
BURLESON, TX 76028

Mail Date: 04/21/2010

Applicant	: Daniel B. Robertson	: DECISION ON REQUEST FOR
Patent Number	: 7594625	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/543,222	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/30/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

24 MAR 2006

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

In re Application of TIDMARSH	:	
U.S. Application No.: 10/543,228	:	
PCT Application No.: PCT/US04/01138	:	
Int. Filing Date: 16 January 2004	:	DECISION
Priority Date Claimed: 17 January 2003	:	
Attorney Docket No.: 021305-000710US	:	
For: COMBINATION THERAPIES FOR THE TREATMENT OF CANCER	:	

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 21 July 2005.

BACKGROUND

On 16 January 2004, applicant filed international application PCT/US04/01138, which claimed priority of an earlier United States application filed 17 January 2003. The thirty-month period for paying the basic national fee in the United States expired on 17 July 2005.

International application PCT/US04/01138 became abandoned as to the United States for failure to timely pay the basic national fee.

On 21 July 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 a properly executed oath or declaration in compliance with 37 CFR 1.497 must be filed.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/543,229	07/21/2006	Yasuhisa Kaneko	10030231-04	1026

7590 12/03/2009
AGILENT TECHNOLOGIES INC.
INTELLECTUAL PROPERTY ADMINISTRATION,LEGAL DEPT.
MS BLDG. E P.O. BOX 7599
LOVELAND, CO 80537

EXAMINER
NGUYEN, TUNG X

ART UNIT	PAPER NUMBER
2829	

NOTIFICATION DATE	DELIVERY MODE
12/03/2009	ELECTRONIC

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☑ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

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

Mimi Farmer

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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AMIN, TUROCY & CALVIN, LLP
127 Public Square
57th Floor, Key Tower
CLEVELAND, OH 44114

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OCT 28 2008

OFFICE OF PETITIONS

In re Application of :
Daisuke Nishiguchi et al. :
Application No. 10/543,246 : ON PETITION
Filed: July 22, 2005 :
Attorney Docket No. SUZip102 US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 30, 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 October 22, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is January 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 Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540.00; and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1050 extension of time fee submitted with the petition on June 30, 2998, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 1794 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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JUL 29 2010

OFFICE OF PETITIONS

In re Application of :
Eric Hsu :
Application No. 10/543,272 : ON PETITION
Filed: July 25, 2005 :
Attorney Docket No.: 028466-000100US :

This is a decision in response to the petition, filed June 7, 2010, 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 August 7, 2009, 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 November 8, 2009. A Notice of Abandonment was mailed on May 11, 2010. On June 7, 2010, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) a proposed reply in the form of an amendment; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 3742 for appropriate action by the Examiner in the normal course of business on the response filed June 7, 2010.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6731

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MAY 1 2 2008

OFFICE OF PETITIONS

In re Application of :
Sepas SETAYESH et al. :
Application No. 10/543,276 : DECISION ON PETITION
Filed: July 25, 2005 :
Attorney Docket No. 259405 :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed July 02, 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 August 03, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election; (2) the petition fee of $770.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the restriction requirement of July 02, 2007 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,115.00 extension of time fee submitted with the petition on February 21, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

The application is being referred to the Technology Center AU 2811 for appropriate action on the concurrently filed election.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

FORM PTO-1083

PATENT
Attorney Docket No. 259405
Client Reference No. P80376US00
Date: February 21, 2008

In re Application of: Setayesh et al.
Application No. 10/543,276
Confirmation No. 1207
Filed: July 25, 2005
For: Electronic Device And Method Of Manufacturing Thereof

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

Sir:

Transmitted herewith is a reply to office action in the subject application.

☒ Small entity status is claimed for this application under 37 CFR 1.27.

☒ Petition for an extension of time for the period noted below, as well as for any additional period necessary to render the present submission timely. Please charge Deposit Account No. 12-1216 for the appropriate petition fee.

☒ Other: Petition Pursuant To 37 CFR 1.137(b) To Revive An Unintentionally Abandoned Application

☒ Please charge Deposit Account No. 12-1216 in the total amount indicated below. A duplicate copy of this transmittal is enclosed herewith (unless submitted via EFS-Web).

					SMALL ENTITY		OTHER THAN A SMALL ENTITY	
TIME EXTENSION PETITION FEE			five-month		$1,115.00		$ 0.00	
subtract time extension fee previously paid			none		($ 0.00)		($ 0.00)	
CLAIM FEE	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	EXTRA CLAIMS PRESENT	RATE	ADD'L CLAIM FEE	RATE	ADD'L CLAIM FEE
TOTAL		MINUS		=	x 25 =	$	x 50 =	$
INDEPENDENT		MINUS		=	x 105 =	$	x 210 =	$
☐	FIRST PRESENTATION OF MULTIPLE CLAIM				+ 185 =	$	+ 370 =	$
☒	Petition To Revive					$750.00		
TOTAL AMOUNT TO BE CHARGED TO DEPOSIT ACCOUNT					TOTAL	$1,865.00	TOTAL	$

☒ The Commissioner is hereby authorized to charge any deficiencies in the following fees associated with this communication or credit any overpayment to Deposit Account No. 12-1216.
☒ Any filing fees under 37 CFR 1.16 for the presentation of extra claims.
☒ Any patent application processing fees under 37 CFR 1.17.

Adjustment date: 05/12/2008 CKHLOK
02/22/2008 INTEFSW 00003002 121216 10543276
02 FC:2255 1115.00 CR

Respectfully submitted,

LEYDIG, VOIT & MAYER, LTD.

LEYDIG, VOIT & MAYER, LTD.
Two Prudential Plaza, Suite 4900
180 North Stetson Avenue
Chicago, Illinois 60601-6731
(312) 616-5600 (telephone)
(312) 616-5700 (facsimile)

By
Mark Joy, Reg. No. 35,562

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

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 5-8-08

2 Serial/Patent # 10/543226

3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
✓	Extension of Time	~~2-26-08~~	2-26-08	$ 1,115.00
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ ~~0.00~~ $1,115.00

8 TO BE REFUNDED BY:

	Treasury Check
✓	Credit Deposit A/C #:

9 12-1216

10 REASON:

	Overpayment
	Duplicate Payment
✓	No Fee Due (Explanation):

maximum extendable time has expired.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Michelle Owen TITLE: Paralegal ~~Petitions Examiner~~

SIGNATURE: Michelle R. Owen PHONE:

OFFICE: Office of Petitions

****

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APPROVED: [illegible] DATE: 5/12/08

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FORM PTO 1577
(01/90)

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APR 0 9 2009

OFFICE OF PETITIONS

In re Application of	:	
Ritz et al.	:	
Application No. 10/543,284	:	ON PETITION
Filed: July 3, 2006	:	
Attorney Docket No. DE030031US1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 9, 2009, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center AU 1794 for further processing of the RCE under 37 CFR 1.114 filed concurrently with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

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Paper No.

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

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JUN 29 2009

OFFICE OF PETITIONS

In re Application of	:	
Parmee et al.	:	
Application No. 10/543,290	:	ON APPLICATION FOR
Filed: July 25, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 21200P	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION filed March 2, 2009. Applicants request that the patent term adjustment be increased from four hundred ninety-seven (497) days to five hundred four (504) days plus the full period of time calculated from the date that is the three years after the filing date plus any additional time that is incurred by the Patent Office in granting the patent, calculated from the date that is four months after the payment of the issue fee.

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b). (This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined).

Applicant is given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for

seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

To the extent that applicants otherwise request reconsideration of the patent term adjustment the application for patent term adjustment (PTA) is **DISMISSED**.

On December 3, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 497 days. Applicants dispute the reduction of 7 days entered for the filing of an information disclosure statement (IDS) on the basis that both the response to the restriction requirement and the IDS were received in the Patent Office during the one-month period for response. Applicants argue therefore that applicants did not fail to engage in reasonable efforts to conclude examination on the merits.

Applicants' arguments have been considered, but not found persuasive. Applicants do not state the proper standard for considering whether the filing of the IDS occurred under circumstances that constitute a failure to engage in reasonable efforts to conclude examination. Applicants' attention is directed to 37 CFR 1.704(c) which provides, in pertinent part, that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the

following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

It is undisputed that after the filing of a response on April 8, 2008, on April 15, 2008, applicants filed the IDS. The IDS did not include a § 1.704(d) statement[1] and was not expressly requested by the examiner. Accordingly, the Office properly entered a period of reduction of 7 days for the filing of the IDS. This reduction will not be removed.

The determination of the patent term adjustment at the time of the mailing of the notice of allowance remains four hundred ninety-seven (497) 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.

---

[1] § 1.704(d) A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

26 OCT 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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LAW OFFICE OF JAY R. YABLON
910 Northumberland Drive
Schenectady, NY 12309

In re Application of KELLY, Shawn P. *et al* U.S. Application No.: 10/543,296 PCT No.: PCT/US04/02663 Int. Filing Date: 30 January 2004 Priority Date: 03 February 2003 Attorney Docket No.: KELLP002NAT For: DEVICE SYSTEM AND METHOD FOR IMPROVING EFFICIENCY AND PREVENTING DEGRADATION OF ENERGY STORAGE DEVICES	**DECISION**

This decision is in response to the papers filed on 06 September 2005.

Applicants' request to charge the national stage payments to two different credit cards in the above-captioned application is treated under 37 CFR 1.181 and is **GRANTED**.

A review of the application shows that applicant submitted two credit card payment forms (one authorizing a charge of $6,000.00 and the other authorizing $1,050.00) for the $7,050.00 national stage fees on 26 July 2005. However, the entire charge of $7,050.00 was erroneously charged to one credit card.

This error has been rectified. The proper charges have been made to the two credit cards.

This application is being forwarded to the national stage division for further processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 05/05/2010

Applicant	: Akiko Ogasawara	: DECISION ON REQUEST FOR
Patent Number	: 7622168	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/543,297	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/26/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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

COMMISSIONER FOR PATENTS
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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

COPY MAILED

OCT 09 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Philip Bunce :
Application No.: 10/543,325 :
Filed: May 12, 2006 :
Attorney Docket No.: 03955.0151USWO :

This is a decision on the petition, filed October 3, 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 December 18, 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 3728 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).

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.*

17 MAR 2006

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Gary R. Dulak
25860 Estaban Drive
Valencia, CA 91355

In re Application of	:	
DULAK, Gary	:	
Application No.: 10/543,335	:	
PCT No.: PCT/US04/01321	:	
Int. Filing Date: 16 January 2004	:	**DECISION**
Priority Date: 17 January 2003	:	
Attorney Docket No.: None	:	
For: ARTIFICIAL NUCLEUS PULPOSUS	:	
AND METHOD OF INJECTING SAME	:	

This decision is in response to the papers filed via facsimile on 14 February 2006 which are treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment. No fee is required.

BACKGROUND

On 25 July 2005, applicant submitted papers to enter the national stage of PCT/US04/001321 claiming priority to a U.S. application filed 17 January 2003.

On 24 February 2004, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) for failing to provide the full U.S. Basic National Fee by 30 months.

On 28 September 2004, applicant filed a copy of a USPS Certified Mail receipt indicating that documents were mailed 16 July 2005.

DISCUSSION

The above-captioned application is a national stage of PCT/US04/001321 claiming priority to a U.S. provisional application filed 17 January 2003. Thus, the thirty-month date expired at midnight on 17 July 2005.

In order to enter the national stage, applicant must meet the requirements of 37 CFR 1.495, which states, in part:

> (a) The applicant in an international application must fulfill the requirements of 35 U.S.C. 371 within the time periods set forth in paragraphs (b) and (c) of this section in order to prevent the abandonment of the international application as to the United States of

America. The thirty-month time period set forth in paragraphs (b), (c), (d), (e) and (h) of this section may not be extended . . .

(b) To avoid abandonment of the application, the applicant shall furnish to the United States Patent and Trademark Office not later than the expiration of thirty months from the priority date:

(2) The basic national fee (see § 1.492(a)).

In this case, the national stage papers and basic national fee were not received until 25 July 2005.[1] The fact that applicant deposited the subject application using the certified mail of the USPS on 16 July 2005 is immaterial. Applicant must use the Express Mail service of the USPS to obtain a filing date based on date of deposit with the USPS. Section 513 of the Manual of Patent Examining Procedure states, in part:

The statutory authority for the granting of a filing date based on the date of deposit for correspondence sent by "Express Mail" and received by the Office is found in section 21(a) of Title 35 of the United States Code.

The specific rule for obtaining a filing date as of the date of deposit in "Express Mail" (rather than the date of receipt at the Office) is 37 CFR 1.10.

35 U.S.C. 21(a) is limited to correspondence deposited with the United States Postal Service (USPS). The procedure in 37 CFR 1.10 is limited to correspondence deposited in the "Express Mail Post Office to Addressee" service of the USPS.

Accordingly, the above-captioned application was properly abandoned pursuant to 37 CFR 1.495(b)(2) for failure to timely pay the basic national fee.

CONCLUSION

Applicant's petition is **DISMISSED** without prejudice.

The above-captioned application remains **ABANDONED**.

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

---

[1] A check of USPS Track & Confirm records for certified mail No. 7005 0390 0003 2132 1123 verifies that the item was delivered at 7:57 a.m. on 25 July 2005 to Alexandria, VA.

CFR 1.137(a) or (b).

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

#7

UNITED STATES PATENT AND TRADEMARK OFFICE

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21 SEP 2006

Gary R. Dulak
25860 Estaban Drive
Valencia, CA 91355

In re Application of :
DULAK, Gary *et al* :
Application No.: 10/543,335 :
PCT No.: PCT/US04/01321 :
Int. Filing Date: 16 January 2004 : **DECISION**
Priority Date: 17 January 2003 :
Attorney Docket No.: None :
For: ARTIFICIAL NUCLEUS PULPOSUS :
AND METHOD OF INJECTING SAME :

Applicants' petition to revive under 37 CFR 1.137(b) filed on 27 June 2006 is hereby **GRANTED** as follows:

The basic national fee was previously submitted and the petition fee has been paid. Applicants made the required statement pursuant to 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

It is noted that applicants submitted a declaration with the national stage papers on 25 July 2005. However, this declaration does not comply with 37 CFR 1.497(a) and (b) because it is a composite declaration. The declaration has one first page 1, two second pages and two third pages. Page 2 and two Page 3. This is unacceptable.

Applicants must submit a complete copy of each declaration signed by each inventor and the declaration must identify the correct inventive entity.

This application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a $65.00 surcharge fee pursuant to 37 CFR 1.492(h) are required.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 28, 2009

TO SPE OF : ART UNIT 3616
SUBJECT : Request for Certificate of Correction for Appl. No.: 10/543341/7500535

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

FOR IFW FILES: Should Reference be approved?

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 120

Thank You For Your Assistance

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

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

Comments: _____

APPROVED

/Paul N. Dickson/ — **SPE**

3616 — **Art Unit**

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JUN 08 2010

OFFICE OF PETITIONS

WILMERHALE/BOSTON
60 STATE STREET
BOSTON MA 02109

In re Application of

Whanjin Roh :

Application No. 10/543,352

: DECISION ON PETITION

Filed: July 26, 2005

:

Attorney Docket No. **0112903.00287US1**

This is a decision on the petition under 37 CFR 1.137(b), filed March 12, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 15, 2008, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on March 16, 2009. A Notice of Abandonment was mailed on July 8, 2009.

The amendment filed March 12, 2010 is noted.

The application is being forwarded to Technology Center 1700, GAU 1795 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

1 7 OCT 2007
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HAYNES AND BOONE, LLP
901 MAIN STREET
SUITE 3100
DALLAS, TX 75202-3789

In re Application of SHUSTER et al	:	
U.S. Application No.: 10/543,364	:	
PCT Application No.: PCT/US2004/002122	:	DECISION
Int. Filing Date: 26 January 2004	:	
Priority Date Claimed: 27 January 2003	:	
Attorney Docket No.: 25791.225.06	:	
For: LUBRICATION SYSTEM FOR RADIALLY EXPANDING TUBULAR MEMBERS	:	

This is in response to applicant's "Petition Under 37 C.F.R. § 1.182" filed 28 August 2007.

BACKGROUND

On 26 January 2004, applicant filed international application PCT/US2004/002122, which claimed priority of an earlier United States application filed 27 January 2003. The thirty-month period for paying the basic national fee in the United States expired on 27 July 2005.

On 26 July 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 a substitute specification.

On 02 March 2007, applicant's deposit account was debited for excess claim fees.

On 28 August 2007, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

A review of international application PCT/US2004/002122 reveals that the application contained 170 claims. A proper amendment reducing the number of claims was never submitted in the international application.

MPEP 1893.01(c) states in relevant part,

> A preliminary amendment accompanying the initial national stage submission under 35 U.S.C. 371 that cancels claims and/or eliminates multiple dependent claims will be effective to reduce the number of claims to be considered in calculating extra claim fees required under 37 CFR 1.492**>(d)-(e)< and/or eliminate the multiple dependent claim fee required under 37 CFR 1.492*>(f)<. A subsequently filed amendment canceling claims and/or eliminating multiple dependent claims will not entitle applicant to a refund of fees previously paid. See MPEP § 607 and § 608. (Emphasis added.)

In the present case, although applicant may have sought to reduce the number of claims for examination at the time of national stage entry, the initial national stage submission on 26 July 2005 did not include a proper preliminary amendment. Therefore, the properly formatted yet subsequently filed amendment of 28 August 2007 does not entitle applicant to a refund of the previously paid excess claim fees. The petition fails to make a sufficient showing that a miscarriage of justice would occur if the Office adheres to the requirement plainly set forth in MPEP 1893.01(c) and noted above.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182".

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

10/17/2007 SBASHEIR 00000011 081394 10543364
Sale Ref: 00000011 DAH: 081394 10543364
01 FC:1462 400.00 DA

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AMSTER, ROTHSTEIN & EBENSTEIN LLP
90 PARK AVENUE
NEW YORK, NY 10016

Mail Date: 04/21/2010

Applicant	: Gary Brian Evans	: DECISION ON REQUEST FOR
Patent Number	: 7655795	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/543,380	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **324** 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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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

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FEB 19 2008

In re Application of	:	
Michael Janny et al.	:	
Application No. 10/543,392	:	ON PETITION
Filed: July 26, 2005	:	
Attorney Docket No. AT 030004	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 17, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 2, 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) was obtained. Accordingly, the application became abandoned on August 3, 2006. The Notice of Abandonment was mailed November 17, 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 $1,500; and (3) an adequate statement of unintentional delay.

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

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

cc: **ADAM L. STROUD**
PHILIPS ELECTRONICS NORTH AMERICA CORP.
370 W. TRIMBLE ROAD
SAN JOSE, CA 95131

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First-Named Inventor: Janny		Docket No.:	AT030004
Application No.: 10/543,392	Conf.: 2046	Art Unit:	3724
Date Filed: 07/26/2005		Examiner:	Brean, Laura M.

Title: CUTTER UNIT FOR A SHAVER AND SHAVER WITH A CUTTER UNIT

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

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

Sir:

The above-identified application became abandoned for failure to file a timely and proper reply to a USPTO notice or action dated 05/02/2006.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires: (1) Petition fee; (2) Reply and/or issue fee; (3) Terminal disclaimer w/disclaimer fee (IF filed before 6/8/1995); and (4) Statement that the entire delay was unintentional.

1. PETITION FEE UNDER 37 CFR §1.17(m):

   ☒ Please charge the petition fee to Deposit Account 14-1270.

2. REPLY AND/OR FEE:

   ☒ The reply and/or fee to the above-noted Office Action in the form of _____
   - ☐ has been filed previously on _____.
   - ☒ is enclosed herewith.

   ☐ The issue fee
   - ☐ has been paid previously on _____.
   - ☐ is enclosed herewith.

3. TERMINAL DISCLAIMER WITH DISCLAIMER FEE:

   ☐ Since this application was filed after June 8, 1995, no terminal disclaimer is required.

   ☐ A terminal disclaimer and the required disclaimer fee disclaiming the required period of time is enclosed herewith.

4. STATEMENT:

   ☒ The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

02/20/2008 CKHLOK 00000003 141270 10543392

01 FC:1453 1500.00 DA

Document3 (rev. 3/03)

PAGE 2/17 * RCVD AT 4/17/2007 5:10:09 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/1 * DNIS:2738300 * CSID:4084749080 * DURATION (mm-ss):05-22

Please charge any fees which may be required, or credit any overpayment to Deposit Account No. 14-1270.

Date: 17-APRIL-2007

Respectfully submitted,

By

Adam L. Stroud, Reg. No. 48,410
(408) 904-3618
Philips Electronics North America Corp.
370 W. Trimble Road
San Jose, CA 95131

Enclosures:
- [x] Fee Payment
- [x] Reply
- [ ] Terminal Disclaimer Form
- [ ] Additional sheets containing statements establishing unintentional delay
- [ ] Other: _____

CERTIFICATE OF MAILING or TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to "Commissioner for Patents, Washington, D.C. 20231," or being facsimile transmitted to the USPTO at (571) 273-8300, on the date indicated below.

(Date) 2007-APR-17 (Signature) _____
(Name) Daniel L. Michalek

PAGE 3/17 * RCVD AT 4/17/2007 5:10:09 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/1 * DNIS:2738300 * CSID:4084749080 * DURATION (mm-ss):05-22

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Robert E. Krebs
Thelen Reid & Priest
P O Box 640640
San Jose, CA 95164-0640

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AUG 14 2006

OFFICE OF PETITIONS

In re Application of :
Choi : DECISION ON PETITION
Application No. 10/543,417 :
Filed: July 25, 2005 :
Atty. Dkt. No.: 035967-015 :

This decision is a decision on the petition under 37 CFR 1.10(c) filed May 19, 2006.

Petitioner alleges that the application was deposited in Express Mail Service on July 25, 2005. In support, the petition is accompanied by a copy of Express Mail receipt No. EV310861127US (the same Express Mail number found on the original application papers located in the official file).

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. However, the evidence is convincing that the application was deposited as "Express Mail" with the U.S. Postal Service on July 25, 2005 and delivered to the Office on July 27, 2005.

In view thereof, the petition is **GRANTED**.

This application file is being forwarded to the Office of Initial Patent Examination (OIPE) for correction of the filing date to **July 25, 2005** and for issuance of a corrected filing receipt.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

Track & Confirm

Search Results

Label/Receipt Number: **EV31 0861 127U S**
Detailed Results:

- **Delivered, July 27, 2005, 8:38 am, ALEXANDRIA, VA 22313**
- **Arrival at Unit, July 27, 2005, 8:31 am, DULLES, VA 20102**
- **Enroute, July 25, 2005, 8:11 pm, SAN JOSE, CA 95101**
- **Enroute, July 25, 2005, 6:57 pm, SAN JOSE, CA 95125**
- **Acceptance, July 25, 2005, 6:04 pm, SAN JOSE, CA 95125**

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MAY 06 2009

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SCHLUMBERGER OILFIELD SERVICES
200 GILLINGHAM LANE
MD 200-9
SUGAR LAND, TX 77478

In re Application of	:	
Aaron Jacobson, et al.	:	
Application No. 10/543,426	:	ON PETITION
Filed: July 26, 2005	:	
Attorney Docket No. 21.1112	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 9, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 23, 2008. A Notice of Abandonment was subsequently mailed on March 13, 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)(II)(A)(2).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $810; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2856 for further processing the RCE in accordance with 37 CFR 1.114.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

DO NOT SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-12-09

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 10543428 Patent No.: 7504510

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

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:

CERTIFICATE OF CORRECTIONS BRANCH (C of C)
RANDOLPH SQUARE
PALM LOCATION - 7580

Valerie Faulkner
Certificates of Correction Branch

703-756-1573

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

1625
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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611 ANTON BLVD
SUITE 1400
COSTA MESA CA 92626

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In re Application of

RAVIKUMAR, Ravi
Application No. 10/543,438
Filed: May 03, 2006
Attorney Docket No. **100325.0223US**

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 12, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the acts noted in the above-identified certifications have been performed.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **ROBERT FISH**
FISH & ASSOCIATES, PC
2603 MAIN STREET
SUITE 1050
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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

RUTAN & TUCKER, LLP.
611 ANTON BLVD
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COPY MAILED

OCT 0 1 2008

OFFICE OF PETITIONS

In re Application of
RAVIKUMAR, Ravi
Application No. 10/543,439
Filed: May 03, 2006
Attorney Docket No. **100325.0167US**

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 08, 2008.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the acts noted in the above-identified certifications have been performed.

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

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

Michelle R. Eason
Paralegal Specialist
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NOV 10 2008

In re Application of

RAVIKUMAR, Ravi
Application No. 10/543,439
Filed: May 03, 2006
Attorney Docket No. **100325.0167US**

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 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. 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 Todd W. Wight on behalf of all attorneys of record who are associated with customer No. 34284. 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 address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor.

There are no outstanding office actions at this time.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **RAVI RAVIKUMAR**
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21 MAR 2007

WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE WA 99201

In re Application of DUNN et al. Application No.: 10/543,443 PCT No.: PCT/GB04/00446 Int. Filing: 05 February 2004 Priority Date: 07 February 2003 Attorney Docket No.: UR8-001 For: APPARATUS AND METHOD FOR FOLDING A SHEET OF FOIL	DECISION ON PETITION TO REVIVE UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 2 March 2007 in the above-captioned application is hereby **GRANTED** as follows:

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

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

This application is being forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 02 March 2007.

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

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United States Patent and Trademark Office

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0 1 OCT 2007

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

In re Application of	:	
Hammond et al.	:	
Application No.: 10/543,456	:	DECISION
PCT No.: PCT/GB04/00357	:	
Int. Filing Date: 30 January 2004	:	ON
Priority Date: 31 January 2003	:	
Attorney Docket No.: 102792-465 (11198P1 US)	:	PETITION
For: Pump	:	

This is in response to the "Request For Corrected Filing Receipt" filed on 20 January 2006, which is being treated as a petition under 37 CFR 1.10(d).

BACKGROUND

This international application was filed on 30 January 2004, claimed an earlier priority date of 31 January 2003, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 12 August 2004. The 30 month time period for paying the basic national fee in the United States expired at midnight on 31 July 2005. Applicants filed *inter alia* the basic national fee on 27 July 2005.

On 28 December 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 **27 July 2005**.

DISCUSSION

Counsel indicates that the "filing date on the enclosed Filing Receipt is identified as 07/27/2005. The correct filing date is 07/26/2005," and requests correction on the basis of a "copy of the Express Mail label used for the filing of the initial application, as stamped by the U.S. Postal Service on July 26, 2005." Inspection of the accompanying "Customer Copy" of Express Mail label number EV586236415US reveals that it bears a "Date Accepted" of "7 27 05." Since counsel is in effect disputing this "date-in," treatment under 37 CFR 1.10(d) is appropriate.

37 CFR 1.10(d) provides that

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Director to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

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

The petition complies with 37 CFR 1.10(d)(2) because an Express Mail mailing label number, EV586236415US, was recorded on the Express Mail Certificate which accompanied and itemized the filing of the correspondence in question.

With regard to 37 CFR 1.10(d)(3), counsel has provided a copy of the Express Mail mailing label, number EV586236415US, which shows a "Date-In" (on this version of the label, a "Date Accepted") of "7 27 05" but which also bears a USPS plug stamp dated "JUL 26 2005." Petitioner has not provided appropriate evidence resolving this discrepancy, whether from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence as "Express Mail." Therefore, 37 CFR 1.10(d)(3) has not been satisfied.

Review of the "Combined Oath, Declaration and Power of Attorney" document filed on 27 July 2005 reveals that it was not executed by the inventors. Inspection of the declaration under PCT Rule 4.17(iv), a copy of which was also filed on 27 July 2005, reveals that it appears to have been compiled by combining separate sheets signed by each of the signing inventors. Attention is drawn to MPEP 201.03, which explains in part that

> An oath or declaration under 37 CFR 1.63 by each actual inventor must be presented. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. For example, where the inventive entity is A and B, a declaration may not be executed only by A naming only A as the inventor and a different declaration may not be executed only by B naming only B as the inventor, which two declarations are then combined into one declaration with a first page of boiler plate, a second page with A's signature, and a second page with B's signature (so that it appears that the declaration was executed with the entire inventive entity appearing in the declaration when it did not).

In view of this policy, it would not be appropriate to accept the declaration under PCT Rule 4.17(iv) for purposes of compliance with 35 U.S.C. 371(c)(4) and 37 CFR 1.497(a) and (b). As

the declaration does not satisfy 35 U.S.C. 371(c)(4), the Notice of Acceptance (Form PCT/DO/EO/903) mailed on 28 December 2005 was issued prematurely, and therefore it is hereby **VACATED**.

DECISION

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

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

2 8 MAR 2007

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BOURQUE & ASSOCIATES
INTELLECTUAL PROPERTY ATTORNEYS, P.A.
835 HANOVER STREET
SUITE 301
MANCHESTER NH 03104

In re Application of	:	
REISMEIER	:	DECISION
Application No.: 10/543,459	:	
PCT No.: PCT/EP2004/000591	:	
Int. Filing Date: 24 January 2004	:	
Priority Date: 27 January 2003	:	
Attorney's Docket No.: THIELK-041XX	:	
For: METHOD FOR THE PRODUCTION	:	
OF A FURNITURE BODY	:	

This is a decision in response to applicant's "REQUEST FOR CORRECTED FILING DATE" filed in the United States Patent and Trademark Office (USPTO) on 08 September 2006, which has properly been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 24 January 2004, applicant filed international application PCT/EP2004/000591, which claimed a priority date of 27 January 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 12 August 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 27 July 2005.

On 26 July 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, a translation of the international application into English, an assertion of small entity status, and an unexecuted declaration of the inventor.

On 13 March 2006, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that a translation of the international 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 the inventor in compliance with 37 CFR 1.497(a)-(b), and the surcharge under 37 CFR 1.492(h) for providing the declaration later than thirty months from the priority date were required.

On 11 May 2006, applicant filed a "RESPONSE TO NOTICE OF MISSING REQUIREMENTS" which included, *inter alia*, an executed declaration of the inventor, the surcharge under 37 CFR 1.492(h), and statements indicating that the English translation of the international application had been provided on 26 July 2005 and thus a new English translation was not required nor was the fee under 37 CFR 1.492(i).

On 08 August 2006, the USPTO mailed a NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903) according a 371(c)(1), (c)(2), and (c)(4) date of 11 May 2006.

On 08 September 2006, applicant submitted the instant "REQUEST FOR CORRECTED FILING DATE" requesting that the 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date be changed from 11 May 2006 to 26 July 2005. This request has properly been treated as a petition under 37 CFR 1.181.

DISCUSSION

Applicant did not file an executed declaration in compliance with 37 CFR 1.497(a)-(b) as required by 35 U.S.C. 371(c)(4) until 11 May 2006. Accordingly, the correct 35 U.S.C. 371 371(c)(1), (c)(2), and (c)(4) date is 11 May 2006. Thus, the filing date indicated on the filing receipt mailed 08 August 2006 is correct.

For applicant's information, attention is directed to MPEP § 1893.03(b), which states:

> An international application designating the U.S. has two stages (international and national) with the filing date being the same in both stages. Often the date of entry into the national stage is confused with the filing date. It should be borne in mind that the filing date of the international stage application is also the filing date for the national stage application. Specifically, 35 U.S.C. 363 provides that
>
> > An international application designating the United States shall have the effect, from its international filing date under Article 11 of the treaty, of a national application for patent regularly filed in the Patent and Trademark Office except as otherwise provided in section 102(e) of this title.
>
> Similarly, PCT Article 11(3) provides that
>
> > ...an international filing date shall have the effect of a regular national application in each designated State as of the international filing date, which date shall be considered to be the actual filing date in each designated State.
>
> 37 CFR 1.496(a), first sentence, reads "International applications which have complied with the requirements of 35 U.S.C. 371(c) will be taken up for action based on the date on which such requirements were met." Thus, when the file wrapper label or PALM bib-data sheet and filing receipt are printed, the information is read from the PALM data base and the information printed in the filing date box is the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements rather than the actual international filing date.

The NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495 (Form PCT/DO/EO/903), a copy of which is reproduced in MPEP § 1893.03(a), indicates the date of receipt of the 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements, and it also indicates the date of completion of all 35 U.S.C. 371 requirements, which is further explained below.

The "Application Filing Date" field formerly displayed in PAIR was changed to "Filing or 371(c) Date" to clearly indicate that for international applications that enter the national stage under 35 U.S.C. 371, the information displayed in this field is the date of receipt of the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements. Applicants are quite often confused as to the true filing date and will ask for corrected filing receipts thinking that the information thereon is wrong. This explanation should offer some clarity. For most legal purposes, the filing date is the PCT international filing date. . . .

CONCLUSION

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

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

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27 SEP 2006

United States Patent and Trademark Office

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BOZICEVIC, FIELD & FRANCIS LLP
1900 University Avenue, Suite 200
East Palo Alto, CA 94303

In re Application of	:	
Bradford et al.	:	
Application No. 10/543,466	:	
PCT No.: PCT/US04/03083	:	
Int. Filing Date: 02 February 2004	:	DECISION
Priority Date: 03 February 2003	:	
Atty. Docket No.: INTM-024	:	
For: Marketing System For Improving Patient	:	
Compliance And Methods And Devices	:	
Relating To Same	:	

This is in response to the "Request To Withdraw As Attorneys Of Record Under 37 C.F.R. §1.36" filed on 04 April 2006.

BACKGROUND

This international application was filed on 02 February 2004, claimed an earliest priority date of 03 February 2003, and designated the U.S. The 30 month time period for paying the basic national fee in the United States expired at midnight on 03 August 2005. Applicants filed, *inter alia*, the basic national fee on 27 July 2005.

On 16 December 2005, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(h).

On 06 March 2006, applicants filed a response which included a declaration.

DISCUSSION

Counsel requests "that the Patent Office approve this request for withdrawal from representation of the applicant of the above-identified application as requested by the client's instructions of April 4, 2006." 37 CFR 1.36(b) provides that

> A registered patent attorney or patent agent who has been given a power of attorney pursuant to § 1.32(b) may withdraw as attorney or agent of record upon application to and approval by the Director. The applicant or patent owner will be notified of the withdrawal of the registered patent attorney or patent agent. Where power of attorney is given to the patent practitioners associated with a Customer Number, a request to delete all of the patent practitioners associated with the Customer Number may not be granted if an applicant has given power of attorney to the patent practitioners associated with the Customer Number in an application that has an Office action to which a reply is due, but insufficient time remains for the applicant to file a reply. See § 41.5 of this title for withdrawal during proceedings before the Board of Patent Appeals and Interferences.

While 37 CFR 10.40(b) provides that

> Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:

(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;

(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;

(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or

(4) The practitioner is discharged by the client.

In the instant case, counsel requests withdrawal on the basis of being so instructed by applicants. No Office action is outstanding to which a reply is due, and Atty. Borden's statement suggests that withdrawal is in fact mandatory per 37 CFR 10.40(b)(4). Based on the totality of the circumstances presented at this time, it would be appropriate to grant counsel's request for permission for the enumerated attorneys/agents to withdraw .

It is noted that the declaration of the inventors filed on 06 March 2006 is defective because, on one sheet, the name of inventor "BRADFORD, WILLIAM" has been changed to "BRADFORD, WILLIAMSON ZIEGLER" and initialed by "WZB." Although "BRADFORD, William" is listed among the inventors of the published international application, "BRADFORD, WILLIAMSON ZIEGLER" is not. In view of the fact that a line nominating "BRADFORD, WILLIAM" on another page of the declaration has been signed, it is not clear whether the name "BRADFORD, WILLIAMSON ZIEGLER" is intended to replace the name "BRADFORD, WILLIAM," or whether both names are intended to appear. Petitioner may wish to seek relief under 37 CFR 1.497(d) (if an inventor is being added) or under 37 CFR 1.182 if an inventor's name is being corrected for more than a mere typographic error or phonetic misspelling. *See* MPEP § 605.04(b) and MPEP § 201.03(b).

CONCLUSION

The request to withdraw is **GRANTED**.

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

This application is being returned to the National Stage Processing Branch for further processing, including (1) updating the USPTO records to reflect the correspondence address listed below, and (2) preparing and mailing a Notification of Defective Response (Form PCT/DO/EO/916) requiring an oath or declaration in compliance with 37 CFR 1.497(a) and (b).

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cc: Li-Hsien (Lily) Rin-Laures
Marshall, Gerstein & Borun LLP
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SEARS TOWER
CHICAGO, IL 60606

31 JAN 2007

In re Application of
Bradford et al.
Application No. 10/543,466
PCT No.: PCT/US04/03083
Int. Filing Date: 02 February 2004
Priority Date: 03 February 2003
Atty. Docket No.: INTM-024
For: Marketing System For Improving Patient Compliance And Methods And Devices Relating To Same

DECISION

This is in response to the petition under 37 CFR 1.182 filed on 15 November 2006.

DISCUSSION

In a Decision mailed on 27 September 2006, it was noted that

> It is noted that the declaration of the inventors filed on 06 March 2006 is defective because, on one sheet, the name of inventor "BRADFORD, WILLIAM" has been changed to "BRADFORD, WILLIAMSON ZIEGLER" and initialed by "WZB." Although "BRADFORD, William" is listed among the inventors of the published international application, "BRADFORD, WILLIAMSON ZIEGLER" is not. In view of the fact that a line nominating "BRADFORD, WILLIAM" on another page of the declaration has been signed, it is not clear whether the name "BRADFORD, WILLIAMSON ZIEGLER" is intended to replace the name "BRADFORD, WILLIAM," or whether both names are intended to appear. Petitioner may wish to seek relief under 37 CFR 1.497(d) (if an inventor is being added) or under 37 CFR 1.182 if an inventor's name is being corrected for more than a mere typographic error or phonetic misspelling. *See* MPEP § 605.04(b) and MPEP § 201.03(b).

In response, petitioner states that "The Request form for corresponding International Application No. PCT/US/03083 listed William Bradford as an inventor. The correct full name of the inventor/applicant is Williamson Zieler Bradford. The listing of William Bradford was an inadvertent typographical error." However, petitioner has not indicated whether this statement is made on the basis of first-hand knowledge, nor whether the names Williamson Zieler Bradford and William Bradford refer to the same person. A statement from Mr. Bradford indicating his correct name and describing his status as applicant/inventor would be appropriate. In view of the totality of the evidence now of record, it would not be appropriate to "change the name of inventor" as requested by petitioner at this time.

CONCLUSION

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

Applicants have **TWO (2) MONTHS** from the mailing date of this Decision to file a response, extendable under 37 CFR 1.136(a). Failure to timely reply will result in **ABANDONMENT**.

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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25 JUN 2007

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In re Application of	:	
Bradford et al.	:	
Application No. 10/543,466	:	DECISION ON
PCT No.: PCT/US04/03083	:	
Int. Filing Date: 02 February 2004	:	PETITION UNDER
Priority Date: 03 February 2003	:	
Atty. Docket No.: INTM-024	:	37 CFR 1.182
For: Marketing System For Improving	:	
Patient Compliance And Methods	:	
And Devices Relating To Same	:	

This is in response to the petition under 37 CFR 1.182 filed on 30 April 2007.

DISCUSSION

In a Decision mailed on 31 January 2007, addressing the petition filed on 15 November 2006, the declaration was not accepted (without prejudice) because

> petitioner states that "The Request form for corresponding International Application No. PCT/US/03083 listed William Bradford as an inventor. The correct full name of the inventor/applicant is Williamson Zieler Bradford. The listing of William Bradford was an inadvertent typographical error." However, petitioner has not indicated whether this statement is made on the basis of first-hand knowledge, nor whether the names Williamson Zieler Bradford and William Bradford refer to the same person. A statement from Mr. Bradford indicating his correct name and describing his status as applicant/inventor would be appropriate. In view of the totality of the evidence now of record, it would not be appropriate to "change the name of inventor" as requested by petitioner at this time.

Petitioner now presents a signed "Statement of Williamson Ziegler Bradford" in which Mr. Bradford states in part that

> I am the person identified as William Bradford on the PCT Request form, which incorrectly listed my name as "William Bradford."
>
> My correct name is Williamson Ziegler Bradford...

In view of the totality of the evidence of record, it would be appropriate to grant the requested relief under 37 CFR 1.182. Thus, the declaration of the inventors filed on 06 March 2006 is accepted for purposes of compliance with 37 CFR 1.497(a) and (b) and 35 U.S.C. 371(c)(4).

Petitioner has paid a total of $530.00 toward the $400.00 petition fee. The $130.00 excess is being refunded to Deposit Account No. 13-2855, per the authorization included in the petition.

CONCLUSION

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

This application is being returned to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **06 March 2006**.

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

Adjustment Date: 06/25/2007 SBASHEIR
01/29/2007 LELLIS 00000007 132855 10543466
01 FC:1464 130.00 CR

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

SEP 2 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Diego Sebastian Briozzo Fernandez	:	
Application No. 10/543,472	:	ON PETITION
Filed: July 28, 2005	:	
Attorney Docket No. 2818.2380000	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 31, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 9, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is October 10, 2008. The Notice of Abandonment was mailed February 9, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110 extension of time fee submitted with the petition on July 31, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This application is being referred to Technology Center AU 3754 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

Adjustment date: 09/28/2009 CKHLOK
08/03/2009 INTEFSW 00005081 10543472
03 FC:1253 -1110.00 OP

PTO/SB/22 (06-09)
Approved for use through 06/30/2009. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARMENT 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 EXTENSION OF TIME UNDER 37 CFR 1.136(a) FY 2009 *(Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).)*	Docket Number (Optional) 2818.2380000/BJD/AFK
Application Number 10/543,472	Filed July 28, 2005 (§ 371(c) Date)
For Foam Dispenser	
Art Unit 3754	Examiner Bainbridge, Andrew Philip

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):

	Fee	Small Entity Fee	
☐ One month (37 CFR 1.17(a)(1))	$130	$65	$
☐ Two months (37 CFR 1.17(a)(2))	$490	$245	$
☒ Three months (37 CFR 1.17(a)(3))	$1110	$555	$ 1110.00
☐ Four months (37 CFR 1.17(a)(4))	$1730	$865	$
☐ Five months (37 CFR 1.17(a)(5))	$2350	$1175	$

Refund Ref: 09/28/2009 $ 0030074926

Credit Card Refund Total: $1110.00

Am Exp..: XXXXXXXXXXX1005

☐ Applicant claims small entity status. See 37 CFR 1.27.

☐ A check in the amount of the fee is enclosed.

☒ Payment by credit card. Form PTO-2038 is attached.

☐ The Director has already been authorized to charge fees in this application to a Deposit Account.

☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 19-0036.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

I am the ☐ applicant/inventor.

☐ assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96).

☐ attorney or agent of record. Registration Number _____

☒ attorney or agent under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 59,088

[signature] 7-31-09

Signature Date

Anbar F. Khal (202) 371-2600

Typed or printed name Telephone Number

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☐ Total of _____ forms are submitted.

This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2. 1,007,245

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

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 09/26/09

2 Serial/Patent # 10/543,472

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
X	Extension of Time		07/31/09	$ 1,110.00
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 1,110.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 1 9 -- 0 0 3 6

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Extenstion of time was unneccessary

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Terri Johnson TITLE: Paralegal Specialist

SIGNATURE: Terri Johnson PHONE: (571) 272-2991

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: CKK DATE: 9/28/09

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

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

FORM PTO 1577
(01/90)

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/543,517	08/24/2006	Mukesh Kumar Sharma	RLL-332US	2851

7590 11/09/2007

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

EXAMINER
CHANG, CELIA C

ART UNIT	PAPER NUMBER
1625	

MAIL DATE	DELIVERY MODE
11/09/2007	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

02 FC:1633 200.00 CR

Adjustment date: 11/14/2007 RCLEMONS
04/25/2006 GFREY1 00000121 500912 10543517
01 FC:1617 130.00 CR

03 FC:1642 400.00 CR
04 FC:1615 900.00 CR

05 FC:1614 400.00 CR

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/543,517	08/24/2006	Mukesh Kumar Sharma	RLL-332US	2851

26815 7590 11/13/2007
RANBAXY INC.
600 COLLEGE ROAD EAST
SUITE 2100
PRINCETON, NJ 08540

EXAMINER
CHANG, CELIA C

ART UNIT	PAPER NUMBER
1625	

MAIL DATE	DELIVERY MODE
11/13/2007	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.

Notice of Abandonment	Application No.	Applicant(s)	
	10/543,517	SHARMA ET AL.	
	Examiner	Art Unit	
	Chang, Celia	1625	

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

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
   (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
   (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
   (d) ☐ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
   (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
   (b) ☐ The submitted fee of $_____ is insufficient. A balance of $_____ is due.
   The issue fee required by 37 CFR 1.18 is $_____. The publication fee, if required by 37 CFR 1.18(d), is $_____.
   (c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
   (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ No corrected drawings have been received.

4. ☑ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☐ The reason(s) below:

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

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

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MAR 30 2009

Michael J. Mlotkowski
ROBERTS, MLOTKOWSKI & HOBBES
P.O. Box 10064
McLean, VA 22102

In re Application of	:
SANDERS et al.	:
Serial No.: 10/543,523	:Decision on Petition
Filed: April 10, 2006	:
Attorney Docket No.: 14952	:

This letter is in response to the petition filed under 37 C.F.R. § 1.182 and 37 C.F.R. § 1.144 filed on January 6, 2009 requesting reconsideration of the restriction and/or lack of unity requirement.

BACKGROUND

This application was filed as a national stage application under 35 USC 371 of PCT/US2004/002636 and as such, is eligible for unity of invention practice.

On April 17, 2007, the examiner mailed to the applicant a restriction requirement under 35 USC 121 and 372 requiring applicant to elect between methods for detecting the presence or absence of a microorganism and a biosensor. The examiner also required election of a specific bacterial species. It is noted that this second requirement was entitled "Species Election Requirement Applicable to All Groups" and ended with the sentence "Applicant is advised that examination will be restricted to only the elected bacterial species and should not be construed as a species election." Therefore, it is not clear if the examiner required an election between groups or species in this second requirement.

On May 21, 2007, applicants elected, with traverse, Group I, methods for detecting the presence or absence of a microorganism, and further elected the bacterial species *Streptococcus pyogenes*. The response argued, in part, that it is improper for the Office to refuse to examine that which applicants regard as their invention. Applicants argued that their method was capable of detecting more than one bacterial species at a time, and thus there was unity of invention among the methods of detecting multiple bacteria species.

On June 28, 2007, the examiner mailed to applicants a non-final Office action in which the examiner stated, in part, that the methods were capable of detecting one bacterial species at a

time in addition to multiple species. The examiner made the lack of unity requirement final, and claims 10-15 were withdrawn from consideration as being directed to a non-elected invention. Claims 1-9 were examined. Claims 1-9 were objected to or rejected on the following grounds:

1) Claims 1-2 and 4-9 were objected to for informalities because the claims were drawn, in part, to non-elected inventions.

2) Claims 1-9 were rejected under 35 USC 112, first paragraph, for failing to comply with the written description requirement.

3) Claims 1-9 were rejected under 35 USC 112, first paragraph, for failing to comply with the enablement requirement.

4) Claims 1-9 were rejected under 35 USC 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

On November 13, 2007, applicants filed an amendment cancelling non-elected claims 10-15 as well as claims 2-4, amending claims 1 and 5-7 such that they were limited to methods of detecting *Streptococcus pyrogenes*, and adding new claims 16-19 directed to the elected invention. Applicants also provided remarks traversing the rejections.

On February 5, 2008, the examiner mailed to applicants a final Office action in which claims 1, 5-9, and 16-19 were objected to or rejected on the following grounds:

1) Claim 1 was objected to for informalities because of awkward phrasing.

2) Claims 1, 5-9, and 16-19 were rejected under 35 USC 112, first paragraph, as failing to comply with the enablement requirement.

3) Claims 1, 5-9, and 16-19 were rejected under 35 USC 112, first paragraph, as failing to comply with the written description requirement (i.e., for reciting new matter).

On July 7, 2008, applicants filed a request for continued examination. Included in this request were claim amendments wherein "*pyrogenes*" was changed to "*pyogenes*." Applicants also included remarks traversing the grounds of rejections.

On September 29, 2008, the examiner mailed to applicants a final Office Action in which claims 1, 5-9, and 16-19 were objected to or rejected on the following grounds:

1) Claims 1, 5-9, and 16-19 were rejected under 35 USC 112, first paragraph, as failing to comply with the enablement requirement.

On January 6, 2009, applicants filed a petition to request that the Office reconsider the finality of the restriction requirement with regard to the requirement to elect a singe bacterial species, responded to the outstanding rejection and filed amendments to the claims such that the claims now recite *Streptococcus pyogenes, Pseudomonas aeruginosa, Enterococcus faecalis, Proteus mirabilis*, and combinations thereof.

DISCUSSION

The petition and file history have been carefully considered.

The petition is directed to the second requirement to elect an invention, namely, the requirement to elect a specific bacterial species.

Claim 1 appears below:

> Claim 1 (Currently amended): A method for detecting the presence or absence of a proteinase in a sample, wherein the presence of the proteinase is indicative of the presence of bacteria selected from the group consisting of *Streptococcus pyogenes, Pseudomonas aeruginosa, Enterococcus faecalis, Proteus mirabilis* and combinations thereof, in the sample, wherein the method comprises the steps of:
>
> a) contacting the sample with a detectably labeled cationic anti-microbial peptide or a variant thereof, wherein the cationic anti-microbial peptide comprises SEQ ID NO: 3 and the variant comprises either SEQ ID NO: 1 or SEQ ID NO: 2, and wherein the peptide is degradable by a proteinase produced and/or secreted by said bacteria ~~*S. pyogenes*~~, under conditions that result in the degradation of the peptide by the proteinase, wherein degradation of the peptide results in a detectable signal; and
>
> b) detecting the resulting signal indicative of the peptide degradation, or the absence of signal indicative of the absence of the peptide, wherein degradation of the peptide indicates the presence of the bacterial ~~*S. pyogenes*~~ proteinase in the sample, and wherein the absence of degradation of the peptide substrate indicates the absence of the bacterial ~~*S. pyogenes*~~ proteinase in the sample.

The petition correctly states that the examiner has never made a rejection under 35 USC 102 or 103. Applicants also urge that restricting the claims to a single bacterial species effectively recasts the invention into a method for detecting a single bacterial species rather than a method of detecting one or more bacterial species. The examiner's comments in the non-final Office action mailed 28 June 2007, p. 3, are noted. Specifically, the examiner stated that the claimed invention covers cationic anti-microbial peptides (CAMPs) which can be designed to be specific for a single species or to be non-specific to detect multiple species of organisms.

Relevant sections of PCT International Search and Preliminary Examination Guidelines (published January 2004) state

> 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. (paragraph 10.02)

> If the independent claims avoid the prior art and satisfy the requirement of unity of invention, no problem of lack of unity arises in respect of any claims that depend on the independent claims. (paragraph 10.07)
>
> If, however, an independent claim does not avoid the prior art, then the question whether there is still an inventive link between all the claims dependent on that claim needs to be carefully considered. If there is no link remaining, an objection of lack of unity a posteriori (that is, arising only after assessment of the prior art) may be raised. (paragraph 10.08)

In this instance, a lack of unity cannot be established based on the failure of the claimed invention to make a contribution over the prior art. Furthermore, since the claimed method of detecting one or more of a finite list of bacterial species is practiced with a defined probe, it cannot be established that the methods of detecting the different bacterial species requires use of different CAMP probes. Therefore, the requirement to elect a single bacterial species must be withdrawn.

DECISION

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

The second election of a bacterial species requirement has been withdrawn.

It is noted that all pending claims have been examined and all are presently rejected. In this situation, when one alternative of a Markush claim has been rejected the examiner is under no obligation to extend search and examination to a second or subsequent member of a Markush claim. This holds true whether or not the alternative of the Markush claim are subject to an election of species requirement.

The application will be forwarded to the examiner for further action consistent with this decision and for consideration of the papers filed January 6, 2009.

Any request for reconsideration must be filed within two (2) months of the mailing date of this decision.

Should there be any questions about this decision, please contact Quality Assurance Specialist Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0512 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Andrew Wang
(Acting) Director, Technology Center 1600

\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

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN VA 22102

2 8 SEP 2007

In re Application of
Van Niekirk et al.
Application No.: 10/543,526
PCT No.: PCT/EP04/00073
Int. Filing Date: 08 January 2004
Priority Date: 31 January 2003
Attorney Docket No.: 449122083000
For: Method And System For Inserting A Multimedia Message Multiple Element Into A Multimedia Message

DECISION

This is in response to the request for withdrawal filed on 31 August 2007.

This international application was filed on 08 January 2004, claimed an earliest priority date of 31 January 2003, and designated the United States. The International Bureau transmitted a copy of the published international application to the USPTO on 12 August 2004. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 31 July 2005. On 27 July 2005, applicants filed *inter alia* the basic national fee.

On 28 February 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(h).

On 28 April 2006, applicants filed a response.

On 22 May 2006, a Notice of Acceptance (Form PCT/DO/EO/903) was mailed to applicants, indicating the date of this international application under 35 U.S.C. 371(c)(1), (2) and (4) to be 28 April 2006.

Counsel requests withdrawal from the representation on the basis that "Attorneys of record have been discharged by the client in accordance with 37 CFR § 10.40(b)4." 37 CFR 1/36(b) provides that

> (A registered patent attorney or patent agent who has been given a power of attorney pursuant to § 1.32(b) may withdraw as attorney or agent of record upon application to and approval by the Director. The applicant or patent owner will be notified of the withdrawal of the registered patent attorney or patent agent. Where power of attorney is given to the patent practitioners associated with a Customer Number, a request to delete all of the patent practitioners associated with the Customer Number may not be granted if an applicant has given power of attorney to the patent practitioners associated with the Customer Number in an application that has an Office action to which a reply is due, but insufficient time remains for the applicant to file a reply. See § 41.5 of this title for withdrawal during proceedings before the Board of Patent Appeals and Interferences.

In view of this indication that counsel has been discharged, it would be appropriate to accept the request to withdraw from the representation.

The request is **ACCEPTED**.

This application is being forwarded to Technology Center 2617 for further processing, including processing of the change of correspondence address filed on 31 August 2007.

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

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

MAILED

JAN 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Sylvain Arnould, et al.	:	
Application No. 10/543,556	:	DECISION ON PETITION
Filed: March 14, 2006	:	TO WITHDRAW
Attorney Docket No. BJS-4413-9	:	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 5, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by B. J. Sadoff on behalf of all attorneys of record who are associated with customer No. 23117. All attorneys/agents associated with the Customer Number 23117 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 Sylvain Arnould at the address indicated below.

There is an outstanding Office action mailed August 19, 2008 that requires a reply from the applicant.

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

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: SYLVAIN ARNOULD
7 RUE AUBERT
93200 SAINT DENIS FRANCE

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

COPY MAILED

JAN 14 2009

In re Application of	:	
Sylvain ARNOULD, et al	:	
Application No. 10/543,557	:	DECISION ON PETITION
Filed: March 14, 2006	:	TO WITHDRAW
Attorney Docket No. BJS-4413-8	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 5, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by B.J. Sadoff on behalf of the attorneys of record associated with Customer No. 23117.

The attorneys of record associated with Customer No. 23117 have been withdrawn.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.,* copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: SYLVAIN ARNOULD
116 RUE LAMARCK
PARIS, FRANCE 75018

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

CARELLA, BYRNE, BAIN, GILFILLAN, CECCHI,
STEWART & OLSTEIN
5 BECKER FARM ROAD
ROSELAND NJ 07068

In re Application of	:	
CLEMENS et al.	:	
U.S. Application No.: 10/543,561	:	
PCT Application No.: PCT/EP04/00021	:	
Int. Filing Date: 14 January 2004	:	
Priority Date: 29 January 2003	:	DECISION
Attorney Docket No.: 411000-139	:	
For: ORGANIC MEMORY UNIT AND DRIVER	:	
CIRCUIT THEREFOR	:	

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

On 27 July 2005, applicant submitted a "Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing under 35 U.S.C. 371". The transmittal letter was directed to international application number PCT/EP04/**00021** on the first page and to PCT/EP04/**00221** on the second page of the transmittal letter. The papers were assigned U.S. application number 10/543,561 as the national stage of PCT/EP04/**00021**.

On 3 April 2006, a Notification of Missing Requirements was mailed to applicant, indicating, inter alia, that a translation of the application into English was required. On 17 April 2006, applicant filed a response to the Notice of Missing Requirements, indicating that an English translation of the international application had been submitted on 27 July 2005. On 17 April 2006, the executed declaration was filed; the declaration was directed to PCT/EP04/**00221**.

Thereafter, on 28 August 2006, a Notice of Acceptance was mailed to applicant, identifying international application number PCT/EP04/00021. The Notification of Acceptance is hereby **VACATED** because it is unclear which international application number is correct.

Moreover, a review of the application file reveals that the English translation of the international application is not located therein and is required. Applicant is advised to provide a copy of the English translation of the international application along with proof of submission. *See* MPEP §503.

Applicant must file a petition under 37 CFR 1.182 to correct the international application number, requesting rectification of incorrect international application no. and identifying the correct international application no.

The application will be held in the PCT Legal Office to await applicant's further reply.

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

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

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (571) 272-328
Facsimile: (571) 273-0459

19 DEC 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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CARELLA, BYRNE, BAIN, GILFILLAN, CECCHI,
STEWART & OLSTEIN
5 BECKER FARM ROAD
ROSELAND NJ 07068

In re Application of CLEMENS et al. U.S. Application No.: 10/543,561 PCT Application No.: PCT/EP04/00221 Int. Filing Date: 14 January 2004 Priority Date: 29 January 2003 Attorney Docket No.: 411000-139 For: ORGANIC MEMORY UNIT AND DRIVER CIRCUIT THEREFOR	DECISION

This is a decision on applicant's petition under 37 CFR 1.182 filed in the United States Patent and Trademark Office on 2 October 2006.

On 27 July 2005, applicant submitted a "Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing under 35 U.S.C. 371". The transmittal letter was directed to international application number PCT/EP04/**00021** on the first page and to PCT/EP04/**00221** on the second page of the transmittal letter. The papers were assigned U.S. application number 10/543,561 as the national stage of PCT/EP04/**00021**.

On 3 April 2006, a Notification of Missing Requirements was mailed to applicant, indicating, inter alia, that a translation of the application into English was required. On 17 April 2006, applicant filed a response to the Notice of Missing Requirements, indicating that an English translation of the international application had been submitted on 27 July 2005. On 17 April 2006, the executed declaration was filed; the declaration was directed to PCT/EP04/**00221**.

Thereafter, on 28 August 2006, a Notice of Acceptance was mailed to applicant, identifying international application number PCT/EP04/00021.

On 26 September 2006, a decision was mailed to applicant indicating that the Notification of Acceptance was issued in error because it was unclear which international application number was correct. The decision advised applicant to file a petition under 37 CFR 1.182 to correct the international application number.

On 2 October 2006, applicant filed a petition under 37 CFR 1.182 to correct the international application number. The filing of a petition under 37 CFR 1.182 is required to clarify and correct the record regarding the national stage filing for PCT/EP04/00221. Applicant's petition to correct the international application number to PCT/EP04/00221 is **GRANTED**.

A review of the application filed reveals that the English translation of the international application was submitted on 27 July 2006. The executed declaration was filed on 17 April 2006.

The application will be forwarded to the United States Designated/Elected Office for further processing in accord with this decision. Application no. 10/543,561 is the national stage of PCT Application no. PCT/EP04/00221. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **17 April 2006.**

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: (571) 272-328
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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HONEYWELL INTERNATIONAL INC.
PATENT SERVICES
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

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SEP 11 2009

OFFICE OF PETITIONS

In re Application of :
John D. MIZE, et al. :
Application No. 10/543,562 :
Filed: July 27, 2005 :
Attorney Docket No. **H0005171.70487 USA** :

DECISION ON PETITION
UNDER 37 CFR 1.181

This is a decision on the petition under 37 CFR 1.137(b), filed November 10, 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 application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 18, 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 March 19, 2007.

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

The petition is **GRANTED**.

Petitioner states that a response to the non-final office action mailed December 18, 2006 was timely filed on February 16, 2007. Petitioner has provided a copy of the

response and the USPTO Auto-Reply Facsimile Transmission which indicates receipt of a 12 page response to December 18, 2006 office action.

In view of the above, the $1620 petition fee paid on November 10, 2008, is being refunded to deposit account 50-0977.

The application is being referred to Technology Center Art Unit 3742 for consideration of the amendment originally filed February 16, 2007.

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

Brian W. Brown
Petitions Examiner
Office of Petitions

PTO/SB/64 (10-08)
Approved for use through 11/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional) H0005171.70487

First named inventor: John D. Mize

Application No.: 10/543,562 Art Unit: 3742

Filed: July 27, 2005 Examiner: Quang T. Van

Title: Coil Constructions Configured for Utilization in Physical Vapor Deposition Chambers, and Methods of Forming Coil Constructions

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

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

☑ Other than small entity – fee $ 1620.00 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Response to Office Action (identify type of reply):

☑ has been filed previously on February 16, 2007.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____
☐ has been paid previously on _____
☐ is enclosed herewith.

Adjustment date: 09/11/2009 CKHLOK
11/12/2008 INTEFSW 00004058 500977 10543562
01 FC:1453 1620.00 CR

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☑ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Sandra Thompson	11-10-2008
Signature	Date
Sandra P. Thompson	46,264
Typed or printed name	Registration Number, if applicable
Buchalter Nemer	949-224-6282
Address	Telephone Number
18400 Von Karman Avenue, Suite 800	
Address	

Enclosures: ☑ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☑ Other: Petition Under 37 CFR 1.137 and Exhibits

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

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

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 09/09/09

2 Serial/Patent # 10/543,562

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition 1453	PET.OP	11/10/08	$ 1,620.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 1,620.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 5 0 -- 0 9 7 7

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Petition consider under 37 CFR 1.181

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Monica A. Graves TITLE: Paralegal Specialist

SIGNATURE: /Monica A. Graves/ PHONE: (571) 272-7253

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: CKhlck DATE: 9/11/09

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

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

FORM PTO 1577
(01/90)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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SEP 17 2009

OFFICE OF PETITIONS

ASTRAZENECA R&D BOSTON
35 GATEHOUSE DRIVE
WALTHAM MA 02451-1215

In re Application of	:	DECISION
Stephen Rubin et al.	:	AMENDING INVENTORSHIP
Application No. 10/543,584	:	
Filed: July 27, 2005	:	
Attorney Docket No. 100965-1P US	:	

This is a decision on the renewed petition filed June 10, 2009, which is being treated under 37 CFR § 1.183 and 1.48(a) to waive the statement requirement of 37 CFR 1.48(a)(2)&(3), a statement from the person being added as an inventor and re-executed declaration.

The petitions are **DISMISSED.**

The petition in the above-identified application was not accompanied by payment of the required fee. A petition filed under 37 CFR 1.183 requires a fee under 37 CFR 1.17(f). The petition authorizes the Commissioner to charge any fee deficiency to deposit account No. 50-3231. However, Office records show that petitioner, James Mason, is not an authorized account holder for this deposit account. Therefore fees cannot be charged to deposit account 50-3231 on Mason's authority.

Telephone inquiries regarding this decision should be directed to Carl Friedman at (571) 272-6842.

David Bucci
Petitions Examiner
Office of Petitions

07 NOV 2005

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

KILPATRICK STOCKTON LLP - 46872
J. STEVEN GARDNER
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

In re Application of	:	
ZHENG, Yuliang, et al.	:	
Application No.: 10/543,600	:	DECISION
PCT No.: PCT/US03/16816	:	
Int. Filing Date: 30 May 2003	:	ON PETITION UNDER
Priority Date: 03 June 2002	:	
Docket No.: UNCC 2002-28	:	37 CFR 1.137(b)
For: SYSTEMS AND METHOD FOR	:	
ENHANCED NETWORK SECURITY	:	

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 27 July 2005 is **GRANTED**.

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

Applicants submitted a declaration of the inventors.

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.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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KILPATRICK STOCKTON LLP - 46872
J. STEVEN GARDNER
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

MAILED

MAY 14 2010

OFFICE OF PETITIONS

In re Application of
Yuliang Zheng, et al.
Application No. 10/543,600
Filed: July 27, 2005
Attorney Docket No. UNCC 2002-28

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed March 4, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks a forwarding correspondence address of the first named inventor or a properly intervening assignee.

If the forwarding correspondence address is to the assignee, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *that properly became of record under 37 CFR 3.71.* 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **CALYPTIX SECURITY CORPORATION**
8701 MALLARD CREEK ROAD
CHARLOTTE, NC 28262

25 AUG 2006

United States Patent and Trademark Office

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

In re Application of
Van Den Berg et al.
Application No.: 10/543,606
PCT No.: PCT/EP04/00743
Int. Filing Date: 28 January 2004
Priority Date: 13 February 2003
Attorney Docket No.:124819
For: Storage Stable Cyclic Ketone Peroxide Compositions

DECISION

ON

PETITION

08/25/2006 15:11:11 150461 10543606
01 FC:1463 70.00 DA 130.00 OP

This is in response to the petition under 37 CFR 1.47(a) filed on 31 October 2005.

BACKGROUND

This international application was filed on 28 January 2004, claimed an earlier priority date of 13 February 2003, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 26 August 2004. The 30 month time period for paying the basic national fee in the United States expired at midnight on 13 August 2005. Applicants filed *inter alia* the basic national fee on 28 July 2005.

DISCUSSION

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

Regarding requirement (1), petitioner paid $130.00 toward the petition fee on 31 October 2005. The remaining $70.00 is being charged to counsel's Deposit Account No. 15-0461, as authorized by the petition.

Regarding requirement (2), petitioner urges that the absence on the declaration of the signature of joint inventor Simon Put be excused because of "the refusal of the co-inventor to sign the Declaration for this application." Counsel's attention is respectfully drawn to MPEP 409.03(d), which states in part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 CFR 1.47 applicant of

> the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP § 106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted. Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal. When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition

Counsel has presented a "Declaration of Pim Alferink Under 37 C.F.R. §1.47" introducing evidence pertaining to the issue of Mr. Put's refusal to sign. This evidence includes a copy of a letter sent to Mr. Put's last known address on 09 August 2005, referring to "the enclosed copy of the International Application and the claims presently on file before the" USPTO and requesting that Mr. Put review the application and sign and return a declaration. The evidence also includes a copy (and translation) of an e-mail from Mr. Put to Ms. Kemperman proposing that Azko proceed without his signature, further stating that "I am quite willing in principle to devote time to this matter, but in that case it is up to Polymer Chemicals to take the initiative to come up with a win-win situation which would benefit me also. I am assuming this won't happen and so will put the papers aside." The evidence further includes a copy and translation of e-mail correspondence dated 17 August 2005, stating that "I fail to see a win-win situation here; I put in the time and the only party to benefit is Pol. Chem... without a win-win situation I am not prepared to take any action." Taken together, this evidence suggests that Mr. Put does not foresee a situation under which he would be willing to execute the declaration. As such, on the basis of the present record, it would be appropriate to conclude that he has refused to sign an oath or declaration within the meaning of 37 CFR 1.47(a).

Regarding requirement (3), the petition includes a statement the last known address of Simon Put. Accordingly, requirement (3) has been satisfied.

Regarding requirement (4), the declaration document filed on 28 July 2005 was signed by joint inventors Van Den Berg, Fischer and Hoogesteger on behalf of themselves and non-signing joint inventor Put. This declaration satisfies requirement (4).

DECISION

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

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

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

The application is being returned to the 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 **28 July 2005**.

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

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

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

05 DEC 2005

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

In re Application of	:	
BARRAYA	:	
Application No.: 10/543,609	:	DECISION ON
PCT No.: PCT/FR03/03085	:	
Int. Filing Date: 20 October 2003	:	PETITION UNDER
Priority Date: 28 October 2002	:	
Attorney Docket No.: 0518-1155	:	37 CFR 1.137(b)
For: IMPRESSION TRAY SET	:	

This decision is in response to applicants' submission filed 28 July 2005.

BACKGROUND

On 20 October 2003, applicants filed international application PCT/FR03/03085 which designated the U.S. and claimed a priority date of 28 October 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 13 May 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 28 April 2005.

On 28 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, 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 28 July 2005.

As to item (2), applicant submitted the petition fee on 28 July 2005.

As to item (3), the required statement has been provided.

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

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

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

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

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

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
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Michael A. Makuch
Smith, Gambrell & Russell, LLP
1850 M Street, N.W.
Suite 800
Washington, D.C. 20036-5819

In re Application of YOSHIDA et al. Application No.: 10/543,612 PCT No.: PCT/JP03/16534 Int. Filing Date: 24 December 2003 Priority Date: 31 January 2003 Attorney Docket No.: 033036M094 For: MANUFACTURING APPARATUS FOR TUBULAR RESIN FILM	: : : : : : : :	DECISION ON REQUEST UNDER 37 CFR 1.42

This decision is in response to the declarations filed 21 April 2006 and 16 June 2006 which are being treated as Requests under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 24 December 2003, applicants filed international application PCT/JP03/16534, which claimed a priority date of 31 January 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 12 August 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, 31 July 2005.

On 28 July 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 translation of the international application; and an information disclosure statement.

On 23 March 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 21 April 2006, applicants filed the present petition under 37 CFR 1.42. The declaration is executed by: Shingo Yoshida; Toyotaro Maruyama; Takeshi Takeuchi; Shigeyoshi Furuhara; Masanori Ikenaga and Toshio Nakao as inventors and Keiko Akazawa on behalf of deceased inventor, Seigou Akazawa .

On 16 June 2006, applicant filed "Submission of Supplemental Declaration."

DISCUSSION

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

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

A. Declaration Filed 21 April 2006

The declaration filed on 21 April 2006 is executed by Keiko Akazawa as the "legal representatives" of the deceased inventor, Seigou Akazawa. The declaration submitted appears to have been executed by the proper party under 37 CFR 1.42, however, the declaration does not satisfy the requirements under 37 CFR 1.497(b)(2).

37 CFR 1.497(b)(2) states the following:

> (2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

Pursuant to revised 37 CFR 1.497(b)(2), in addition to the citizenship and former residence and post office address of the deceased inventor referenced under 37 CFR 1.497(a)(3) and 37 CFR 1.63, the declaration must also provide residence, citizenship, and post office address for the legal representative. The declaration filed on 21 April 2006 provides this information with respect to the legal representative, but fails to provide the (former) citizenship of the deceased inventor. Accordingly, the declaration is not in compliance with 37 CFR 1.497(a)(3) and 37 CFR 1.63.

B. Declaration Filed 16 June 2006

The supplemental declaration filed 16 June 2006 is executed by Keiko Akazawa as the "legal representative" of Seigou Akazawa. The declaration submitted on 16 June 2006 includes the citizenship of the deceased inventor and taken in combination with the previously submitted declaration fulfills the requirements of 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b). Accordingly, the requirements for entry into national stage under 35 U.S.C. 371(c) were completed as of 16 June 2006.

CONCLUSION

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

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) date of **16 June 2006**.

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

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
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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HOGAN & HARTSON LLP
IP GROUP COLUMBIA SQUARE
555 THIRTEENTH STREET NW
WASHINGTON DC 20004

In re Application of	:	
Lavezzi, et al.	:	
Application No. 10/543,629	:	DECISION ON PETITION
Filed: February 2, 2006	:	
Attorney Docket No. 82062-0165	:	

This is in response to the petition under 37 CFR 1.47(a), filed October 31, 2007, which is properly treated as a petition under 37 CFR 1.183 to waive the requirement of 37 CFR 1.67(a)(1) that all of the inventors sign a supplemental declaration.[1]

The petition under 37 CFR 1.183 is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.183," and should only address the deficiencies noted below, except that the reply may include a supplemental oath or declaration executed by the non-signing inventors. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

---

[1] A petition under 37 CFR 1.47(a) only applies to the initially filed 37 CFR 1.63 declaration. Here, both inventors signed the original oath or declaration. However, the Notice of Allowability mailed July 31, 2007 required a supplemental declaration in compliance with 37 CFR 1.67(a)(1).

In a Notice of Allowability mailed July 31, 2007, the Office required a supplemental declaration in compliance with 37 CFR 1.67(a)(1). The original 37 CFR 1.63 declaration filed on February 2, 2006 was not proper because it did not contain language that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability.

In reply, applicant filed the instant petition, together with a declaration executed by inventor Lavezzi, but not signed by inventor Grabiec.

37 CFR 1.67 states, in pertinent part:

> (a) The Office may require, or inventors and applicants may submit, a supplemental oath or declaration meeting the requirements of §1.63 or § 1.162 to correct any deficiencies or inaccuracies present in the earlier filed oath or declaration.
>
> > (1) Deficiencies or inaccuracies relating to all the inventors or applicants (§§ 1.42, 1.43, or § 1.47) may be corrected with a supplemental oath or declaration signed by all the inventors or applicants.

With the instant petition, petitioner explains that Grabiec is no longer employed by the assignee, and could not be located.

In order for a petition under 37 CFR 1.183 to be granted, petitioner must demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

Here, petitioner has failed to provide the Office with a showing of the steps taken to locate Grabiec. Petiitoner has provided no documentary evidence, such as a copy of an internet search, to support such a finding[2].

A petition under 37 CFR 1.183 requires a fee of $400. With the instant petition, petitioner submitted a fee in the amount of $200. However, as petitioner included an authorization to charge any additional fees to his deposit account, an additional $200 has been charged to Deposit Account No. 50-0349.

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

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[2] Such documentary evidence should be made part of the affidavit or declaration. See MPEP 409.03(d).

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

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

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HOGAN & HARTSON LLP
IP GROUP COLUMBIA SQUARE
555 THIRTEENTH STREET NW
WASHINGTON DC 20004

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OFFICE OF PETITIONS

In re Application of	:	
Lavezzi, et al.	:	
Application No. 10/543,629	:	DECISION ON PETITION
Filed: February 2, 2006	:	
Attorney Docket No. 82062-0165	:	

This is in response to the "WITHDRAWAL OF PETITION UNDER 37 C.F.R. 1.183", filed February 4, 2008.

The petition under 37 CFR 1.183 is **DISMISSED** as moot.

In a Notice of Allowability mailed July 31, 2007, the Office required a supplemental declaration in compliance with 37 CFR 1.67(a)(1). The original 37 CFR 1.63 declaration filed on February 2, 2006 was not proper because it did not contain language that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be "material to patentability". Rather, it contained lanuaged that the persona making the oath or declaration acknowledges the duty to disclosure to the Office all information known to the person to be "material to examination".

In reply, applicant filed a petition under 37 CFR 1.47(a) on October 31, 2007, together with a declaration executed by inventor Lavezzi, but not signed by inventor Grabiec. The petition was dismissed in a decision mailed on December 3, 2007.

In the instant petition, petitioner points the Office's attention to the Notice issued by the Office on January 22, 2008, entitled "Duty of Disclosure Language Set Forth in Oaths or Declarations Filed in Nonprovisional Patent Applications". The Notice stated:

> For pending applications, the Office is hereby *sua sponte* waiving the express language requirement of 37 CFR 1.63(b)(3), where the oath or declaration was filed prior to June 1, 2008. The express language of 37 CFR 1.63(b)(3) is waived only to the extent necessary such that an oath or declaration containing the "material to examination" or "in accordance with 1.56(a)" language, or both, will be accepted as acknowledging the applicant's duty to disclose information "material to patentability" as defined in 37 CFR 1.56.

In view thereof, the Notice of Allowability's requirement for a substitute oath or declaration is vacated. The substitute declaration filed on October 31, 2007 will not be entered.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUDY JARECKI-BLACK; PH.D., J.D.
3239 SATELLITE BLVD. 3RD FLOOR
DULUTH, GA 30096

Mail Date: 05/24/2010

Applicant	: Thomas Pitterna	: DECISION ON REQUEST FOR
Patent Number	: 7632820	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/543,638	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/28/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **617** 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 CORPORATION
Patent Department
1609 BIDDLE AVENUE
MAIN BUILDING
WYANDOTTE MI 48192

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OFFICE OF PETITIONS

In re Application of	:	
Hubert Baumgart, et al.	:	
Application No. 10/543,647	:	DECISION ON PETITION
Filed: March 28, 2006	:	
Attorney Docket No. PAT-01090/BC1-0209	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 6, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 12, 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 August 13, 2009. The Notice of Abandonment was mailed January 20, 2010

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

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

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.

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.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Mary E. Golota**
201 W. Big Beaver Road
Suite 1101
Troy, MI 48084

I hereby certify that this correspondence is being filed via EFS-Web with the United States Patent and Trademark Office on August 10, 2006.

TOWNSEND and TOWNSEND and CREW LLP

By: /connie larson/

PATENT
Attorney Docket No.: 040276-000200US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Bradley J. Downs

Application No.: 10/543,648

Filed: December 19, 2005

For: ANTI-BIOFILM FORMING STRUCTURE AND METHOD FOR MANUFACTURING THE SAME

Customer No.: 20350

Confirmation No. 1083

Examiner: Jason M. Greene

Technology Center/Art Unit: 1724

PETITION TO MAKE SPECIAL

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

Sir:

This is a Petition to make the above-referenced application special under MPEP §708.02, VIII, Special Examining Procedure for Certain New Applications - Accelerated Examination.

(a) Please deduct the Petition fee of $130.00 under 37 CFR §1.17(h) plus any additional fees necessary for this Petition, from the undersigned's Deposit Account No. 20-1430.

(b) Applicant elects without traverse the invention of method claims 26 and 29-32 for special examination in this application.

(c) This application is a national stage application filed under 35 U.S.C. 371 based on International Application PCT/US2004/010794. A pre-examination search was

PETITION GRANTED

William Krynski
Special Program Examiner
Technology Center 1700
MAY 2 2 2007

I hereby certify that this correspondence is being filed via EFS-Web with the United States Patent and Trademark Office on August 10, 2006.

TOWNSEND and TOWNSEND and CREW LLP

By: /connie larson/

PATENT
Attorney Docket No.: 040276-000200US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Bradley J. Downs

Application No.: 10/543,648

Filed: December 19, 2005

For: ANTI-BIOFILM FORMING STRUCTURE AND METHOD FOR MANUFACTURING THE SAME

Customer No.: 20350

Confirmation No. 1083

Examiner: Jason M. Greene

Technology Center/Art Unit: 1724

PETITION TO MAKE SPECIAL

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

Sir:

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(a) Please deduct the Petition fee of $130.00 under 37 CFR §1.17(h) plus any additional fees necessary for this Petition, from the undersigned's Deposit Account No. 20-1430.

(b) Applicant elects without traverse the invention of method claims 26 and 29-32 for special examination in this application.

(c) This application is a national stage application filed under 35 U.S.C. 371 based on International Application PCT/US2004/010794. A pre-examination search was

PETITION GRANTED

William Krynski
Special Program Examiner
Technology Center 1700
MAY 2 2 2007

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PATTON BOGGS LLP
8484 Westpark Drive
Suite 900
McLean, VA 22102

In re Application of:	:	
ECKHOUSE, Shimon, et al.	:	DECISION ON PETITION FOR
U.S. Application No.: 10/543654	:	REVIVAL OF ABANDONED
PCT No.: PCT/IL2004/000100	:	APPLICATION UNDER
International Filing Date: 03 February 2004	:	37 CFR 1.137(b)
Priority Date: 04 February 2003	:	
Attorney's Docket No.: 023372.0101PTUS	:	
For: METHODS AND APPARATUS FOR	:	
HEMOSTASIS FOLLOWING	:	
ARTERIAL CATHERIZATION	:	

The petition for revival under 37 CFR 1.137(b) filed 24 February 2006 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 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 and the surcharge for filing the oath or declaration later than thirty months from the priority date.

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

2 8 MAR 2007

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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ARENT FOX PLLC
1675 BROADWAY
NEW YORK, NY 10019

In re Application of	:	
DOTAN, Simon	:	DECISION ON
Application No.: 10/543,669	:	
PCT No.: PCT/IL04/000076	:	
Int. Filing Date: 27 January 2004	:	PETITION UNDER
Priority Date: 27 January 2003	:	
Attorney Docket No.: 027885.00005	:	
For: ROTISSERIE APPARATUS	:	37 CFR §1.137(b)

This petition decision is in response to the petition under 37 CFR §1.137(b) that was submitted on 14 February 2007. The petition identifies the Applicant as being entitled to small entity status. The small entity fee for the petition in the amount of $750 has been submitted on 14 February 2007.

BACKGROUND

On 27 January 2004, the above-named international application was filed with claimed foreign priority to 27 January 2003. Under 35 USC §371(b) and under 37 CFR §1.495(b) to avoid abandonment, Applicant must submit the items identified in 35 USC §371(b) no later than 30 months from the date of foreign priority. In the instant application, the thirty-month date would be 27 July 2005.

On 27 July 2005, 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) was filed with the payment of the Basic National Fee of $300, the Examination Fee of $100, and the Search Fee of $100.

On 16 February 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 sent to applicants requiring total additional fees of $215 be paid and that an oath or declaration of the inventors be filed. On 09 May 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 sent to applicants requiring total

additional fees of $490 be paid and that an oath or declaration of the inventors be filed. On 18 December 2006, a "Notification of Abandonment" (Form PCT/DO/EO/909) was mailed due to failure on the part of Applicant to respond to 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) of 09 May 2006. As of 09 July 2006, the above-named application was abandoned with respect to the United States.

A "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" (Form PTO/SB/84) along with the required oath or declaration of the inventors was filed on 14 February 2007. In addition, on 14 February 2007, the appropriate petition fee of $750 (small entity) was filed as provided for in 37 CFR §1.17(m).

DISCUSSION

Under 37 CFR §1.137(b), a grantable petition for revival of an unintentionally abandoned application 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 under 37 CFR §1.137(b)(3) 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; and (4) any terminal disclaimer that may be required under 37 CFR §1.137(d).

The Petitioner has submitted the basic national filing fee of $300, has submitted petition fee (small entity) of $750, the required declaration, and has stated that the delay was unintentional. A terminal disclaimer is not required.

DECISION

For the reasons set forth above, the petition under 37 CFR §1.137(b) is hereby **GRANTED**.

The extension of time fee of $1,080 charged to Applicant's deposit account on 23 February 2007 is being refunded to the same deposit account since it should not have been charged.

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

Bernarr E. Gregory
Office of PCT Legal Administration
Tel.: (571) 272-6094
FAX: (571) 273-0459

Leonard E. Smith
Supervisory PCT Legal Examiner
Office of PCT Legal Administration
Tel.: (571) 272-3297

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IRVINE CA 92618

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OFFICE OF PETITIONS

In re Application of
Takahashi, et al.
Application No. 10/543,675
Filed: 28 July, 2005
Attorney Docket No. HEIWA.027AUS

DECISION

This is a decision on the petition filed on 15 June, 2009, for revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 8 October, 2008, with reply due under absent an extension of time on or before 8 January, 2009.

The application went abandoned by operation of law after midnight 8 January, 2009.

It does not appear that the Office mailed the Notice of Abandonment before the instant petition was filed.

On 15 June, 2009, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), with a reply in the form of an amendment and made the statement of unintentional delay.

Again, Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

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.[3]

---

[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).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 2617 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TCAU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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THE MAXHAM FIRM
9330 SCRANTON ROAD, SUITE 350
SAN DIEGO, CA 92121

Mail Date: 04/21/2010

Applicant	: Ake Sonerud	: DECISION ON REQUEST FOR
Patent Number	: 7654787	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/543,690	: 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 **1167** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

28 SEP 2005

#3

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FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN TX 78701

In re Application of COUILLARD-DESPRES et al. Serial No.: 10/543,713 PCT App. No.: PCT/EP04/00760 Int'l Filing Date: 28 January 2004 Priority Date: 28 January 2003 Attorney Docket No.: VOSS-010US For: USE OF REGULATORY SEQUENCES FOR SPECIFIC, TRANSIENT EXPRESSION IN NEURONAL DETERMINED CELLS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 14 September 2005 in the above-captioned application is hereby **GRANTED** as follows:

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

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

This application is being forwarded to the United States Designated/Elected Office for further processing 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
Office of PCT Legal Administration

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

31 MAR 2006

#7

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FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN TX 78701

In re Application of	:	
COUILLARD-DESPRES et al.	:	
Serial No.: 10/534,713	:	DECISION ON
PCT No.: PCT/EP04/00760	:	
Int. Filing Date: 28 January 2004	:	SUBMISSION
Priority Date: 28 January 2003	:	
Attorney's Docket No.: VOSS:010US	:	
For: USE OF REGULATORY SEQUENCES FOR	:	
SPECIFIC, TRANSIENT EXPRESSION IN	:	
NEURONAL DETERMINED CELLS	:	

This is a decision on applicants' submission under 35 U.S.C. 371, filed on 11 January 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 11 October 2005, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period, was required.

On 11 January 2006, in response to the Notification of Missing Requirements, applicant filed two declarations executed by the joint inventors.

DISCUSSION

Applicant submitted two executed declarations. One declaration was executed by three of the four joint inventors, where all three pages appear to be faxed pages. The second declaration was executed only by inventor Hans-Georg Kuhn and appears to be composed of Pages 1 and 2, which were not faxed and Page 3 (the signature page), which was faxed.

The declaration is not properly executed. It appears from this submission that Mr. Kuhn did not return a complete declaration. It appears that either the attorney

pieced together the complete declaration into one composite declaration or the inventor Kuhn was presented with an incomplete declaration (only the signature page). What is required is the complete declaration signed by Inventor Kuhn. Thus, the declaration is unacceptable as filed and the requirements of 37 CFR 1.497 (a) and (b) have not yet been met .

CONCLUSION

For the reasons set forth above, the declaration signed by Inventor Kuhn is unacceptable because it does not meet the requirements of 37 CFR 1.497(a) and (b). Inventor Kuhn must be presented with a complete declaration, which must be submitted.

The application will be held in the PCT Legal Office to await applicant's further reply.

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

Cynthia M. Kratz

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

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

#9

UNITED STATES PATENT AND TRADEMARK OFFICE

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12 JAN 2007

FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN TX 78701

In re Application of COUILLARD-DESPRES et al. Serial No.: 10/534,713 PCT No.: PCT/EP04/00760 Int. Filing Date: 28 January 2004 Priority Date: 28 January 2003 Attorney's Docket No.: VOSS:010US For: USE OF REGULATORY SEQUENCES FOR SPECIFIC, TRANSIENT EXPRESSION IN NEURONAL DETERMINED CELLS	:	DECISION ON SUBMISSION

This is a decision on applicants' submission under 35 U.S.C. 371, filed on 19 October 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 11 October 2005, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period, was required.

On 11 January 2006, in response to the Notification of Missing Requirements, applicant filed two declarations executed by the joint inventors.

On 31 March 2006, a decision on the declaration was mailed to applicant indicating that declaration was not properly executed and a new declaration was required.

On 19 October 2006, applicant filed one four page declaration, executed by the four joint inventors.

DISCUSSION

A review of the declaration reveals that it is signed by the four joint inventors,

is in compliance with 37 CFR 1.497(a) and (b) and is acceptable.

CONCLUSION

The declaration filed on 19 October 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 **19 October 2006.**

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

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

28 OCT 2005

#3

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David W. Highet
Vice President and Chief Intellectual Property Counsel
BECTON, DICKINSON AND COMPANY
1 Becton Drive, Mall Code 110
Franklin Lakes, New jersey 07417-1880

In re Application of:	:	
ALCHAS, Paul, et al.	:	
U.S. Application No.: 10/543,714	:	DECISION ON PETITION
PCT No.: PCT/US2004/002699	:	FOR REVIVAL UNDER
International Filing Date: 30 January 2004	:	37 CFR 1.137(b)
Priority Date: 30 January 2003	:	
Attorney's Docket No.: P-5612	:	
For: INTRADERMAL DELIVERY DEVICE WITH	:	
CONTOURED SKIN ENGAGING SURFACE	:	
GEOMETRY	:	

This decision is issued in response to applicant's Petition for Revival under 37 CFR 1.137(b), filed 12 August 2005.

BACKGROUND

On 30 January 2004, applicants filed international application PCT/US2004/002699 that claimed a priority date of 30 January 2003 and designated the United States. Payment of the basic national fee was required within thirty months of the priority date, i.e., 30 July 2005.

On 28 July 2005, applicants filed 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) requesting entry into the national stage for international application PCT/US2004/002699. The national stage application was assigned U.S. application number 10/543,714.

The Transmittal Letter filed on 28 July 2005 authorized a charge to Deposit Account No. 10-1666 for required fees. However, this is not a valid Deposit Account number. Accordingly, the application became abandoned at midnight on 30 July 2005 for failure to pay the basic national fee.

On 12 August 2005, applicants filed the petition for revival under 37 CFR 1.137(b) considered herein, accompanied by a revised Form PTO-1390 Transmittal Letter that authorized a charge to Deposit Account No. 02-1666 for required fees, including the basic national fee and the petition fee.

The materials filed 12 August 2005 were originally assigned a new U.S. application number (10/545,242). However, because an international application can only have a single U.S.

national stage, these materials (including the fee payments) have been transferred to the present application (10/543,714)

DISCUSSION

Applicants' statement in the petition for revival 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 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.

CONCLUSION

Applicants' petition for revival under 37 CFR 1.137(b) is **GRANTED.**

The materials filed 12 August 2005 and originally assigned U.S. application number 10/545,242 (including the fee payments) have been transferred to the present application (10/543,714). Duplicative application number 10/545,242 will be discontinued.

All future correspondence with respect to the present national stage application should reference U.S. application number 10/543,714.

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 hte 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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DALY, CROWLEY, MOFFORD & DURKEE, LLP
SUITE 301A
354A TURNPIKE STREET
CANTON, MA 02021-2714

Mail Date: 06/11/2010

Applicant	: Vasilis Ntziachristos	: DECISION ON REQUEST FOR
Patent Number	: 7647091	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/543,728	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/26/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1134** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

15 AUG 2005

#3

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Arthur E. Jackson
Law Offices of Arthur E. Jackson
P.O. Box 88
Hopwell, New Jersey 08525

In re Application of	:	
BARNITZ et al.	:	
Application No.: 10/543,732	:	DECISION ON PETITION
PCT No.: PCT/US03/12171	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 21 April 2003	:	
Priority Date: 19 April 2002	:	
Attorney Docket No.: 358381-109	:	
For: SUBARACHNOID SPINAL CATHETER FOR TRANSPORTING CEREBROSPINAL FLUID		

The petition to revive under 37 CFR 1.137(b) filed 28 July 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.

However, a review of the declaration filed on 28 July 2005 reveals that the declaration is not in an acceptable form. Petitioner has provided a defective executed composite declaration. A composite declaration under 37 CFR 1.497(a)-(b) requires that the declaration must be complete and identify each inventor in each set of declarations provided. The composite declaration is defective because it contains multiple duplicate sheets(page 3 of 4). This suggests that the enclosed declaration was constructed from numerous complete declarations or that the inventors forwarded to counsel only the signature pages of the declaration. Either alternative renders the submitted declaration defective under 37 CFR 1.497. While each inventor need not execute the same oath or declaration, where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. (See MPEP 201.03 B. Oath or Declaration.)

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration is required.

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

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

COPY MAILED

FEB 01 2010

In re Application of	:	
Michele Migliuolo et al.	:	
Application No. 10/543,739	:	DECISION ON PETITION
Filed: April 21, 2006	:	TO WITHDRAW
Attorney Docket No. 08910.0007	:	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 10, 2009.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor. This change has been made in order to avoid subsequent correspondence being directed to an incorrect address or to a practitioner who has not been appointed as practitioner of record by the applicant.

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71, who has properly intervened.

If an assignee has intervened in this application, then a Statement under 37 CFR 3.73(b) or a copy of the actual assignment filed must be submitted with any renewed request to update the application file.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED

MAY 28 2010

OFFICE OF PETITIONS

In re Application of	:	
Michele Migliuolo et al.	:	
Application No. 10/543,739	:	DECISION ON PETITION
Filed: April 21, 2006	:	TO WITHDRAW
Attorney Docket No. 08910.0007	:	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 April 26, 2010.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence is not acceptable. A new power of attorney must be filed by the applicant/assignee in order the change the correspondence address noted on the request. The only acceptable address change at this time will be that of the assignee. The Statement under 37 CFR 3.72(b) submitted with the renewed request has been noted.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED

JUL 26 2010

OFFICE OF PETITIONS

In re Application of	:	
Michele Migliuolo et al.	:	CORRECTED DECISION ON
Application No. 10/543,739	:	PETITION TO WITHDRAW
Filed: April 21, 2006	:	FROM RECORD
Attorney Docket No. 08910.0007	:	

This is a corrected decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 26, 2010.

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 Mark J. Feldstein on behalf of all attorneys/agents associated with customer number 22852. All attorneys/agents associated with customer number 22852 have been withdrawn.

It should be noted that the customer number provided on the request to change correspondence address appears to be the most current address of the assignee of record. All future correspondence will be forwarded to this address, until further notified by the applicant/assignee.

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Kyle S. Lebouilz
Verimetra, Inc.
P.O. Box 42444
Pittsburgh, PA 15203

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/543,739	04/21/2006	Michele Migliuolo	08910.0007

CONFIRMATION NO. 3084

POWER OF ATTORNEY NOTICE

22852
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

OC000000042722286

Date Mailed: 07/23/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/26/2010.

- 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

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APR 18 2007

OFFICE OF PETITIONS

JAMES C. LYDON
100 DAINGERFIELD ROAD
SUITE 100
ALEXANDRIA VA 22314

In re Application of	:	
Jean-Claude Fayard	:	
Application No. 10/543,740	:	DECISION GRANTING PETITION
Filed: July 29, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. PLAS-031	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 20, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of March 8, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 3748.

Karen Creasy
Petitions Examiner
Office of Petitions

11 JUN 2007

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Alexandria, VA 22313-1450
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SHLESINGER & FITZSIMMONS
183 EAST MAIN STREET
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ROCHESTER NY 14604

In re Application of HEIL et al. Serial No.: 10543,743 PCT App. No.: PCT/IB04/00070 Int'l Filing Date: 15 January 2004 Priority Date: 30 January 2003 Attorney Docket No.: None For: HOLD-DOWN DEVICE FOR THE CABLE GUIDE IN CABLE-DRAWN TRANSPORT SYSTEMS	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This is a decision on applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)", filed on 21 May 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 29 July 2005, within the thirty month period, applicant filed a Transmittal Letter (Form PTO 1390) requesting entry into the U.S. national stage and paid the basic national fee as required by 35 U.S.C. 371(c).

On 14 April 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), and the surcharge for filing the oath or declaration after the thirty month period, was required. Applicant was given a two month period within which to respond. Extensions of time were available.

On 19 March 2007, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicant for failure to respond to the Notification of Missing Requirements (Form PCT/DO/EO/905).

On 21 May 2007, applicant filed a petition to revive.

DISCUSSION

A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper response unless it has been previously submitted, (2) the fee required by law for revival of an unintentionally abandoned application (1.17(m)), and (3) a statement that the "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional".

With respect to Item (2),the required petition fee of $1500 has also been paid. With respect to Item (3), applicant's statement that "the entire delay in filing the fees 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).

With regard to Item (1), a review of the application file reveals that the proper reply, an executed declaration, in compliance with 37 CFR 1.497(a) and (b), was not provided. Applicant asserts that a response to the 905 was filed on 13 June 2006 but did not have a copy of the declaration and must pursue a new declaration. Thus, the petition to revive must be dismissed at this time.

CONCLUSION

For the reasons stated above, the petition to revive under 37 CFR 1.137(b) filed 21 May 2007 in the above-captioned application is **DISMISSED WITHOUT PREJUDICE**. The application remains **ABANDONED**.

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

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

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: 571-272-3286
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1 5 NOV 2007

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In re Application of HEIL et al. Serial No.: 10543,743 PCT App. No.: PCT/IB04/00070 Int'l Filing Date: 15 January 2004 Priority Date: 30 January 2003 Attorney Docket No.: None For: HOLD-DOWN DEVICE FOR THE CABLE GUIDE IN CABLE-DRAWN TRANSPORT SYSTEMS	DECISION ON RENEWED PETITION UNDER 37 CFR 1.137(b)

This is a decision on applicant's renewed "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)", filed on 06 November 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 29 July 2005, within the thirty month period, applicant filed a Transmittal Letter (Form PTO 1390) requesting entry into the U.S. national stage and paid the basic national fee as required by 35 U.S.C. 371(c).

On 14 April 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), and the surcharge for filing the oath or declaration after the thirty month period, was required. Applicant was given a two month period within which to respond. Extensions of time were available.

On 19 March 2007, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicant for failure to respond to the Notification of Missing Requirements (Form PCT/DO/EO/905).

On 21 May 2007, applicant filed a petition to revive without an executed declaration. On 11 June 2007, a decision dismissing the petition was mailed to applicant indicating that the proper reply, the executed declaration was not provided with the petition.

On 06 November 2007, applicant filed a renewed petition.

DISCUSSION

A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper response unless it has been previously submitted, (2) the fee required by law for revival of an unintentionally abandoned application (1.17(m)), and (3) a statement that the "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was

unintentional".

Applicant has previously satisfied Item (2) and Item (3).

With regard to Item (1), Applicant resubmitted a copy of the declarations submitted on 25 May 2007 in response to the 905. The declaration is a three page declaration, comprised of four pages. The declaration contains Page 1, Page 2 and two duplicate Page 3 signature pages. Each Page 3 is executed by different inventors. 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 stated above, the petition to revive under 37 CFR 1.137(b) filed 06 November 2007 in the above-captioned application is **DISMISSED WITHOUT PREJUDICE**. The application remains **ABANDONED**.

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

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

Cynthia M. Kratz
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Office of PCT Legal Administration

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2 9 JAN 2008

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In re Application of HEIL et al. Serial No.: 10543,743 PCT App. No.: PCT/IB04/00070 Int'l Filing Date: 15 January 2004 Priority Date: 30 January 2003 Attorney Docket No.: None For: HOLD-DOWN DEVICE FOR THE CABLE GUIDE IN CABLE-DRAWN TRANSPORT SYSTEMS	DECISION ON RENEWED PETITION UNDER 37 CFR 1.137(b)

This is a decision on applicant's renewed "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)", filed on 15 January and 22 January 2008 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 29 July 2005, within the thirty month period, applicant filed a Transmittal Letter (Form PTO 1390) requesting entry into the U.S. national stage and paid the basic national fee as required by 35 U.S.C. 371(c).

On 14 April 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), and the surcharge for filing the oath or declaration after the thirty month period, was required. Applicant was given a two month period within which to respond. Extensions of time were available.

On 19 March 2007, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicant for failure to respond to the Notification of Missing Requirements (Form PCT/DO/EO/905).

On 21 May 2007, applicant filed a petition to revive without an executed declaration. On 11 June 2007, a decision dismissing the petition was mailed to applicant indicating that the proper reply, the executed declaration, was not provided with the petition.

On 06 November 2007, applicant filed a renewed petition. On 15 November 2007, a decision dismissing the petition was mailed indicating that the declaration appeared to be a composite declaration created from the combination of separately executed declarations and thus, was not properly executed.

On 22 January 2008, applicant filed a renewed petition along with complete declarations.

DISCUSSION

A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper response unless it has been previously submitted, (2) the fee required by law for revival of an unintentionally abandoned application (1.17(m)), and (3) a statement that the "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional".

Applicant has previously satisfied Item (2) and Item (3).

With regard to Item (1), Applicant resubmitted three complete declarations with explanation and are acceptable as filed. Thus, the requirements of 37 CFR 1.497 (a) and (b) are met.

CONCLUSION

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

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 22 January 2008.

Cynthia M. Kratz
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400 M&T BANK BUILDING
118 N. TIOGA STREET
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OFFICE OF PETITIONS

In re Application of	:	
Douglas Bastian	:	
Application No. 10/543,744	:	DECISION ON PETITIONS
Filed: July 29, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. RBAS-1US	:	37 CFR 1.102(c)(2)(i) AND 37
	:	CFR 1.102(c)(2)(ii)

This is a decision on the petition under 37 CFR 1.102(c)(2)(i), filed April 11, 2006, to make the above-identified application special based on the invention materially enhancing the quality of the environment as set forth in M.P.E.P. § 708.02, Section V. This is also a decision on the petition under 37 CFR 1.102(c)(2)(ii), filed April 11, 2005, to make the above-identified application special based on the invention materially contributing to the development or conservation of energy resources as set forth in M.P.E.P. § 708.02, Section VI.

The petition under 37 CFR 1.102(c)(2)(i) is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(i) and MPEP § 708.02, Section V: Environmental Quality, must state that special status is sought because the invention materially enhances the quality of the environment by contributing to the restoration or maintenance of basic life-sustaining natural elements. If the disclosure is not clear on its face that the claimed invention materially enhances the quality of the environment by contributing to the restoration or maintenance of one of the basic life-sustaining natural elements, the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. No fee is required

The instant petition states "In the preferred embodiments my engine is operated using Hydrogen for fuel and thereby generates water vapor (steam) as a combustion byproduct." Accordingly, the above-identified application has been accorded "special" status.

The petition under 37 CFR 1.102(c)(2)(ii) is **DISMISSED AS MOOT**.

In view of the grant above the petition is moot.

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

By Mail: Mail Stop PETITION
Commissioner for Patents

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Alexandria, VA 22313-1450

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

By FAX: (571) 273-8300

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

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

The application is being forwarded to the Technology Center Art Unit 3738 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

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1 5 OCT 2007

MORRISON & FOERSTER LLP
755 PAGE MILL RD
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In re Application of:	:	
SUNDAR, Satish, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/543,754	:	(37 CFR 1.181)
PCT No.: PCT/GB2004/000338	:	
International Filing Date: 28 January 2004	:	
Priority Date: 28 January 2003	:	
Attorney's Docket No.: 602632000100	:	
For: DETECTION APPARATUS AND	:	
METHOD	:	

This decision is issued in response to the "Communication" filed 15 August 2007, treated herein as a petition under 37 CFR 1.181 to confirm that the declaration filed on 21 May 2007 properly identified the inventorship for the present national stage application. No petition fee is required.

BACKGROUND

The procedural background for the present application was set forth in the Communication mailed herein on 18 July 2007. That Communication vacated the Notice of Acceptance and filing receipt mailed 19 March 2007, and it indicated that the revised declaration filed on 21 May 2007 was defective in that it included a third inventor, Albert Hartman, who was not listed on the published international application.

On 03 May 2007, applicants' filed the Communication considered herein as a petition under 37 CFR 1.181. The Communication asserts that the declaration filed 21 May 2007 is proper because the third inventor listed thereon, Albert Hartman, was added to the application during the international phase. The submission includes a copy of a "Notification Of The Recording Of A Change" (Form PCT/IB/306) confirming this change.

DISCUSSION

Section 1893.01(e) of the MPEP states the following regarding the inventorship of an international application entering the national stage: "The inventorship of an international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any changes effected under PCT Rule 92*bis*."

The declaration filed on 21 May 2007 identified and was executed by three inventors: Satish SUNDAR, Swaminathan BALAKRISHNAN, and Albert HARTMAN. As noted above, only the first two of these inventors were listed on the published international application.

However, applicants present petition includes a copy of a "Notification Of The Recording Of A Change" (Form PCT/IB/306) mailed by the International Bureau (IB) on 15 August 2005 confirming that the third inventor, Albert HARTMAN, was added to the international application as an applicant/inventor pursuant to PCT Rule 92bis.1. In addition, the current bibliographic information listed for this application on the WIPO website includes Mr. HARTMAN as the third applicant/inventor. Albert HARTMAN is therefore properly an inventor of record for the present U.S. national stage application.

Based on the above, it is confirmed that the declaration filed 21 May 2007 properly identifies the three inventors of record herein.

CONCLUSION

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

The inventors of record herein are Satish SUNDAR, Swaminathan BALAKRISHNAN, and Albert HARTMAN, as set forth in the declaration filed 21 May 2007. Such declaration is acceptable under 37 CFR 1.497.

The 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 35U.S.C. 371(c)(1), (c)(2), and (c)(4) is 21 may 2007.

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#3

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12 JAN 2005

Paul Smith Intellectual Property Law
330-1508 West Broadway
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In re Application of ENN ERISALU (Deceased) Application No.: 10/543,773 PCT No.: PCT/CA04/00111 Int. Filing Date: 28 January 2004 Priority Date: 29 January 2003 Attorney Docket no.: 314pl For: ADJUSTABLE LEVELING PEDESTAL FOR A FREE-STANDING OBJECT	DECISION ON REQUEST UNDER 37 CFR 1.42

This is a decision on applicant's declaration filed in the United States Patent and Trademark Office (USPTO) on 29 July 2005 and is being treated as a request under 37 CFR 1.42.

BACKGROUND

On 29 July 2005, applicant filed a Transmittal Letter to the United States Designated/Elected Office requesting entry into U.S. national stage under 35 U.S.C. 371(c), along with a declaration of the inventors. The declaration was signed by inventor Austin Rand and by the legal representative for deceased inventor Enn Erisalu.

DISCUSSION

37 CFR § 1.42 requires that in the case of the death of the inventor, the legal representative of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent.

37 CFR 1.497(a)(3) requires that the declaration identify each inventor and the country of citizenship of each inventor. 37 CFR 1.497(b)(2) requires the declaration to state the relationship of the person (under 37 CFR 1.42) making the declaration for a deceased inventor. 37 CFR 1.497(b)(2) further states that, if the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration must state that the person is a legal representative and indicate the citizenship, residency and mailing address of the legal representative. The declaration must also state the citizenship, residency and last mailing address of the deceased inventor to comply with 37 CFR 1.497(a)(3).

The declaration executed by the joint inventor Austin Rand and Ron Aloni does not meet the requirements of 37 CFR 1.497(a) and (b). The declaration identifies Ron Aloni as the second inventor and provides only his citizenship, residency and mailing address. A review of the published international application does not indicate that Mr. Aloni is an inventor. The Power of

Attorney that accompanied the declaration is signed by Mr. Aloni as legal representative. The declaration does not identify the deceased inventor, does not identify Mr. Aloni as the legal representative for deceased inventor Erisalu and does not provide the deceased inventor's citizenship, residency and last mailing address. Thus, the declaration does not meet the requirements of 37 CFR 1.497(a) and (b). The declaration must identify Ron Aloni as the legal representative of deceased inventor Enn Erisalu and the declaration must state the country of citizenship, residency and mailing address for *both* the deceased inventor and the legal representative, to meet the requirements for compliance with 37 CFR 1.497.

What is required is a newly executed declaration, identifying all inventors and executed by first inventor Austin Rand and by Ron Aloni, identifying him as legal representative for deceased inventor Enn Erisalu. The declaration must provide the citizenship, residency and mailing address for all inventors, including the deceased inventor, and for the legal representative. Petitioner must also provide the $130 surcharge for filing the oath or declaration after the thirty month period.

Accordingly, it is inappropriate, at this time, to accord the application status under 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **DISMISSED WITHOUT PREJUDICE.**

Applicants are required to submit a new declaration executed by inventor Austin Rand and by the legal representative for deceased inventor Enn Erisalu **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are available under 37 CFR 1.136.

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

Cynthia M. Kratz
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PCT Legal Office

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17 MAY 2006

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paul Smith Intellectual Property Law
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In re Application of ENN ERISALU (Deceased) Application No.: 10/543,773 PCT No.: PCT/CA04/00111 Int. Filing Date: 28 January 2004 Priority Date: 29 January 2003 Attorney Docket no.: 314pl For: ADJUSTABLE LEVELING PEDESTAL FOR A FREE-STANDING OBJECT	DECISION ON REQUEST UNDER 37 CFR 1.42

This is a decision on applicant's declaration filed in the United States Patent and Trademark Office (USPTO) on 09 March 2006, treated as a request under 37 CFR 1.42.

BACKGROUND

On 29 July 2005, applicant filed a Transmittal Letter to the United States Designated/Elected Office requesting entry into U.S. national stage under 35 U.S.C. 371(c), along with a declaration of the inventors. The declaration was signed by inventor Austin Rand and by the legal representative for deceased inventor Enn Erisalu.

On 12 January 2006, a decision on the submission was mailed to applicant, erronerously date-stamped 12 January 2005. The decision indicated that a newly executed declaration, in compliance with 37 CFR 1.497(a) and (b) was required because the declaration did not identify Ron Aloni as the legal representative for deceased inventor Erisalu. Petitioner was advised to provide a newly executed declaration, identifying the inventors and executed by first inventor Austin Rand and by Ron Aloni, identifying himself as legal representative for deceased inventor Enn Erisalu. The declaration must provide the citizenship, residency and mailing address for all inventors, including the deceased inventor, and for the legal representative.

On 09 March 2006, Petitioner submitted a newly executed declaration. On 09 May 2006, Petitioner submitted the original copy of the Declaration Supplemental Sheet, executed by the legal representative.

DISCUSSION

The declaration is executed by the joint inventor Austin Rand and Ron Aloni, the legal representative for deceased inventor Enn Erisalu. The declaration identifies Ron Aloni as the legal representative of deceased inventor Enn Erisalu and states the country of citizenship, residency and mailing address for *both* the deceased inventor and his legal representative, which meets the requirements for compliance with 37 CFR 1.497(a) and (b).

Petitioner also provided the $130 surcharge for filing the oath or declaration after the thirty month period, which is charged to his credit card account per his authorization.

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 09 March 2006.

Cynthia M. Kratz
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10 JAN 2006

W. Brinton Yorks, Jr.
Philips Intellectual Property & Standards
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Bothell, WA 98041-3003

In re Application of WARNER et al. Application No.: 10/543,793 PCT No.: PCT/IB03/05049 Int. Filing: 10 November 2003 Priority Date: 09 December 2002 Attorney Docket No.: US020538 For: DISTRIBUTED MEDICAL IMAGING SYSTEM	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 29 July 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.

The declaration submitted on 29 July 2005 contained duplicate supplemental sheets with signatures. Each supplemental page is signed by a different inventor and combined into one declaration. The declaration is not properly executed. It appears that either the attorney pieced together separate complete declarations into one composite declaration or the inventors were presented with an incomplete declaration. What is required is one declaration where all inventors have signed or separate complete declarations. Thus, the requirements of 37 CFR 1.497 (a) and (b) have not been met and the declaration is unacceptable as filed.

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
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04 SEP 2006

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W. Brinton Yorks, Jr.
Philips Intellectual Property & Standards
P O Box 3003
Bothell, WA 98041-3003

In re Application of WARNER et al. Application No.: 10/543,793 PCT No.: PCT/IB03/05049 Int. Filing: 10 November 2003 Priority Date: 09 December 2002 Attorney Docket No.: US020538 For: DISTRIBUTED MEDICAL IMAGING SYSTEM	DECISION ON SUBMISSION

This is in response to applicant's submission of Declaration filed on 30 May 2006 in the United States Patent and Trademark Office.

Applicant filed his submission in response to a decision mailed on 12 May 2006 regarding the declaration executed by joint inventor Helen Routh.

On 29 July 2005, applicant filed a transmittal letter concerning a submission under 35 U.S.C. 371 along with a petition to revive under 37 CFR 1.137(b) and an executed declaration in the above-captioned application.

On 10 January 2006, a decision granting applicant's petition to revive was mailed to applicant. The decision noted that the declaration submitted on 29 July 2005 contained duplicate supplemental sheets with signatures. Each supplemental page was signed by a different inventor and combined into one declaration. Thus, the requirements of 37 CFR 1.497 (a) and (b) had not been met and the declaration was unacceptable as filed..

On 23 January 2006, applicant filed a response, with an explanation regarding the signing of the declaration by the inventors. According to applicant's explanation, the declaration signed by Adrian Warner, Kevin Bradley and Earl Canfield was acceptable. However, given applicant's explanation, it was apparent that the signature of Helen Routh was incorporated into the declaration signed by the joint inventors. Ms. Routh's signature page was not submitted with the corresponding pages, which she signed. A copy of the declaration as signed by Ms. Routh was required. This requirement was met with the submission filed on 30 May 2006.

This 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 **30 May 2006**.

Cynthia M. Kratz

Cynthia M. Kratz
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In re Patent No. 7,396,219	:	
Issue Date: July 8, 2008	:	
Application No. 10/543,798	:	ON PETITION
Filed: September 16, 2005	:	
Patentee(s): Egidio BerWanger	:	

This is a decision on the petition under 37 CFR 1.183 filed on October 20, 2008, which is being treated as a petition under 37 CFR 3.81[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 petition is **GRANTED.**

This patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Jun-08

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

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JUN 26 2008

OFFICE OF PETITIONS

In re Application of	:	
Higuchi et al.	:	
Application Number: 10/543811	:	ON PETITION
Filing Date: 08/01/2005	:	
Attorney Docket Number: AOK-0239	:	

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on May 8, 2008.

The petition is **granted**.

This application became abandoned on April 10, 2008, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on January 9, 2008, which set a three (3) month 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 May 5, 2008.

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

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

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

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

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

Receipt of the issue and publication fees is acknowledged.

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

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

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DEC 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Bertolt Eicke, et al.	:	
Application No. 10/543,830	:	DECISION ON PETITION
Filed: July 29, 2005	:	TO WITHDRAW
Attorney Docket No. 118744-131	:	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 **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 8, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: KEVIN R. SPIVAK
BELL, BOYD & LLOYD, LLC
70 WEST MADISON STREET
SUITE 3100
CHICAGO, IL 60602-4207

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MAY 08 2007

OFFICE OF PETITIONS

MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

In re Application of
Masatoshi Kuroda et al
Application No. 10/543,834
Filed: July 29, 2005
Attorney Docket No. 050388-0041

ON PETITION

This is a decision on the petition, filed April 27, 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 April 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 Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2821 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : May 8, 2007

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of Application No. 10/543,834

Applicant(s) : Masatoshi Kuroda et al
Application No. : 10/543,834
Filed : July 29, 2005

The above-identified application has been assigned Patent No. 7,218,290 and an issue date of May 15, 2007.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of: May 15, 2007.

> "All reference to Patent No. 7,218,290 to Masatoshi Kuroda of Japan for LENS ANTENNA SYSTEM appearing in the Official Gazette of May 15, 2007 should be deleted since no patent was granted."

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Paul Harrison
Deneise Boyd
Mary Louise McAskill
Niomi Farmer
Mary E. Johnson (Cookie)
Duane Davis
Brad Harris
Kim Terrell
Kay Pinkney

UNITED STATES 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 : July 28, 2009

Patent No. :6990660
Inventor(s) :Moshir et al.
Issued :January 24, 2006
Title :NON-INVASIVE AUTOMATIC OFFSITE PATCH FINGERPRINTING AND UPDATING
:SYSTEM AND METHOD

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 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
EFS web	uspto.gov/ebc/index.html (must be registered as an e-filer to submit responses) Technical Support 1-866-217-9197

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-1541.

for Green

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756-1541

Heath J. Briggs
Breenberg Traurig LLP
1200 17th Street, Ste 2400
Denver, CO 80202

/arg

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DEC 0 9 2009

OFFICE OF PETITIONS

Richard P Berg
Ladas & Parry
Suite 2100
5670 Wilshire Boulevard
Los Angeles CA 90036-5679

In re Patent No. 7,515,747	:	
Issue Date: April 7, 2009	:	
Application No. 10/543,846	:	DECISION ON PETITION
Filed: July 29, 2005	:	
Attorney Docket No. B-5780PCT 622850-9	:	

This is a decision on the Request for Certificate of Correction of Patent (37 CFR § 1.323), filed May 11, 2009, requesting correction on the original Letters Patent document of the subject patent, via issuance of a Certificate of Correction under 37 CFR 1.323, to identify the name of assignee. The Request has been treated as a Petition under 37 CFR 3.81. A completed Certificate of Correction Form (PTO/SB/44) accompanied the petition.

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

Petitioner urges that the present Petition was submitted to be corrected to stated the name of the current assignee's name on the previously submitted PTOL-85B and that such correction was not subsequently transferred to the form PTOL-85B. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB/44) be issued to correct assignee's name to the Title Page of the Letters Patent.

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

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

The requisite $100.00 fee (Fee Code 1811) as set forth under 37 CFR 1.20(a), and the requisite $130.00 processing fee (Fee Code 1464) as set forth under 37 CFR 1.17(i) were previously submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form PTO/SB/44 that accompanied the present Petition.

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

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

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,515,747.

Brian W. Brown
Petitions Examiner
Office of Petitions

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE ***Patent***

Applicant(s): Masatoshi Okutomi, et al.	)	***Re: REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37CFR 1.323***
Patent No. 7,515,747 Issued on April 7, 2009	)	
Serial No.: 10/543,846 Filing Date: July 29, 2005	)	Examiner: Jose L. COUSO Group Art Unit: 2624
For: "METHOD FOR CREATING HIGH RESOLUTION COLOR IMAGE..."	)	Our Ref: B-5780PCT 622850
	)	Date: May 11, 2009

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT (37 CFR § 1.323)

Sir:

The original Letters Patent document issued from the above-identified application in the name of THE CIRCLE FOR THE PROMOTION OF SCIENCE AND ENGINEERING, which was the Assignee at the time the issue fee was paid on 02/10/2009. However, a new assignment was subsequently submitted for recordation on 02/19/2009, before issuance of the patent.

This is a request under § 3.81(b) for the subject patent to be corrected to state the name of the current assignee:

TOKYO INSTITUTE OF TECHNOLOGY

The reel and frame number where the assignment is recorded are as follows:

REEL/FRAME: 022277/0776
RECORDATION DATE: 02/19/2009

The Assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent.

The Applicant wishes to correct this under 37 CFR 1.323. Attached is a copy of Form PTO/SB/44 suitable for printing.

In view of the above, the Commissioner is respectfully requested to approve the attached Certificate of Correction under 37 C.F.R. 1.322. The amount of **$230.00** to cover the processing fee as set forth in § 1.17(i) and the official fee set forth in § 1.20(a) for providing a certificate of correction has been paid concurrently with the submission of this request.

CERTIFICATE OF TRANSMISSION
I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted electronically to the United States Patent and Trademark Office on May 11, 2009.

12/09/2009 CKHLUK 00000004 10543846
01 FC:1464 130.00 OP

Respectfully submitted,

/Robert Popa 43010/

Robert Popa
Attorney for Applicants
LADAS & PARRY LLP
Reg. No. 43,010
5670 Wilshire Blvd. #2100
Los Angeles, CA 90036
Telephone:(323)934-2300
Telefax:(323)934-0202

Enclosure: Form PTO/SB/44 - Certificate of Correction

Adjustment date: 12/09/2009 CKHLUK
05/11/2009 INTEFSW 00000266 10543846
02 FC:1808 -130.00 OP

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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14 FEB 2006

John A. Waters
Varnum Riddering Schmidt Howlett
P.O. Box 352
Grand Rapids, MI 49501-0352

In re Application of	:	
ZEICHNER, et al.	:	
Application No.: 10/543,847	:	
PCT No.: PCT/IL03/00935	:	DECISION ON PETITION
Int. Filing Date: 10 November 2003	:	
Priority Date: 10 November 2002	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: Tsivion P12US0	:	
For: MOORING SYSTEM FOR OFFSHORE FISH	:	
PRODUCTION	:	

The petition to revive under 37 CFR 1.137(b) filed 29 July 2005 in the above-captioned application is hereby **GRANTED** as follows:

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

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

The application has an international filing date of 10 November 2003 under 35 U.S.C. 363 and will be given a date of **29 July 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

02 MAR 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Gary C. Cohn
1147 North Fourth Street
Unit 6E
Philadelphia, PA 19123

In re Application of :
KAMIYA, Shoko *et al* :
U.S. Application No.: 10/543,865 :
PCT No.: PCT/JP03/16830 :
Int. Filing Date: 25 December 2003 :
Priority Date: 22 January 2003 :
Attorney Docket No.: TIP 038 :
For: N-GLYCOSIDE TYPE GLYCOLIPIDS :
AND HOLLOW FIBER TYPE ORGANIC :
NANOTUBES MADE OF THE SAME :

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

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

The basic national fee and petition fee 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 in compliance with 37 CFR 1.497(a) and (b) was submitted. However, a surcharge fee of $130.00 is also required pursuant to 37 CFR 1.492(h).

This application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that a $130.00 surcharge fee pursuant to 37 CFR 1.492(h) is required.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

United States Patent and Trademark Office

12 FEB 2007

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

Paul J White
NREL
1617 Cole Boulevard
Golden, CO 80401

In re Application of	:	
Kosourov et al.	:	
Application No. 10/543,866	:	
PCT No.: PCT/US03/30992	:	
Int. Filing Date: 01 October 2003	:	DECISION
Priority Date: None Claimed	:	
Atty. Docket No.: NREL 02-10	:	
For: Multi-Stage, Continuous Flow,	:	
Microbial Hydrogen-Production	:	
System That Continuously Evolves..	:	

This is in response to the correspondence filed on 11 September 2006.

BACKGROUND

This international application was filed on 01 October 2003, claimed no earlier priority date, and designated the U.S. The 30 month time period for paying the basic national fee in the United States expired at midnight on 01 April 2006. Applicants filed, *inter alia*, the basic national fee on 26 July 2005.

On 14 December 2005, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the filing of an oath or declaration compliant with 37 CFR 1.497(a) and (b).

On 22 March 2006, applicants filed a response.

On 08 August 2006, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed to applicants, again requiring the filing of an oath or declaration compliant with 37 CFR 1.497(a) and (b) and indicating that the declaration then of record "does not identify the application to which it is directed." The Notification set a non-extendable ONE MONTH time limit for response; alternatively, the period for response to the Notification of Missing Requirements mailed on 14 December 2005 was extendable under 37 CFR 1.136(a).

On 11 September 2006, applicants filed a further response.

DISCUSSION

Review of the record reveals that the signed declaration of inventorship inder PCT Rule 4.17(iv) was signed by joint inventor Sergey Kosourov on "December 31, 2003" and was received on 06 February 2006, as indicated on Form PCT/IB/371 mailed 17 February 2004. The declaration therefore was not included with the initial filing of the international application, and it did not otherwise properly identify the application to which it was directed.

As noted above, the Notification of Defective Response mailed on 08 August 2006 set a non-extendable ONE MONTH time limit for response; alternatively, the period for response to the Notification of Missing Requirements mailed on 14 December 2005 continued to run as extendable under 37 CFR 1.136(a). Therefore, a response was due no later than Friday, 08 September 2006. However, the instant response was not received until 11 September 2006. As such, this application is **ABANDONED** with respect to the national stage in the United States.

CONCLUSION

This application stands **ABANDONED** for failure to timely reply to the Notification of Defective Response mailed on 08 August 2006 and the Notification of Missing Requirements mailed on 14 December 2005.

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

1 1 JUN 2007

United States Patent and Trademark Office

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

Paul J White
NREL
1617 Cole Boulevard
Golden, CO 80401

In re Application of	:	
Kosourov et al.	:	
Application No. 10/543,866	:	
PCT No.: PCT/US03/30992	:	
Int. Filing Date: 01 October 2003	:	DECISION
Priority Date: None Claimed	:	
Atty. Docket No.: NREL 02-10	:	
For: Multi-Stage, Continuous Flow,	:	
Microbial Hydrogen-Production	:	
System That Continuously Evolves..	:	

The petition to revive under 37 CFR 1.137(b) filed 06 April 2007 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 applicant has filed the required reply in the form of a declaration compliant with 37 CFR 1.497(a) and (b), 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.

On 06 April 2007, an unnecessary $225.00 fee for an extension of time was charged to deposit account no. 14-0460, and is being refunded. However, the $65.00 small entity surcharge under 37 CFR 1.497(h) is being charged to Deposit Account 14-0460, as authorized by the instant petition.

This application is being forwarded to the United States Designated/Elected Office for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **11 September 2006**.

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

Adjustment date: 06/11/2007 SBASHEIR
04/09/2007 FLO111 00000065 140460 10543866
02 FC:2252 225.00 CR

06/11/2007 SBASHEIR 00000001 140460 10543866
Sale Ref: 00000002 DAH: 140460 10543866
01 FC:2617 65.00 DA

28 OCT 2005

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

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

David W. Highet
Vice President and Chief Intellectual Property Counsel
Becton, Dickinson and Company
1 Becton Drive, Mail Code 110
Franklin Lakes, NJ 07417-1880

In re Application of FRANCAVILLA	:	
U.S. Application No.: 10/543,878	:	
PCT Application No.: PCT/US04/02786	:	
Int. Filing Date: 30 January 2004	:	DECISION
Priority Date Claimed: 30 January 2003	:	
Attorney Docket No.: P-5992	:	
For: HOLDER WITH SAFETY SHIELD FOR A DRUG DELIVERY DEVICE	:	

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

BACKGROUND

On 30 January 2004, applicant filed international application PCT/US04/02786, which claimed priority of an earlier United States application filed 30 January 2003. The thirty-month period for paying the basic national fee in the United States expired on 30 July 2005.

On 28 July 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 was assigned U.S. Application Number 10/543,878.

On 12 August 2005, applicant filed a second set of national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, a petition to revive an unintentionally abandoned application under 37 CFR 1.137(b) and was assigned U.S. Application Number 10/545,241.

DISCUSSION

The end result for an international application designating the United States is a single U.S. national stage application. Therefore, the existence of two U.S. national stage applications for a single international application would be improper.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is DISMISSED AS MOOT.

The serialization of U.S. Application Number 10/545,241 is hereby VACATED.

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

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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22 AUG 2006

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

In re Application of	:	
TIEKINK	:	
Application No.: 10/543,899	:	DECISION
PCT No.: PCT/SG2004/000028	:	
Int. Filing Date: 29 January 2004	:	
Priority Date: 29 January 2003	:	
Attorney's Docket No.: P/2778-73	:	
For: BISMUTH DITHIOCARBAMATE	:	
COMPOUNDS AND USES THEREOF	:	

This is a decision on applicants' petition under 37 CFR 1.182 filed via facsimile transmission in the United States Patent and Trademark Office (USPTO) on 16 May 2006. The petition fee of $400.00 has been charged to counsel's Deposit Account No. 15-0700. The petition is **GRANTED** as discussed below.

On 28 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. The transmittal letter requested that the application papers be processed as the national stage application of international application PCT/US2004/000028.

On 29 March 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903) according the application a 35 U.S.C. 371 date of 27 October 2005.

On 16 May 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 USPTO file for PCT/US2004/000028, reveals that the indication of international application PCT/US2004/000028 was incorrect, and that the present application should in fact be the national stage application of international application PCT/**SG**2004/000028. Accordingly, the NOTICE OF ACCEPTANCE mailed 29 March 2006 is hereby VACATED

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 for processing in accordance with this decision, that is for: (1) correcting PALM to indicate that the above-identified application is the national stage of PCT/**SG**2004/000028 rather than PCT/US2004/000028; and (2) mailing of a new NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 and Filing Receipt indicating the international application as PCT/SG2004/000028.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MCCARTHY TÉTRAULT LLP
BOX 48, SUITE 4700,
66WELLINGTON STREET WEST
TORONTO, ON
M5K 1E6 CA
CANADA

COPY MAILED

AUG 0 3 2007

OFFICE OF PETITIONS

Applicant: Pacione et al.
Appl. No.: 10/543,904
International Filing Date: January 29, 2004
Title: SYSTEM AND METHODS OF MANUFACTURING HOOK PLATES
Attorney Docket No.: 194133-364634 (T1222-18-US-01)
Pub. No.: US 2006/0096071 A1
Pub. Date: May 11, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on July 11, 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 in dependent Claim 42 wherein "between 0.7 mm and about 1.3mm" has been misprinted as "between 0:7 mm and about 1.3mm".

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 noted by requestor in claim 42, wherein the phrase "between 0.7 mm and about 1.3mm" has been misprinted as "between 0:7 mm and about 1.3mm" in dependent claim 42 may be an Office error, but it is not a material Office error under 37 CFR 1.221. The error noted by requestor with respect to the typographical error in this published application is due to the poor quality of the text in the preliminary amendment. The text in the preliminary amendment with respect to some of the claims is not clear. The typographical error also does not affect the

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

understanding of the application, as the phrase is a well-known phrase. The application is clearly understandable to one of ordinary skill in the art reading the application and claims. 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.

Applicant is advised that he may want to file application papers that are clearer, as the error is due to the quality of the text. The text in the application is blurry and not clear, which makes it difficult to read and to electronically reproduce by digital imaging and optical character recognition. Applicants have been advised to file applications having cleaner and larger text with sufficient clarity and contrast to permit reproduction, such as electronic reproduction by digital imaging and optical character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

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

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

By facsimile: 571-273-8300

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

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

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MCCARTHY TETRAULT LLP
BOX 48, SUITE 4700,
66WELLINGTON STREET WEST
TORONTO ON M5K 1E6 CA CANADA

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AUG 0 2 2007

OFFICE OF PETITIONS

Applicant: Joseph Pacione, et al.
Appl. No.: 10/543,905
Filing Date: September 30, 2005
Title: CARPET TILE, INSTALLATION, AND METHODS OF MANUFACTURE AND INSTALLATION THEREOF
Attorney Docket No.: 194133-364634 (T1222-18US-01)
Pub. No.: US 2006/0057328 A1
Pub. Date: March 16, 2006

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on May 16, 2006, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

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

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

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TORONTO, ON
M5K 1E6 CA
CANADA

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OFFICE OF PETITIONS

Applicant: Pacione et al.
Appl. No.: 10/543,906
International Filing Date: January 29, 2004
Title: ULTASONIC WELDING OF RESILIENT LAYERS TO PLATES
Attorney Docket No.: 194133-36437(T1222-21-US-01)
Pub. No.: US 2006/0054268
Pub. Date: March 16, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on May 16, 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 page 13 of the publication where the word "on" has been replaced with the word "oil" and a material error in Claim 1 where line 4 should read –" into the resilient layer; [NEW LINE] activating the probe" not "into the resilient later activating the probe".

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 on page 13 and in Claim 1 of the publication are Office errors, but these are not material Office errors under 37 CFR 1.221. The errors are not a material Office error because they are typographical and the errors do not affect the understanding of the publication. The application is clearly understandable to one of ordinary skill in the art reading the application and

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

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

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

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APR 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Naoki NISHIHAMA	:	
Application No. 10/543,926	:	DECISION ON PETITION
Filed: August 1, 2005	:	TO WITHDRAW
Attorney Docket No. 276180US3PCT	:	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 30, 2006.

The request is **APPROVED**.

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

The request was signed by C. Irvin McClelland on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the sole named inventor Naoki Nishihama at the address indicated below.

There is an outstanding Office action mailed February 23, 2007 that requires a reply from the applicant.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **NAOKI NISHIHAMA**
c/o SUGAWARA PATENT GROUP
MATSUDA PATENT OFFICE
SHIN-OSAKA IKUSHIMA BLDG. 4F
1-3, MIYAHARA 5-CHOME
YODOGAWA-KU 532-0003
OSAKA, JAPAN

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LEYDIG, VOIT & MAYER, LTD.
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6731

Mail Date: 04/20/2010

Applicant	: Dennis L. Panicali	: DECISION ON REQUEST FOR
Patent Number	: 7638134	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/543,944	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/30/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

14 APR 2006

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J. Rodman Steele, Jr.
Akerman Senterfitt
Esperante Building, 4th Floor
222 Lakeview Avenue
West Palm Beach, FL 33401-3188

In re Application of	:	
MILETTE, et al.	:	
U.S. Application No.: 10/543,947	:	DECISION ON REQUEST
PCT No.: PCT/CA05/00588	:	
Int. Filing Date: 19 April 2005	:	FOR REFUND
Priority Date: 19 April 2004	:	
Attorney Docket No.: 789-92	:	
For: TELECOMMUNICATIONS CONNECTOR	:	

This decision is in response to applicant's "Communication Regarding Request For Refund" filed 16 December 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 19 April 2005, applicant filed international application PCT/CA05/00588, which claimed a priority date of 19 April 2004. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 27 October 2005. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States is set to expire at midnight on 19 October 2006.

On 02 June 2005, applicant filed a transmittal letter requesting entry in the U.S. National stage accompanied by payment of the U.S. Basic National fee. None of the filed papers identified an international application number. These papers were assigned serial number 10/537,324.

On 01 August 2005, applicant filed separate papers requesting entry into the national phase of international application PCT/CA05/00588. The transmittal letter was accompanied by payment of the U.S. Basic National fee; an executed declaration of the inventors and an application data sheet. These papers were assigned serial number 10/543,947.

On 16 December 2005, applicant filed a request for refund of the fees paid in application 10/537,324.

DISCUSSION

A review of the fee records as the USPTO finds that applicant was mailed a refund check

in the amount of $2450 on 19 December 2005. The papers filed on 01 August 2005 have been placed in the present national stage application. Application 10/537,324 will be terminated. A review of the present 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 request for refund is **DISMISSED as moot**.

The application has an international filing date of 19 April 2005 under 35 U.S.C. 363 and will be given a date of **01 August 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision. Applicant is advised that box number three making an express request to begin national examination procedures was not checked on the filed transmittal letter. As such, national examination procedures will not begin until 19 October 2006.

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

1 1 FEB 2008

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CARLSON GASKEY & OLDS
400 W MAPLE STE 350
BIRMINGHAM MI 48009

In re Application of	:	
ALVES et al.	:	
Application No.: 10/543,949	:	
PCT No.: PCT/US2003/003745	:	DECISION
Int. Filing Date: 07 February 2003	:	
Priority Date: None	:	
Attorney's Docket No.: 60,469-231; OT-5241	:	
For: ELEVATOR BELT ASSEMBLY WITH NOISE	:	
REDUCING GROOVE ARRANGEMENT	:	

This decision is in response to applicant's "REQUEST FOR CORRECTED FILING RECEIPT" filed 24 April 2006, which has properly been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 07 February 2003, applicant filed international application PCT/US2003/003745, which designated the United States and did not claim a priority date. A copy of the international application was communicated to the USPTO from the International Bureau on 26 August 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 07 August 2005.

On 01 August 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 and a declaration of inventors.

On 12 April 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495 (Form PCT/DO/EO/903) indicating the 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date as 01 August 2005 and the date of completion of all 35 U.S.C. 371 requirements as 07 August 2005.

On 24 April 2006, applicant submitted the instant "REQUEST FOR CORRECTED FILING RECEIPT" requesting that the "FILING OR 371(C) DATE" indicated on the Filing Receipt be changed from 01 August 2005 to 07 August 2005 "as indicated by the Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495".

DISCUSSION

The NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495 lists two dates. (See MPEP § 1893.03(b) for a more detailed discussion regarding the difference between the two dates.) The date on the left is the date the requirements under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) have been met. In this case, that date is 01 August 2005. The date on the right is the date of completion of all 35 U.S.C. 371 requirements. In this case, that date is 07 August 2005 (thirty months from the priority date). (See 35 U.S.C. 371(b) and MPEP § 1893.03(b), item (E).) The date indicated on the Filing Receipt is the date that the requirements under 35 U.S.C. 371**(c)** have been met, not the date of completion of all 35 U.S.C. 371 requirements. Accordingly, the indication on the Filing Receipt is correct.

CONCLUSION

For the reasons set forth above, applicants' request for a corrected filing receipt is **DISMISSED** without prejudice.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web or if mailed 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.

/Daniel Stemmer/

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

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OFFICE OF PETITIONS

Gerlinde M Nattler
Craig Hallacher
Continental Teves Inc
One Continental Drive
Auburn Hills MI 48326

In re Application of
Andre Goossens
Application No. 10/543,955
Filed: August 1, 2005
Title of Invention: Solenoid Valve

ON PETITION

This is a decision on the petition under 37 CFR §1.181 filed May 20, 2008 to withdraw the holding of abandonment.

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

This above-identified application was held abandoned for failure to timely file an amended appeal brief. A Notice of Non-Compliant Appeal Brief pursuant to 37 CFR 41.37 was mailed on October 15, 2007 providing applicant with an extendable one month period for reply. No reply was received. The application was held abandoned on November 16, 2007. A Notice of abandonment was mailed on May 9, 2008.

Petitioner contends a reply to the Notice of Non-Compliant Appeal Brief was received in the Office on November 5, 2007. In support of petitioner's contention, petitioner has provided a copy of an auto-reply facsimile transmission receipt dated November 5, 2007. Petitioner acknowledges that the reply's transmittal form submitted on November 11, 2006 contained the incorrect application number.

The reply has been located in the Office. The transmittal did include the correct filing date, inventor, art unit, examiner and attorney docket number. The reply did contain the correct application number, art unit, attorney docket number, and filing date. The

reply also contained a certificate of mailing pursuant to 37 CFR 1.8.

Correspondence directed to the Patent and Trademark Office concerning a previously filed application for a patent must identify the application number and filing date assigned to that application by the Office. See, 37 CFR 1.5(a). In the above-referenced application, applicant failed to correctly identify the application by citing the parent application number in the correspondence. The Office elects, in this instance, to treat applicant's listing the incorrect application number as a correctable minor error as permitted under MPEP 502. However, applicant is reminded that minor errors, such as occurred in the instant application, are to be avoided in the future by the careful review of correspondence prior to submission to the Office.

The response submitted November 5, 2007 has been located. Based on the facts stated in the instant petition and the corroborative evidence provided, it is concluded that the holding of abandonment was improperly imposed.

This decision however, does not address whether the reply was compliant. Such a determination will be made by the examiner.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

This application is being referred to Technology Center AU 3753 for appropriate action by the Examiner in the normal course of business on the reply received.

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

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of	:	
Thomas BUTZ et al.	:	
Application No. 10/543,971	:	DECISION ON PETITION
Filed: July 29, 2005	:	
Attorney Docket No. TME-2693	:	

This is a decision on the petition, filed March 27, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action (Office action) mailed September 30/2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment has not been mailed.

Petitioner asserts that the Office action dated September 30, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received.

The Office action was returned to the USPTO as undelivered mail on October 06, 2008 and therefore it is clear from the record that the petitioner did not receive the Office action.

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 technical support staff of Art Unit 2875 for re-mailing the Office action of September 30, 2009. The period for reply will run from the mailing date of the Office action.

Telephone inquiries concerning this decision should be directed to Niketa I. Patel at 571-272-4156 or in her absence, the undersigned at 571-272-7099.

David A. Bucci
Petitions Examiner
Office of Petitions

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DAVID M. CROMPTON
CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE, SUITE 800
MINNEAPOLIS, MN 55403

In re Application of FORESTI et al	:	
U.S. Application No.: 10/543,988	:	
PCT Application No.: PCT/IB2004/000399	:	
Int. Filing Date: 05 February 2004	:	DECISION
Priority Date Claimed: 13 February 2003	:	
Attorney Docket No.: 1204.1117101	:	
For: SECURITY ELEMENT AND PRINTING METHOD	:	

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 December 2007.

BACKGROUND

On 05 February 2004, applicant filed international application PCT/IB2004/000399, which claimed priority of an earlier European Patent Office application filed 13 February 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 26 August 2004. the thirty-month period for paying the basic national fee in the United States expired on 13 August 2005.

On 29 July 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 29 September 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.

International application PCT/IB2004/000399 became abandoned as to the United States for failure to timely respond to the Notification of Missing Requirements.

On 14 December 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 05 February 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 14 December 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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JENKINS, WILSON, TAYLOR & HUNT, P. A.
Suite 1200 UNIVERSITY TOWER
3100 TOWER BLVD.,
DURHAM, NC 27707

Mail Date: 04/21/2010

Applicant	: Donald Jan Workum	: DECISION ON REQUEST FOR
Patent Number	: 7597218	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/543,993	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/28/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **800** 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

20 JUL 2006

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ONE LANDMARK SQUARE, 10TH FLOOR
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In re Application of: FIDALGO MERINO, Manuel, et al. U.S. Application No.: 10/543,994 PCT No.: PCT/ES2003/000048 International Filing Date: 29 January 2003 Priority Date: None Atty. Docket No.: 0002354USU/2442 For: GENETICALLY-MODIFIED YEASTS WHICH CAN FLOAT IN A LIQUID MEDIUM, PRODUCTION METHOD THEREOF AND USE OF SAME	DECISION REGARDING SUBMISSION UNDER 37 CFR 1.42

This communication is issued in response to applicants' submission on 09 May 2006 of a declaration executed on behalf of deceased inventor Manuel FIDALGO MERINO by his administratix Angel FIDLAGO GONZALEZ. The submission has been treated as a submission under 37 CFR 1.42.

BACKGROUND

On 29 January 2003, applicants filed international application PCT/ES2003/000048. The international application did not claim an earlier priority date, and it designated the United States. On 12 August 2004, 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 July 2005.

On 08 February 2006, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and a translation of the international application into English.

On 12 April 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that 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 were required.

On 09 May 2006, applicants filed a response to the Notification Of Missing Requirements that included payment of the required surcharge and the declaration considered

herein. The declaration was executed by three of the four inventors and on behalf of the deceased inventor, Manuel FIDALGO MERINO, by Angel FIDALGO GONZALEZ. An accompanying document entitled "Declaration By Representative For Deceased" identifies Angel FIDALGO GONZALEZ as the administratix of the deceased inventor.

DISCUSSION

37 CFR 1.42 states in part:

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

Section 409.01(a) of the MPEP states that the application can also be executed by all of the heirs of the deceased inventor, where no legal representative has been appointed or is required to be appointed by law.

37 CFR 1.497(b)(2) states:

> If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

Pursuant to 37 CFR 1.497(b)(2), the citizenship for **both** the deceased inventor and the legal representative must be identified on the declaration, as well as the mailing address and residence information of the legal representative.

Here, the "Declaration And Power Of Attorney For Patent Application" filed 09 May 2006 includes the required citizenship of the deceased inventor, and it sets forth the name of the person signing on behalf of the deceased inventor. However, the "Declaration And Power Of Attorney For Patent Application" does not identify the person signing on behalf of the deceased inventor as "a legal representative, and it does not include the citizenship, residence, and mailing address of the legal representative," as required by 37 CFR 1.497(b)(2).

The separate "Declaration By Representative For Deceased" that was filed with the "Declaration And Power Of Attorney For Patent Application" includes the additional information required by 37 CFR 1.497(b)(2). However, the "Declaration By Representative For Deceased" is not properly executed pursuant to 37 CFR 1.68 and 37 CFR 1.497(a)(1) and therefore cannot be accepted as a supplemental declaration providing the additional information required.

Because the "Declaration And Power Of Attorney For Patent Application" does not include all the information required under 37 CFR 1.42 and 1.497, status under 37 CFR 1.42 cannot be granted at this time.

CONCLUSION

Based on the above, the "Declaration And Power Of Attorney For Patent Application." filed 09 May 2006 under 37 CFR 1.42 is **REJECTED** without prejudice.

Applicants have **TWO (2) MONTHS** from the mail date this communication to submit a proper response under 37 CFR 1.42 and 1.497. Failure to file a proper and timely response will result in abandonment.

Extensions of time are available under 37 CFR 1.136(a).

A proper response must include a revised declaration, properly executed by the adminstratix of the deceased inventor in accordance with 37 CFR 1.68 and 1.497(a)(1), and including all the information required by 37 CFR 1.497.

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

18 OCT 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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STAMFORD CT 06901

In re Application of: FIDALGO MERINO, Manuel, et al. U.S. Application No.: 10/543,994 PCT No.: PCT/ES2003/000048 International Filing Date: 29 January 2003 Priority Date: None Atty. Docket No.: 0002354USU/2442 For: GENETICALLY-MODIFIED YEASTS WHICH CAN FLOAT IN A LIQUID MEDIUM, PRODUCTION METHOD THEREOF AND USE OF SAME	DECISION REGARDING RENEWED SUBMISSION UNDER 37 CFR 1.42

This communication is issued in response to the "Response To Decision Under 37 CFR 1.42" filed by applicants on 20 September 2006. No petition fee is required.

BACKGROUND

The procedural background for this application was set forth in the decision mailed by this Office on 20 July 2006. In that decision, the declaration materials filed by applicants on 09 May 2006 were rejected without prejudice for failure to include all the information required under 37 CFR 1.497(b)(2) (specifically, the declaration did not identify the person signing on behalf of the deceased inventor and provide this person's citizenship, residence, and mailing address).

On 20 September 2006, applicants' filed the "Response To Decision Under 37 CFR 1.42" considered herein.

DISCUSSION

The renewed submission includes a complete declaration executed by the three surviving inventors and on behalf of deceased inventor Manuel FIDALGO MERINO by his administratix Angel FIDLAGO GONZALEZ. This declaration includes all required information with respect to the deceased inventor and the legal representative. Accordingly, acceptance under 37 CFR 1.42 and 1.497 of the declaration filed 20 September 2006 is appropriate.

CONCLUSION

Applicants' request for status under 37 CFR 1.42 with respect to deceased inventor Manuel FIDALGO MERINO is **GRANTED**.

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 20 September 2006.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
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901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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MAY 18 2009

OFFICE OF PETITIONS

In re Application of :
Fumio Itoh et al :
Application No. 10/543,997 : ON PETITION
Filed: October 31, 2005 :
Attorney Docket No. 10525.0007

This is a decision on the petition, filed May 18, 2009 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 24, 2009 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/543,998	07/29/2005	Masatoshi Nishino	09792909-6284	5679

7590 08/31/2009
SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, WILLIS TOWER
CHICAGO, IL 60606-1080

EXAMINER
BANKS HAROLD, MARSHA DENISE

ART UNIT	PAPER NUMBER
2621	

MAIL DATE	DELIVERY MODE
08/31/2009	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☒ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

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

Betty Powell

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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ALSTON & BIRD LLP
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101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Martin David Dawson	: DECISION ON REQUEST FOR
Patent Number	: 7598149	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/544,002	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/29/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **534** 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

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

In re Patent No. 7,451,807 :
Issued: November 18, 2008 :
Application No. 10/544,024 : PATENT TERM ADJUSTMENT
Filed: July 29, 2005 :
Dkt. No.: 274846US6XPCT :

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.705(d) AND REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed January 21, 2009.

The request for reconsideration of patent term adjustment (PTA) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,451,807 on November 18, 2008. The patent issued with a PTA 617 days. The request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See, 37 CFR 1.705(d). Patentees request that the patent term adjustment be increased from 617 days to 729 days.

Patentees request reconsideration of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees contend that pursuant to Wyeth, a PTO delay under 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35 U.S.C. 154(b)(1)(B) only if the delays occur on the same day.

Patentee maintains that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 752 days (640 days + 112 days) as these periods do not occur on the same day. Further, patentee acknowledges a delay of 23 days pursuant to 37 CFR 1.704(c)(10). Thus, patentee asserts entitlement to an overall patent term adjustment of 729 days (752 days *less* 23 days).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office agrees that as of the issuance of the patent on November 18, 2008, the application was pending three years and 107 days after the national stage commenced under 35 U.S.C.

371(b) or (f) in an international application. The commencement date is the date 30 months from the earliest priority date claimed in the international application. In this application, the earliest priority date claimed, as shown on the Notice of Acceptance of Application Under 35 U.S.C. § 371 and 37 CFR 1.495, mailed May 19, 2006, is February 3, 2003. Accordingly, the commencement date is August 3, 2005, and the period of adjustment pursuant to 37 CFR 1.703(b) began August 4, 2008, the day after the date that is three years after the date that national stage commenced, and ended November 18, 2008, the date that the patent issued, or 107 days.

The Office agrees that certain action was not taken within a specified time frame, and, thus, the entry of a period of adjustment of 640 days is correct. At issue is whether patentees should accrue an additional 107 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 640 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 107 days delay in issuance of the patent overlaps with the period of examination delay of 640 days. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 35 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to

> the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule, 65 Fed. Reg. 56366 (Sept. 18, 2000). See, also, Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See, also, Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See, 145 Cong. Rec. S14,718[1].

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(1)(A) is the entire period during which the application was pending before the Office, July 29, 2005, to the date the patent issued on November 18, 2008. Prior to the issuance of the patent, 640 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application.

The application actually issued three years and 107 days after the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application. However, the Office did not delay 640 days and then delay an additional 107 days. Accordingly, 640 days of patent term adjustment (not 640 days and 107 days) was properly entered because the period of delay of 107 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 640 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted.

In view thereof, no adjustment to the patent term will be made.

The Office acknowledges submission of the required application fee of $200.00. See, 37 CFR 1.18(e). The request for refund of the required application fee is hereby DISMISSED. Submission of the application fee is a prerequisite prior to treatment on the merits of any application for patent term adjustment.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Patent No. 7,451,807	: DECISION ON APPLICATION FOR
Issued: November 18, 2008	: PATENT TERM ADJUSTMENT and
Application No. 10/544,024	: NOTICE OF INTENT TO ISSUE
Filed: July 29, 2005	: CERTIFICATE OF CORRECTION
Dkt. No.: 274846US6XPCT	:

This is a decision on the petition filed on November 2, 2009, which is being treated as a petition under 37 CFR 1.181 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 729 days.

The petition was filed within two months of a decision by the Office mailed on August 31, 2009 dismissing applicant request for reconsideration of PTA under 37 CFR 1.705(d).

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 729 days is **GRANTED**.

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 729 days.

The Office acknowledges the previous submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,451,807 B2

DATED : **November 18, 2008** **DRAFT**

INVENTOR(S) : Persson

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 617 days

Delete the phrase "by 617 days" and insert – by 729 days--

UNITED STATES PATENT and TRADEMARK OFFICE

2 9 AUG 2008

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

LAW OFFICE OF MICHAEL A. SANZO, LLC
15400 CALHOUN DR.
SUITE 125
ROCKVILLE MD 20855

In re Application of	:	DECISION ON
Hager et al	:	
Application No.: 10/544,041	:	
Filed: 02 August 2005	:	PETITION UNDER
Attorney's Docket No.: 7601/84395	:	
For: LASER-WELDABLE, TRANSPARENT...	:	
TINTED BY COLORANTS	:	UNDER 37 CFR 1.181

This is in response to applicants' submission, "Petition Under 37 CFR 1.181 to Recognize the Application as an Application Filed Under 35 USC 111(a) ," filed 30 June 2008. The petition requests the above referenced application be treated as a 111(a) because it has been incorrectly treated as a filing under 35 USC 371.

BACKGROUND

On 02 August 2005, applicants filed the instant application as a continuation application under 35 USC 111(a).

The application was processed as a filing under 35 U.S.C. § 371 rather than a filing under 35 U.S.C. §111(a) by USPTO.

On 07 September 2008, the USPTO mailed a NOTIFICATION OF ACCEPTANCE (Form PCT/DO/EO/903) to applicants stating that the 35 USC 371 (c)(1), (c)(2), and (c)(4) date is 02 August 2005

On 30 June 2008, petitioner filed the instant petition to correct the above application filing from an application processed under 35 USC §371 to an application processed under 35 USC §111(a).

DISCUSSION

A review of the file reveals that 35 U.S.C. 371 processing by the USPTO was improper for this application because it was properly filed as continuation under 35 U.S.C. §111(a). Every document (transmittal letter, and the Application Data Sheet) filed with the aforementioned application papers identified the application as a continuation under 35 USC §111(a). Accordingly, it would be appropriate to consider the conversion of the application to an application under 35 U.S.C. 111(a) at this time.

Applicant's petition to convert the application from 35 U.S.C. 371 to an application under 35 U.S.C. 111(a) can be granted.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 07 September 2006 is **VACATED** with the mailing of this decision.

CONCLUSION

The petition under 37 CFR 1.181 for reasons noted above is **GRANTED**. The 35 U.S.C. 111(a) filing date is **02 August 2005.**

This application is being forward to Initial Processing Division (IPD) for continued processing.

Rafael Bacares
Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

08 SEP 2006
United States Patent and Trademark Office

08 SEP 2006

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Browning Bushman
5718 Westheimer
Suite 1800
Houston TX 77057-5771

In re Application of	:	
Bursaux et al.	:	
Application No.: 10/544,046	:	DECISION
PCT No.: PCT/GB04/00398	:	
Int. Filing Date: 30 January 2004	:	ON
Priority Date: 31 January 2003	:	
Attorney Docket No.: Stolt-55	:	PETITION
For: Pipelaying Vessel	:	

This is in response to the petition under 37 CFR 1.47(b) filed on 22 May 2006, which is being treated under 37 CFR 1.47(a).

BACKGROUND

This international application was filed on 30 January 2004, claimed an earlier priority date of 31 January 2003, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 12 August 2004. The 30 month time period for paying the basic national fee in the United States expired at midnight on 31 July 2005. Applicants filed *inter alia* the basic national fee on 29 July 2005

On 18 January 2006, 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), a surcharge under 37 CFR 1.492(h), and $1550.00 in additional claim fees.

DISCUSSION

Petitioner request treatment under 37 CFR 1.47(b), but inspection of the application file reveals that at least one joint inventor is available to execute the declaration. Petitioner's attention is drawn to MPEP 409.03(b), which explains in part that

> Filing under 37 CFR 1.47(b) and 35 U.S.C. 118 is permitted only when no inventor is available to make application. These provisions allow a "person" with a demonstrated proprietary interest to make application "on behalf of and as agent for" an inventor who "cannot be found or reached after diligent effort" or who refuses to sign the application oath or declaration. The word "person" has been construed by the U.S. Patent and Trademark Office to include juristic entities, such as a corporation. Where 37 CFR 1.47(a) is available, application cannot be made under 37 CFR 1.47(b).

Accordingly, since at least one joint inventor is available to make the present application, treatment under 37 CFR 47(a) is appropriate.

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or

cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Regarding requirement (1), petitioner paid the petition fee on 22 May 2006.

Regarding requirement (2), petitioner urges that the absence on the declaration of the signature of joint inventor Gabriel Andre Bursaux be excused based on "the diligent efforts to obtain the signature of the non-signing inventor" described in an accompanying "Declaration of Mrs. Laura McLeod." In numbered paragraph 6 of her "Declaration," Mrs. McLeod suggests that Mr. Bursaux "refused delivery" of certain correspondence. 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

The "Declaration" of Mrs. McLeod implies that Mr. Bursaux has refused to accept delivery of certain correspondence, but the petition includes no clear indication that Mr. Bursaux refused to execute a declaration after being presented with a complete copy of the application papers (nor does petitioner allege that Mr. Bursaux could not be found or reached after diligent effort). Mrs. McLeod does state that correspondence including "various forms" and a "Declaration and Assignment" were sent to Mr. Bursaux on 07 September 2005, but she does not allege that the correspondence included a complete copy of the application papers, including the specification, claims, abstract and drawings. Likewise, Mrs. McLeod refers to "these documents" as having been sent to Mr. Bursaux on 23 March 2006 and 24 March 2006, without specifying the identity of "these documents." Moreover, Mrs. McLeod states that she had "received information from the tracking results of this shipment on AWB Number: 3675720300 that the recipient refused delivery on two occasions...," but petitioner has not provided documentary evidence of such "information," nor has petitioner provided copies of any pertinent air bills or mailing labels, or of the "email on 24th March 2006." As such, petitioner has not adequately demonstrated that Mr. Bursaux refused to execute an oath or declaration (or 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 Mr. Bursaux. Accordingly, requirement (3) has been satisfied.

Regarding requirement (4), the petition is accompanied by a declaration document signed by joint inventors Cowie, Harvey, Willis, Goss, Bowie, Welsh and Rolf on behalf of themselves and non-signing joint inventor Bursaux. This declaration satisfies requirement (4).

DECISION

The petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.

Daniel Stemmer
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

Renewed United States Patent and Trademark Office

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Browning Bushman
5718 Westheimer
Suite 1800
Houston TX 77057-5771

In re Application of	:	
Bursaux et al.	:	
Application No.: 10/544,046	:	DECISION
PCT No.: PCT/GB04/00398	:	
Int. Filing Date: 30 January 2004	:	ON
Priority Date: 31 January 2003	:	
Attorney Docket No.: Stolt-55	:	PETITION
For: Pipelaying Vessel	:	

This is in response to the petition under 37 CFR 1.47(a) filed on 06 February 2007.

DISCUSSION

In a Decision mailed on 08 September 2006, the petition filed on 22 May 2006 was treated under 37 CFR 1.47(a) and dismissed without prejudice because

> The "Declaration" of Mrs. McLeod implies that Mr. Bursaux has refused to accept delivery of certain correspondence, but the petition includes no clear indication that Mr. Bursaux refused to execute a declaration after being presented with a complete copy of the application papers (nor does petitioner allege that Mr. Bursaux could not be found or reached after diligent effort). Mrs. McLeod does state that correspondence including "various forms" and a "Declaration and Assignment" were sent to Mr. Bursaux on 07 September 2005, but she does not allege that the correspondence included a complete copy of the application papers, including the specification, claims, abstract and drawings. Likewise, Mrs. McLeod refers to "these documents" as having been sent to Mr. Bursaux on 23 March 2006 and 24 March 2006, without specifying the identity of "these documents." Moreover, Mrs. McLeod states that she had "received information from the tracking results of this shipment on AWB Number: 3675720300 that the recipient refused delivery on two occasions...," but petitioner has not provided documentary evidence of such "information," nor has petitioner provided copies of any pertinent air bills or mailing labels, or of the "email on 24th March 2006." As such, petitioner has not adequately demonstrated that Mr. Bursaux refused to execute an oath or declaration (or could not be found or reached after diligent effort) within the meaning of 37 CFR 1.47(a).

In response, petitioner has provided an additional "Declaration..." signed by Mrs. Laura McLeod, and supporting evidentiary documents. In paragraph 4, Mrs. McLeod states that "various forms were forwarded to Mr. Bursaux at his home address" on 7 September 2005, but does not specifically state that a complete copy of the application papers was included therewith. Similarly, in paragraph 6, Mrs. McLeod states that, on 23 March 2006, "the said documents (4 above) were couriered to his home address by DHL and also by email on 24th March 2006 to his personal email account," but again there is no specific statement that the documents transmitted to him included a complete copy of the application papers. In paragraph 7, Mrs. McLeod states

that, on 08 November 2006 and 09 November 2006, correspondence including a "Copy of WO 2004/06812 A2" was transmitted to Mr. Bursaux. However, this publication number differs from the publication number corresponding to the instant international application (to wit, WO 2004/068012 A2). As such, it is not clear that the document transmitted to Mr. Bursaux was in fact a complete copy of the instant application papers. It is noted that Mrs. McLeod states in paragraph 3 that Mr. Bursaux had been presented with a copy of "the priority application GB0302279.5," but providing a copy of a priority application does not satisfy the requirement that an allegedly refusing non-signing inventor be presented with a complete copy of the international application itself. Therefore, it would not be appropriate at this time to conclude that Mr. Bursaux has "refused" to execute this application within the meaning of 37 CFR 1.47(a). It is also observed that, in paragraph 8, Mrs. McLeod states that "... I have personal knowledge of the events because I was the person responsible for contacting Mr. Gabriel Andre Bursaux." However, this does not establish that she actually made the attempts to contact Mr. Bursaux herself, rather than, for example, acting in a supervisory capacity over others who actually transmitted the correspondence in question.

DECISION

The petition under 37 CFR 1.47(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

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Browning Bushman
5718 Westheimer
Suite 1800
Houston TX 77057-5771

In re Application of	:	
Bursaux et al.	:	
Application No.: 10/544,046	:	DECISION
PCT No.: PCT/GB04/00398	:	
Int. Filing Date: 30 January 2004	:	ON
Priority Date: 31 January 2003	:	
Attorney Docket No.: Stolt-55	:	PETITION
For: Pipelaying Vessel	:	

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 02 May 2007.

DISCUSSION

In a Decision mailed on 02 March 2007, the petition filed on 06 February 2007 was treated under 37 CFR 1.47(a) and dismissed without prejudice because

> petitioner has provided an additional "Declaration..." signed by Mrs. Laura McLeod, and supporting evidentiary documents. In paragraph 4, Mrs. McLeod states that "various forms were forwarded to Mr. Bursaux at his home address" on 7 September 2005, but does not specifically state that a complete copy of the application papers was included therewith. Similarly, in paragraph 6, Mrs. McLeod states that, on 23 March 2006, "the said documents (4 above) were couriered to his home address by DHL and also by email on 24th March 2006 to his personal email account," but again there is no specific statement that the documents transmitted to him included a complete copy of the application papers. In paragraph 7, Mrs. McLeod states that, on 08 November 2006 and 09 November 2006, correspondence including a "Copy of WO 2004/06812 A2" was transmitted to Mr. Bursaux. However, this publication number differs from the publication number corresponding to the instant international application (to wit, WO 2004/068012 A2). As such, it is not clear that the document transmitted to Mr. Bursaux was in fact a complete copy of the instant application papers. It is noted that Mrs. McLeod states in paragraph 3 that Mr. Bursaux had been presented with a copy of "the priority application GB0302279.5," but providing a copy of a priority application does not satisfy the requirement that an allegedly refusing non-signing inventor be presented with a complete copy of the international application itself. Therefore, it would not be appropriate at this time to conclude that Mr. Bursaux has "refused" to execute this application within the meaning of 37 CFR 1.47(a). It is also observed that, in paragraph 8, Mrs. McLeod states that "... I have personal knowledge of the events because I was the person responsible for contacting Mr. Gabriel Andre Bursaux." However, this does not establish that she actually made the attempts to contact Mr. Bursaux herself, rather than, for example, acting in a supervisory capacity over others who actually transmitted the correspondence in question.

The instant renewed petition references and is accompanied by a further "Declaration..." signed by Mrs. Laura McLeod which clarifies that she has first-hand knowledge of the facts recounted, and which (along with the accompanying evidentiary documents) establishes that Mr. Bursaux has, within the meaning of 37 CFR 1.47(a), refused to execute the application after having been presented with a copy of the international application and with a declaration document for his signature. As such, all of the requirements of 37 CFR 1.47(a) have now been satisfied.

DECISION

The petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

The application is being returned to the National Stage Processing Branch for processing as the U.S. National Stage of the above-identified international application. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **22 May 2006**.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
SUITE 1100
777 - 6TH STREET, NW
WASHINGTON, DC 20001

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OFFICE OF PETITIONS

In re Application of	:	
MCGRATH, Michael et al.	:	
Application No. 10/544,059	:	DECISION ON PETITION
Filed: March 10, 2006	:	TO WITHDRAW
Attorney Docket No. **PATH0007-502-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 September 3, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Cooley Godward Kronish LLP has been revoked by the applicant of the patent application on September 30, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **GLOBAL PATENT GROUP, LLC**
10411 CLAYTON ROAD, SUITE 304
ST. LOUIS MO 63131

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.
10/544,082	07/28/2005	Charles R. Slater	SYN-080	9434

36822 7590 08/22/2008
GORDON & JACOBSON, P.C.
60 LONG RIDGE ROAD
SUITE 407
STAMFORD, CT 06902

EXAMINER
STIGELL, THEODORE J

ART UNIT	PAPER NUMBER
3763	

MAIL DATE	DELIVERY MODE
08/22/2008	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

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GORDON & JACOBSON, P.C.
60 LONG RIDGE ROAD
SUITE 407
STAMFORD CT 06902

In re Application of:
SLATER, CHARLES R. et al
Serial No. 10/544,082
Filed: Jul.25, 2008
Docket: SYN-080
Title: METHODS AND APPARATUS FOR TREATING THE INTERIOR OF A BLOOD VESSEL

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the Request to Reset Time to Respond to Office Action filed Apr. 4, 2007 requesting rest of time period to respond the outstanding Office action mailed on Dec. 4, 2007.

The petition is **granted.**

The Office action of Dec. 4, 2007 set one month period of time for reply. Petitioner alleges non-receipt of the Office action and has provided supporting evidence of non-receipt. In support of the petition, petitioner alleges that the outstanding Office action mailed on Dec. 4, 2007 was not received until a telephone inquiry was made by the examiner on Mar. 21, 2008. Subsequently, the examiner also sent a copy of the Office action mailed on Dec. 4, 2007 by facsimile. The currently petition was filed on Apr. 4, 2008 along with a copy of the response. In the petition, petitioner requests the Office to re-set the time period to respond the original Office action of Dec. 4, 2007 to one month from March 31, 2008 so that the reply filed on Apr. 4, 2008 will be considered timely without any extension of time fee.

In the absence of any irregularity in the mailing of the non-final Office action, there is a strong presumption that the Office communication was properly mailed to the correspondence address designated by applicant. This presumption may be overcome by a showing that the non-final Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from someone with firsthand knowledge stating that the Office communication was not received at the correspondence address of record and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See,* MPEP 711.03(c).

In the petition, petitioner has submitted a declaration of Thomas A. Gallagher stating the surrounding facts regarding the non-receipt of the Office action and the supporting docket printout showing non-receipt of the Office action of Dec. 4, 2007.

Under the circumstances, the requirements of MPEP 710.06[1] are considered to have been met. This petition to reset time to respond to the Office action mailed on Dec. 4, 2007 is granted. The period for reply is now reset to expire one month from the receipt date of the Office action, Mar. 31, 2008. The reply filed with this petition is accepted.

The application is being forwarded to Examiner Theodore Stigell of Art Unit 3763 for consideration of the applicant's response of Apr. 4, 2008. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

Frederick R. Schmidt, Director
Technology Center 3700

[1] Relevant portion of MPEP 710.06 I. PETITIONS TO RESET A PERIOD FOR REPLY DUE TO LATE RECEIPT OF AN OFFICE ACTION The Office will grant a petition to restart the previously set period for reply to an Office action to run from the date of receipt of the Office action at the correspondence address when the following criteria are met: (A) the petition is filed within 2 weeks of the date of receipt of the Office action at the correspondence address; (B) a substantial portion of the set reply period had elapsed on the date of receipt (e.g., at least 1 month of a 2- or 3-month reply period had elapsed); and (C) the petition includes (1) evidence showing the date of receipt of the Office action at the correspondence address (e.g., a copy of the Office action having the date of receipt of the Office action at the correspondence address stamped thereon, a copy of the envelope (which contained the Office action) having the date of receipt of the Office action at the correspondence address stamped thereon, etc.), and (2) a statement setting forth the date of receipt of the Office action at the correspondence address and explaining how the evidence being presented establishes the date of receipt of the Office action at the correspondence address. There is no statutory requirement that a shortened statutory period of longer than 30 days to reply to an Office action be reset due to delay in the mail or in the Office. However, when a substantial portion of the set reply period had elapsed on the date of receipt at the correspondence address (e.g., at least 1 month of a 2- or 3-month period had elapsed), the procedures set forth above for late receipt of action are available. Where an Office action was received with less than 2 months remaining in a shortened statutory period of 3 months the period may be restarted from the date of receipt. Where the period remaining is between 2 and 3 months, the period will be reset only in extraordinary situations, e.g., complex Office action suggesting submission of comparative data.

297 9/15/06
dismiss

DATE: 9/17/07 APPLICATION NUMBER: 10/544,084

DOC CODE: P6A9-DEC DOC DATE: _____

DELIVER THE ATTACHED FILE/DOCUMENT TO THE TC SCANNIG CENETER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN 8 WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN 16 WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK NY 10016

COPY MAILED
SEP 18 2007
OFFICE OF PETITIONS

Applicant: Hiromoto II et al.
Appl. No.: 10/544,084
International Filing Date: August 7, 2004
Title: Method for forming thin film and base and having thin film formed by such method
Attorney Docket No.: KON-2020
Pub. No.: 2006/0199014 A1
Pub. Date: September 7, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on September 15, 2006, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the title of the application is incorrect.

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 title in the publication is not an error of the Office. The title in the published application is a direct republication of the WIPO application publication WO 2005/007927 A1 for PCT/JP2004/010085. The title of the invention has not been amended by a preliminary amendment.

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

Applicants' request for a corrected patent application publication on September 15, 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.

Furthermore, applicant is advised that a change in title in the instant case is not considered material. The interpretation or understanding of the application to one of ordinary skill in the art would not be affected by the title. See MPEP 1130.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

11 DEC 2006

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KENYON & KENYON LLP
One Broadway
New York, NY 10004

In re Application of TOO *et al* Application No.: 10/544,085 PCT No.: PCT/AU2004/000111 Int. Filing Date: 30 January 2004 Priority Date: 31 January 2003 Attorney Docket No.: MASSEY/1 For: CONDUCTING POLYMERS WITH PORPHYRIN CROSS-LINKERS	: : : : : : : : :	**DECISION**

This is a decision on the petition to withdraw the holding of abandonment filed on 09 August 2006.

BACKGROUND

On 10 January 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that a declaration in compliance with 37 CFR 1.497(a) and (b) and a $130.00 surcharge fee was required.

On 18 July 2006, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) for failing to respond to the Form PCT/DO/EO/905 mailed 10 January 2006.

On 09 August 2006, applicant filed the subject petition to withdraw the holding of abandonment along with an executed declaration.

DISCUSSION

A review of the subject application shows that applicants still had time remaining using extensions of time pursuant to 37 CFR 1.136(a) to respond to the Form PCT/DO/EO/905 mailed 10 January 2006. Thus, the Form PCT/DO/EO/909 was mailed in error.

In the response filed 15 August 2006, applicants submitted a declaration, the surcharge fee and a five-month extension request. This is considered an appropriate and timely response.

10/544,085

CONCLUSION

In view of the above, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Form PCT/DO/EO/909 sent 18 July 2006 is hereby **VACATED**.

The declaration filed 09 August 2006 is not in compliance with 37 CFR 1.497(a) and (b). The first and sixth named inventors have made noninitialed changes 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).

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

24 JAN 2007

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DREIER LLP
499 PARK AVE
NEW YORK, NY 10022

In re Application of GRIFFIN et al	:	
U.S. Application No.: 10/544,118	:	
PCT Application No.: PCT/AU2004/000098	:	
Int. Filing Date: 29 January 2004	:	
Priority Date Claimed: 31 January 2003	:	DECISION
Attorney Docket No.: 4670-09US (600193-023)	:	
For: METHOD AND SYSTEM OF MEASURING	:	
AND RECORDING USER DATA IN A	:	
COMMUNICATIONS NETWORK	:	

This is in response to applicant's "Petition for Filing Where an Inventor Cannot Be Reached Pursuant to 37 CFR 1.47 and MPEP §409.03(b)" filed 09 January 2007.

BACKGROUND

On 29 January 2004, applicant filed international application PCT/AU2004/000098, which claimed priority of an earlier Australia application filed 31 January 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 12 August 2004. The thirty-month period for paying the basic national fee in the United States expired on 01 August 2005 (31 July 2005 was a Sunday).

On 01 August 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 05 June 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 January 2007, applicant filed the present petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(i), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. See 37 CFR 1.47(b).

With regard to item (1) above, the requisite fee has been provided.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted which fully describes the exact facts which are relied on to establish that a diligent effort was made. . . . The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

The petition states that joint inventors John Griffin and Mark Long cannot be reached after diligent effort. However, documentary evidence of the purported attempts to locate the inventors has not been furnished. Although the petition states that applicant attempted to contact the inventors by telephone on several occasions, an affidavit from the person who made the calls has not been provided. Furthermore, copies of the electronic mail messages sent to the inventors have not been submitted. Moreover, the petition fails to describe and document any additional attempts to reach the inventors, i.e. by postal mail to the last known address, by searching telephone and Internet directories, and by contacting the inventors' former employer or co-workers. Thus, it would not be reasonable at the present time to conclude that the inventors cannot be found after diligent effort.

With regard to item (3) above, the petition states the last known address of the nonsigning inventors.

With regard to item (4) above, an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventors has not been provided. Petitioner is advised that when an assignee files an application under 37 CFR 1.47(b), ownership of the application must be established. See MPEP 324. 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.

With regard to item (5) above, the 37 CFR 1.47(b) applicant must prove that, as of the date the application was deposited in the Patent and Trademark Office, (A) the invention has been assigned to the applicant, or (B) the inventor has agreed in writing to assign the invention to the applicant, or (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify filing of the application. MPEP 409.03(f).

In the present case, although the petition states that the inventors have executed a written assignment, a copy of such assignment agreement has not been provided.

With regard to item (6) above, the requisite showing has not been provided.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(b) is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time under 37 CFR 1.136(a) are available. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
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2 1 MAR 2007

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NEW YORK, NY 10022

In re Application of GRIFFIN et al	:	
U.S. Application No.: 10/544,118	:	
PCT Application No.: PCT/AU2004/000098	:	
Int. Filing Date: 29 January 2004	:	
Priority Date Claimed: 31 January 2003	:	DECISION
Attorney Docket No.: 4670-09US (600193-023)	:	
For: METHOD AND SYSTEM OF MEASURING	:	
AND RECORDING USER DATA IN A	:	
COMMUNICATIONS NETWORK	:	

This is in response to applicant's "Renewed Petition Under 37 C.F.R. 1.47(b) " filed 19 March 2007.

BACKGROUND

On 29 January 2004, applicant filed international application PCT/AU2004/000098, which claimed priority of an earlier Australia application filed 31 January 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 12 August 2004. The thirty-month period for paying the basic national fee in the United States expired on 01 August 2005 (31 July 2005 was a Sunday).

On 01 August 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 05 June 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 January 2007, applicant filed a petition under 37 CFR 1.47(b).

On 24 January 2007, this Office mailed a decision dismissing the 09 January 2007 petition.

On 19 March 2007, applicant filed the present renewed petition under 37 CFR 1.47(b) along with an executed declaration.

DISCUSSION

Although the submission of a declaration by the previously nonsigning inventors would normally be a proper response to the decision mailed 24 January 2007, the declaration filed with the renewed petition is improper. Specifically, it is not acceptable to combine pages of separate declarations into a composite document. Applicant must submit either: (1) a single complete declaration which is presented to and executed by both of the inventors or (2) two complete declarations, each of which is presented to and executed by at least one of the inventors.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.47(b) is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time under 37 CFR 1.136(a) are available. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin

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31 MAR 2006

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PROSKAUER ROSE LLP
PATENT DEPARTMENT
1585 BROADWAY
NEW YORK, NY 10036-8299

In re Application of:	:	
BRUGGER, James, M., et al.	:	DECISION ON PETITION FOR
U.S. Application No.: 10/544,124	:	REVIVAL OF ABANDONED
PCT No.: PCT/US2004/000921	:	APPLICATION UNDER
International Filing Date: 14 January 2004	:	37 CFR 1.137(b)
Priority Date: 15 January 2003	:	
Attorney's Docket No.: 53951-144	:	
For: WASTE BALANCING FOR	:	
EXTRACORPOREAL BLOOD	:	
TREATMENT SYSTEMS	:	

The petition for revival under 37 CFR 1.137(b) filed 01 August 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).

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 is granted as to the national stage in the United States of America.

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, 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 and the surcharge for filing the oath or declaration later than thirty months after the priority date.

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17 AUG 2005

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PATRICE ELFANDI
LA FACULTE DE MEDECINE DE PARIS
42, RUE DU FOUR
75006 PARIS
FRANCE

In re Application of	:	
ELFANDI, Patrice et al.	:	
Application No.: 10/544,142	:	
PCT No.: PCT/FR04/00021	:	
Int. Filing Date: 08 January 2004	:	DECISION
Priority Date: 13 January 2003	:	
Attorney Docket No.: NONE	:	
For: TRANSPORTABLE BICYCLE ...	:	
PEDALS AND HANDLEBARS	:	

This decision is in response to applicants' facsimile submission on 18 July 2005.

BACKGROUND

On 08 January 2004, applicant filed international application PCT/FR04/00021. A copy of the international application was transmitted to the Office on 26 August 2004. The deadline for entry into the national stage in the United States was 13 July 2005.

On 18 July 2005, applicant submitted a letter, by facsimile, requesting information concerning the Office's address and fees and claiming to have submitted two prior submissions by mail to the Office to a DC address. Applicant claims that one package was returned and the whereabouts of the other are unknown.

DISCUSSION

Preliminarily, the address of the United States Patent and Trademark Office is the one listed on this letterhead. Submissions regarding Patent Cooperation Treaty filings should include the line "Mail Stop PCT" in their address, as follows: Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450. The address changed effective 01 May 2003.

The application became abandoned on 13 July 2005 for failure to timely submit the basic national fee. Enclosed is the form for a petition to revive for unintentional delay. The petition fee for a small entity is $750, or $1500 for a large entity. Additionally, the current fees and a transmittal letter for entry into the National Phase in the United States are also enclosed.

CONCLUSION

This application is **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
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Enclosures: Schedule of PCT Fees
Transmittal Letter (Form PTO-1390)
Petition For Revival for Unintentional Delay (Form PTO/SB/64/PCT)

01 NOV 2005

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Alexandria, VA 22313-1450
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PATRICE ELFANDI
LA FACULTE DE MEDECINE DE PARIS
42, RUE DU FOUR
75006 PARIS
FRANCE

In re Application of	:	
ELFANDI, Patrice et al.	:	
Application No.: 10/544,142	:	
PCT No.: PCT/FR04/00021	:	
Int. Filing Date: 08 January 2004	:	DECISION
Priority Date: 13 January 2003	:	
Attorney Docket No.: NONE	:	
For: TRANSPORTABLE BICYCLE ...	:	
PEDALS AND HANDLEBARS	:	

Applicant's "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed in the above-captioned application on 11 October 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 has submitted a declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of that oath or declaration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing.

Erin P. Thomson

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09 NOV 2005

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PHILIPS ELECTRONICS NORTH AMERICA CORPORATION
INTELLECTUAL PROPERTY & STANDARDS
1109 MCKAY DRIVE, M/S-41SJ
SAN JOSE CA 95131

In re Application of THIELE Application No.: 10/544,143 PCT No.: PCT/IB03/05279 Int. Filing: 18 November 2003 Priority Date: 04 December 2002 Attorney Docket No.: US020474US For: HIGH FRAME RATE THREE DIMENSIONAL ULTRASOUND IMAGER	DECISION ON PETITION TO REVIVE UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 29 July 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. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 29 July 2005.

Cynthia M. Kratz

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01 DEC 2005

CHRISTOPHER E. BLANK
HISCOCK & BARCLAY, LLP
2000 HSBC PLAZA
ROCHESTER, NY 14604-2404

In re Application of Smith	:
Application No.: 10/544,149	:
PCT Application No.: PCT/US01/46882	: DECISION ON PETITION
Int. Filing Date: 8 November 2001	: UNDER 37 CFR 1.137(b)
Priority Date: 08 November 2000	:
Attorney Docket No.: 3009079 US01	:
For: IMPROVED OPHTHALMIC AND CONTACT	:
LENS SOLUTIONS WITH A PEROXIDE SOURCE	:
AND A CATIONIC POLYMERIC PRESERVATIVE	

Applicants' PETITION FOR REVIVIAL UNDER 37 CFR 1.137(b), filed in the United States Patent and Trademark Office (PTO) on 1 August 2005, is **GRANTED**.

BACKGROUND

On 8 November 2001, applicant filed international application PCT/US01/46882. The international application claims the priority date of 8 November 2000 and designates the United States. The deadline for payment of the basic national fee into the United States National Stage was thirty months from the priority date, that is 8 May 2003. Applicant failed to pay the basic national fee and the application became abandoned at midnight 8 May 2003.

On 1 August 2005, applicant filed the instant petition for revival accompanied by, *inter alia*, a transmittal letter requesting entry into the national phase under 35 U.S.C. 371, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), a declaration of the inventor as required by 35 U.S.C. 371(c)(4), a power of attorney, a substitute specification, a preliminary amendment, application data sheet, assignment, recordation data sheet, and the petition fee of $1500.00. The applicant is reminded that since the declaration was filed after the application was abandoned, a late surcharge fee in the amount of $130.00 will be charged to Deposit Account No. 50-3010.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper reply, (2) the petition fee required by law (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

The submission of the transmittal letter requesting entry into the national phase satisfies 37 CFR 1.137(b)(1). The payment of the petition fee satisfies the requirement under 37 CFR 1.137(b)(2). The applicants' statement in the petition that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional satisfies the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required because the application was filed on or after 08 June 1995.

A review of the application file reveals that applicant has satisfied the requirements of 37 CFR 1.137(b), and that the application satisfies the requirements under 35 U.S.C. 371 for entry into the national stage in the United States.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing in accordance with this decision.

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Administration
Facsimile: 571-273-0459

Leonard Smith
PCT Legal Examiner
Office of PCT Legal

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07 FEB 2006

Hiscock & Barclay
Christopher E Blank
2000 Hsbc Plaza
Rochester NY 14604-2404

In re Application of SMITH, Francis X. Application No.: 10/544,150 PCT No.: PCT/US01/46841 Int. Filing Date: 08 November 2001 Priority Date: 08 November 2000 Docket No.: 3009040 US01 For: IMPROVED OPTHALMIC AND CONTACT LENS SOLUTIONS CONTAINING FORMS OF VITAMIN B	DECISION ON PETITION 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 in the above-captioned application on 01 August 2005 is **GRANTED**.

Applicants state "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," as required by 37 CFR 1.137(b)(3). The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

The declaration complies with 37 CFR 1.497(a)-(b).

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 01 August 2005.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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06 FEB 2006

Hiscock & Barclay
Christopher E Blank
2000 Hsbc Plaza
Rochester NY 14604-2404

In re Application of	: DECISION ON
Smith X. Francis	:
Application No.: 10/544,151	:
PCT No.: PCT/US01/46344	:
Int. Filing Date: 08 November 2001	: PETITION UNDER
Priority Date: 08 November 2000	:
Attorney's Docket No.: 3009108-US01	:
For: Improved Ophthalmic and Contact Lens	:
Solutions Containing Simple Saccharides As	:
Preservative Enhancers	: 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 01 August 2005. Applicant's Deposit Account 50-3010 is being charged $130.00 for filing an executed declaration after the date of commencement of the national stage (37 CFR 1.492(h)) as indicated in the transmittal letter.

BACKGROUND

On 08 November 2001, this international application was filed, claiming an earliest priority date of 08 November 2000.

The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 08 May 2003. This international application became abandoned with respect to the United States at midnight on 05 May 2003 for failure to pay the required basic national fee.

On 01 August 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, an executed declaration, and the petition fee.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay

in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **01 August 2005.**

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

18 JAN 2006

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.g

HISCOCK & BARCLAY, LLP
2000 HSBC Plaza
Rochester, NY 14604-2404

In re Application of:	:	
SMITH, Francis, X.	:	DECISION ON PETITION
U.S. Application No.: 10/544,154	:	UNDER 37 CFR 1.137(b)
Int'l Filing Date: 08 November 2001	:	
Priority Date: 08 November 2000	:	
Atty's Docket No.: 3009099 US01	:	
For: L_HISTIDINE IN OPTHALMIC	:	
SOLUTIONS	:	

The petition to revive under 37 CFR 1.137(b) filed 01 August 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirement of 37 CFR 1.137(b)(3).

Applicant has now submitted the basic national fee, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the United States of America.

The petition was accompanied by an executed declaration in compliance with 37 CFR 1.497. Deposit Account No. 50-3010 will be charged the $130 surcharge for filing the declaration later than thirty months after the priority date.

This application is being returned to the National Stage Processing 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 01 August 2005.

RMR

Richard M. Ross
PCT Petitions Attorney
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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OFFICE OF PETITIONS

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

In re Application of	:	
Michel Kubacki	:	
Application No. 10/544158	:	ON REQUEST FOR
Filing or 371(c) Date: 10/14/2005	:	RECONSIDERATION OF
Attorney Docket No.	:	PATENT TERM ADJUSTMENT
052546-0480	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705, filed July 16, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is 1048 days, not 656 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. The request is properly treated under 37 CFR 1.705(b).

Patentees also request that a decision on this request for reconsideration of patent term adjustment be deferred or delayed until after a final decision has been rendered in Wyeth v. Dudas. There is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abeyance. Accordingly, the request to hold in abeyance a decision on the merits of the instant application for patent term adjustment is **DISMISSED**.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected

issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the required $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b). As the fee is a prerequisite prior to treatment on the merits of any request for reconsideration of patent term adjustment, the request for refund is **DISMISSED**.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Attorney Derek Woods at (571) 272-3232.

Alesia Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[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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OFFICE OF PETITIONS

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

In re Application of	:	
Michel Kubacki	:	
Patent Number: 7,610,941	:	DECISION ON REQUEST
Issue Date: 11/03/2009	:	FOR RECONSIDERATION OF
Application No. 10/544158	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 10/14/2005	:	and
Attorney Docket No.	:	NOTICE OF INTENT TO ISSUE
052546-0480	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 21, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand fifty-five (1055) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand fifty-five (1055) 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 **one thousand fifty-five (1055) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,610,941 B2

DATED : **November 3, 2009**

INVENTOR(S) : Kubacki

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 656 days.

Delete the phrase "by 656 days" and insert – by 1055 days--

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OFFICE OF PETITIONS

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

In re Application of	:	
Marcel Breeuwer, et. al.	:	
Application No. 10/544,197	:	ON PETITION
Filed: August 2, 2005	:	
Attorney Docket No. NL 030134	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 19, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item 1.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the Final Rejection action of September 5, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted on December 6, 2007 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).

Further, Petitioner should note that the Examiner has responded to the Amendment after Final with an Advisory Action (copy enclosed).

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 Denise Williams at (571) 272-8930.

Brian Brown
Petitions Examiner
Office of Petitions

Enclosure: Examiner's Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/544,197	Applicant(s) BREEUWER ET AL.	
	Examiner Amara Abdi	Art Unit 2624	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 June 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 the 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: *1-9*.
   Claim(s) withdrawn from consideration: *10*.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Amara Abdi/
Examiner, Art Unit 2624

The added limitation: "including a diference between an ideal image unaffected by artefacts and the at least one medical image affected by artifacts" will not make the application in condition for allowance.

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JAN 15 2009

In re Application of	:	
Marcel Breeuwer, et. al.	:	
Application No. 10/544,197	:	DECISION ON PETITION
Filed: August 2, 2005	:	
Attorney Docket No. NL 030134	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 22, 2008, to revive the above-identified application.

The renewed 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 and $810, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 2624 for processing of the RCE and for appropriate action by the Examiner in the normal course of business.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/544,209	01/12/2006	Vincent Hernette	052731	8497

29980 7590 05/07/2008
NICOLAS E. SECKEL
Patent Attorney
1250 Connecticut Avenue, NW Suite 700
WASHINGTON, DC 20036

EXAMINER
NGUYEN, XUAN LAN T

ART UNIT	PAPER NUMBER
3683	

MAIL DATE	DELIVERY MODE
05/07/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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FROM DIRECTORS OFFICE

MAY 06 2008

TECHNOLOGY CENTER 3600

NICOLAS E. SECKEL
Patent Attorney
1250 Connecticut Avenue, NW Suite 700
WASHINGTON, DC 20036

In re Application of
Vincent Hernette et al.
Appl. No. 10/544,209
Filed: January 12,2006
For: **SYSTEM FOR CONTROLLING THE STATE AND OPERATION OF A MOTOR VEHICLE**

DECISION ON PETITION TO WITHDRAW FINALITY UNDER 37 CFR 1.181

This is a decision on Applicants' Petition under 37 CFR 1.181 filed on March 14, 2008 to withdraw the finality of the Office action mailed November 1, 2007.

The Petition is **DISMISSED.**

Applicants allege that the final rejection mailed November 1, 2007 is premature because the new grounds of rejection presented by the examiner were not necessitated by amendment to the claims. Applicants state that amendments to the claims did not change the scope of the claimed invention and therefore could not have necessitated a new grounds of rejection.

MPEP 706.07(a) sets forth that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of rejection that is neither necessitated by applicants' amendment nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

A review of the record reveals that the examiner issued a new ground of rejection since the rejection was changed from a rejection based on 35 USC 102 in the Office action mailed on June 1, 2007 to a rejection based on 35 USC 103 in the final Office action mailed on November 1, 2007. In the final Office action issued on November 1, 2007, the examiner clearly indicated that the new grounds of rejection was necessitated by amendment of the claims. Upon review of the applicants' amendment filed on August 14, 2007, significant amendments were made to independent claim 1 from which all claims depend.

Applicants have argued that the claim construction presenting the group of functions at the end of amended independent claim 1 is the same in scope as was presented at the time of filing. However, the change in construction allows for different

combinations of functions not previously covered. Additionally, the claim construction argued by the applicants is not the only basis in which the change of scope necessitated a new grounds of rejection. Specifically, amendments were made which changed the required number of sensor elements as part of the invention for which protection is being sought by the applicants. Lastly, amendments to claim 1 were made in response to a rejection under 35 USC 112 due to indefinite nature of the originally filed claim language. A review of the record as a whole clearly indicates a change in scope of the independent claim.

SUMMARY: The Petition is **DISMISSED.**

The application will be forwarded to the examiner of record to treat the after final amendment filed concurrently with the petition of March 14, 2008.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Robert Siconolfi at 571-272-7124.

Kathy Matecki

Kathy Matecki, Director
Patent Technology Center 3600
(571) 272-5250

KM/rs: 4/10/08

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Alexandria, VA 22313-1450
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22 DEC 2005

MERCK AND CO., INC
P O BOX 2000
RAHWAY NJ 07065-0907

In re Application of
KARKI et al.
Application No.: 10/544,213
PCT No.: PCT/US04/008828
Int. Filing Date: 23 March 2004
Priority Date: 27 March 2003
Attorney Docket No.: 21346-P
For: FORMULATIONS FOR TYROSINE KINASE INHIBITORS

DECISION

This is a decision on applicants' "Letter" requesting withdrawing of the holding of abandonment filed in the United States Patent and Trademark Office (USPTO) on 08 December 2005, in response to the 18 November 2005 Notification of Abandonment. No petition fee is required.

On 02 August 2005, applicants filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO 1390) along with, *inter alia*, the basic national fee.

On 18 November 2005, a Notification of Abandonment was erroneously mailed to applicants indicating that the basic national fee had not been provided by the thirty month deadline.

On 08 December 2005, applicants filed the instant request to withdraw the holding of abandonment along with copies of the Express Mail label and USPTO date-stamped itemized postcard receipt.

A review of the application file reveals that applicant did pay the basic national fee ($300), search fee ($100) and examination fee ($300) on 08 August 2005. Thus, the Notification of Abandonment mailed on 18 November 2005 was issued erroneously and is hereby vacated.

The petition to withdraw the holding of abandonment filed on 08 December 2005 is **GRANTED**. The Notification of Abandonment mailed on 18 November 2005 was issued erroneously and is hereby **VACATED**.

The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing. The 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date is 02 August 2005.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571)272-3286
Facsimile: (571)273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO, IL 60604

Mail Date: 04/21/2010

Applicant	: Mario Bergeron	: DECISION ON REQUEST FOR
Patent Number	: 7658894	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/544,214	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/11/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **839** 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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INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN NC 28562

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AUG 25 2008

OFFICE OF PETITIONS

In re Application of :
Magyar, et al. :
Application No. 10/544,215 : ON PETITION
Filed: July 29, 2005 :
Attorney Docket No. 2003P00364WOUS :
For: DOOR HANDLE

This is a decision on the petition under 37 CFR 1.181, filed June 9, 2008 (certificate of mailing date June 6, 2008), requesting that the Office withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned for failure to respond in a proper manner to the final Office action, mailed October 31, 2007, which set forth an extendable three (3) month period for reply. The Office contended that this application became abandoned on February 1, 2008 for failure to properly reply to the October 31, 2007 final Office action. A Notice of Abandonment was mailed on June 2, 2008.

Petitioners request withdrawal of the holding of abandonment based on the assertion that a request for a two month extension of time and a Notice of Appeal were timely filed on April 3, 2008 (certificate of mailing date March 31, 2008). The undersigned finds this argument completely convincing, as these documents are present in the application file and Office financial records show that the required two month extension of time fee and the required Notice of Appeal fee were charged on accounting date April 3, 2008. The certificate of mailing date for the documents at issue, and the corresponding payments submitted, was March 31, 2008. Therefore, the two month extension of time and the Notice of Appeal were timely filed.

The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the June 2, 2008 Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

The application file will be forwarded to Technology Center A.U. 3677 for consideration of the Appeal Brief and amendment, filed on June 30, 2008 (certificate of mailing date June 26, 2008).

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

OIPE IAP83 APR 0 3 2008 PATENT & TRADEMARK OFFICE

IFW AS $

PTO/SB/22 (10-07)
Approved for use through 10/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARMENT 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 EXTENSION OF TIME UNDER 37 CFR 1.136(a) FY 2006 (*Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).*)	Docket Number (Optional) 2003P00364WOUS
Application Number 10/544,215	Filed 07/29/2005
For DOOR HANDLE	
Art Unit 3677	Examiner Chuck Y. Mah

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):

		Fee	Small Entity Fee	
☐	One month (37 CFR 1.17(a)(1))	$120	$60	$
☑	Two months (37 CFR 1.17(a)(2))	$460	$230	$ 460.00
☐	Three months (37 CFR 1.17(a)(3))	$1050	$525	$
☐	Four months (37 CFR 1.17(a)(4))	$1640	$820	$
☐	Five months (37 CFR 1.17(a)(5))	$2230	$1115	$

☐ Applicant claims small entity status. See 37 CFR 1.27.

☐ A check in the amount of the fee is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

08/25/2008 CKHLOK 00000003 502786 10544215
01 FC:1252 460.00 DA

☐ The Director has already been authorized to charge fees in this application to a Deposit Account.

☑ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 502786. I have enclosed a duplicate copy of this sheet.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Requisitent Date: 08/25/2008 CKHLOK
04/03/2008 RMEBRAHT 00000009 502786 10544215
01 FC:1252 460.00 CR

I am the ☐ applicant/inventor.

☐ assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96).

☑ attorney or agent of record. Registration Number 32,860

☐ attorney or agent under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____

Russell Warnock — Signature

March 31, 2008 — Date

Russell W. Warnock — Typed or printed name

252-672-7927 — Telephone Number

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☐ Total of _____ forms are submitted.

This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

04/03/2008 RMEBRAHT 00000009 502786 10544215
01 FC:1252 460.00 DA

OIPE IAP83 APR 0 3 2008 PATENT & TRADEMARK OFFICE

IFW AF $

PTO/SB/22 (10-07)
Approved for use through 10/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARMENT 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 EXTENSION OF TIME UNDER 37 CFR 1.136(a) FY 2006 (Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).)	Docket Number (Optional) 2003P00364WOUS
Application Number 10/544,215	Filed 07/29/2005
For DOOR HANDLE	
Art Unit 3677	Examiner Chuck Y. Mah

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):

	Fee	Small Entity Fee	
☐ One month (37 CFR 1.17(a)(1))	$120	$60	$
☑ Two months (37 CFR 1.17(a)(2))	$460	$230	$ 460.00
☐ Three months (37 CFR 1.17(a)(3))	$1050	$525	$
☐ Four months (37 CFR 1.17(a)(4))	$1640	$820	$
☐ Five months (37 CFR 1.17(a)(5))	$2230	$1115	$

☐ Applicant claims small entity status. See 37 CFR 1.27.

08/25/2008 CKHLOK 00000003 502786 10544215
02 FC:1401 510.00 DA

☐ A check in the amount of the fee is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director has already been authorized to charge fees in this application to a Deposit Account.

☑ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 502786. I have enclosed a duplicate copy of this sheet.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

08/25/2008 CKHLOK
04/03/2008 RMEBRAHT 00000009 502786 10544215
02 FC:1401 510.00 CR

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96).

☑ attorney or agent of record. Registration Number 32,860

☐ attorney or agent under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____

Russell Warnock	March 31, 2008
Signature	Date
Russell W. Warnock	252-672-7927
Typed or printed name	Telephone Number

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☐ Total of _____ forms are submitted.

This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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RABIN & BERDO, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
Tetsuya Murakami, et al.	:	
Application No.: 10/544,220	:	ON PETITION
Filed: August 2, 2005	:	
Attorney Docket No.: AI 385NP	:	

This is a decision on the petition, filed January 31, 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 December 17, 2007, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 3611 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).

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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BUCHANAN INGERSOLL PC
(INCLUDING BURNS, DOANE, SWECKER & MATHIS)
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

In re Application of YAMAJI (Deceased) Application No.: 10/544,223 PCT No.: PCT/JP03/15131 Int. Filing Date: 27 November 2003 Priority Date: 05 February 2003 Attorney Docket no.: 034185-066 For: WRAPPING/FILLING METHOD, WRAPPING/ FILLING DEVICE, COMMODITY PROVIDING METHOD, AND COMMODITY MANAGEMENT METHOD	DECISION ON REQUEST UNDER 37 CFR 1.42

This is a decision on applicant's submission under 37 CFR 1.42 filed in the United States Patent and Trademark Office (USPTO) on 02 August 2005.

BACKGROUND

On 02 August 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. With the national stage filing, applicant also submitted a declaration identifying Hiroyuki Yamaji as the legal representative of deceased sole inventor Keizo Yamaji.

DISCUSSION

Applicant has provided a declaration executed by Hiroyuki Yamaji, which identifies her as the legal representative of deceased inventor Keizo Yamaji. The declaration identifies the deceased inventor and provides the citizenship, residency and mailing address for both the deceased inventor and his legal representative.

Accordingly, it is appropriate, at this time, to accord the application status under 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **GRANTED**.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) date is **02 August 2005.**

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: 571-272-3286

19 OCT 20[redacted]

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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of	:
HERSOUG et al	: DECISION ON
Application No.: 10/544,256	:
PCT No.: PCT/SE02/00264	: PETITION
Int. Filing Date: 14 February 2002	:
Priority Date: 14 February 2001	: UNDER 37 CFR 1.137(b)
Attorney's Docket No.: 2466-135	:
For: ATTENUATOR	:

The petition to revive under 37 CFR 1.137(b) filed 29 July 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant filed on 29 July 2005 the required petition fee, the basic national fee, the national stage search and examination fees, and the surcharge for filing the declaration later than 30 months from the priority date.

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.

An oath or declaration of the inventors under 35 U.S.C. 371(c)(4) and 37 CFR 1.497 is required.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

Leonard E. Smith

Leonard E. Smith
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3297
Facsimile: (571) 273-0459

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Alexandria, VA 22313-1450
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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E., STE 1500
ATLANTA GA 30339-5994

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OFFICE OF PETITIONS

In re Application of	:	
Graham John WOODGATE, et al	:	
Application No. 10/544,257	:	DECISION ON PETITION
Filed: September 16, 2005	:	
Attorney Docket No. 250152-1790	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 18, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before August 18, 2008. As required by the Notice of Allowance and Fee(s) Due, mailed May 16, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on August 19, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the Issue Fee of $1440 and Publication Fee of $300; (2) the petition fee of $1540; and (3) the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

The application is being referred to the Office of Data Management for processing into a patent.

Thurman Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO CA 92138-0278

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OFFICE OF PETITIONS

In re Application of	:	
Altenschopfer, et al.	:	
Application No. 10/544,259	:	ON APPLICATION FOR
Filed: December 9, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. MARKS0801	:	
(041376-0801)	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705, filed July 14, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is four hundred sixty-six (466) days, not three hundred seventy-three (373) 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.

Applicants request that the decision on this request for reconsideration of patent term adjustment be deferred or delayed until a final decision has been rendered in *Wyeth v. Dudas*. There is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abeyance.

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 patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even in this instance 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, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO CA 92138-0278

In re Patent of Altenschopfer et al.	: DECISION ON REQUEST FOR
Patent No. 7,608,282	: RECONSIDERATION OF
Issued: October 27, 2009	: PATENT TERM ADJUSTMENT
Application No. 10/544,259	: AND NOTICE OF INTENT TO ISSUE
Filed: December 9, 2005	: CERTIFICATE OF CORRECTION
Atty Docket No. MARKS0801	:
(041376-0801)	:

This is a decision on the renewed petition filed November 18, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by three hundred fifty-three (353) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by three hundred fifty-three (353) days is **GRANTED to the extent indicated herein**.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on August 6, 2008 and ends on November 5, 2008, the day before the RCE was filed, and is 92 (not 93) days. *See* 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 352, not 353 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 37 CFR 1.136.

Pursuant to patentees' authorization, the $200.00 fee set forth in 37 CFR 1.18(e) will be charged to deposit account no. 19-0741. This fee is required and will not be refunded. No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **three hundred fifty-two (352)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,608,282 B2

DATED : **October 27, 2009** **DRAFT**

INVENTOR(S) : Peter Altenschopfer 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 260 days

Delete the phrase "by 260 days" and insert – by 352 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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23 AUG 2006

Morgan & Finnegan, L.L.P.
3 World Financial Center
New York, New York 10281-2101

In re Application of	:	
JARVINEN et al.	:	
Application No.: 10/544,272	:	
PCT No.: PCT/FI04/00085	:	DECISION
Int. Filing Date: 24 February 2004	:	
Priority Date: 26 February 2003	:	
Attorney Docket No.: 4819-4748	:	
For: METHOD FOR RECOVERY OF ZINC BY COUNTERCURRENT LEACHING	:	

This decision is issued in response to applicants' "Petition to Correct Erroneously Accorded Filing Date (37 CFR 1.10(c))" filed in the United States Patent and Trademark Office (USPTO) on 11 April 2006.

BACKGROUND

On 24 February 2004, applicants filed international application PCT/FI04/00085 which claimed a priority date of 26 February 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 26 August 2005.

On 03 August 2005, applicants timely filed a request to enter into the national stage under 35 U.S.C. 371 along with the appropriate basic national filing fee, a copy of the international application, and a preliminary amendment.

On 15 March 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 11 April 2006, applicants filed "Petition to Correct Erroneously Accorded Filing Date (37 CFR 1.10(c))" requesting 02 August 2006 as the actual date of receipt for the instant application.

On 09 May 2006, applicants filed an executed declaration of inventors.

On 27 June 2006, a Notification of Acceptance was issued identifying the 35 U.S.C. 371(c) date as 09 May 2006. Subsequently, an Official Filing Receipt was issued indicating a "FILING DATE" of 09 May 2006.

DISCUSSION

Applicants are requesting that the receipt date for the transmittal letter requesting immediate examination and the national stage application papers are corrected to indicate the correct date on which the transmittal letter for entry into the national stage in the United States and accompanying papers were filed, i.e., 02 August 2005. A copy of the Customer Copy of the "Express Mail" label No. EV622502116US filed with the petition bears a "Date In" date of 02 August 2005. The same Express Mail label number was placed on the transmittal letter itemizing the accompanying papers located in the application file that was date stamped as received in the PTO on 03 August 2005. Thus, there is a clear discrepancy between the receipt date accorded by the USPTO and the date of deposit as shown by the Customer Copy of the "Express Mail" label.

The evidence submitted by petitioner is sufficient to establish that on 02 August 2005 the United States Designated/Elected Office (DO/EO/US) received national stage application papers for this application including the basic national fee.

Applicants are reminded that the actual filing date of the present application is considered to be the international filing date, 24 February 2004. The date in the filing date portion on the filing receipt of a national stage application is the date upon which the requirements set forth in 35 U.S.C. 371(c) for entry into the national stage are completed. (See MPEP §1895.01)

CONCLUSION

The petition under 37 CFR 1.10(c) is **GRANTED** and the receipt date for transmittal letter and accompanying papers will be accorded a date of 02 August 2005.

The application is being returned to United States Designated/Elected Office for further processing.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office PCT Legal Administration
Tel.: 571-272-3298
Facsimile: 571-273-0459

04 APR 2006

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P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

In re Application of KHAN, Shaharyar et al. Application No.: 10/544,320 PCT No.: PCT/US04/00128 Int. Filing Date: 05 January 2004 Priority Date: 03 January 2003 Docket No.: 60199.0002USWO For: SiRNA MEDIATED POST-TRANSRIPTIONAL GENE SILENCING OF GENES INVOLVED IN ALOPECIA	DECISION ON PETITION UNDER 37 CFR 1.137(b)

Applicants' "Petition For Revival Under 37 CFR §1.137(b)," filed in the above-captioned application on 01 August 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.

A signed oath or declaration has not yet been submitted. The fee for late filing of the search fee, examination fee or oath or declaration will be charged to deposit account no. 13-2725, 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, including the mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

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WENDEROTH, LIND & PONACK L.L.P.
1030 15th Street, N.W.
Suite 400 East
Washington, DC 20005-1503

Mail Date: 04/21/2010

Applicant	: Taro Katayama	: DECISION ON REQUEST FOR
Patent Number	: 7653538	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/544,335	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/03/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1195** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Tsuyoshi Hayashi	: DECISION ON REQUEST FOR
Patent Number	: 7637335	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/544,340	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/03/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **258** 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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COLOPLAST A/S
Attention: Corporate Patents
Holtedam 1
DK-3050 Humlebaek,
DENMARK

Mail Date: 07/08/2010

Applicant	: Henrik Jessen Jensen	: DECISION ON REQUEST FOR
Patent Number	: 7650702	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/544,342	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/03/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1017** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

Mail Date: 04/20/2010

Applicant	: Yasushi Yamada	: DECISION ON REQUEST FOR
Patent Number	: 7662420	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/544,382	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/03/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1202** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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OFFICE OF PETITIONS

In re Application of	: ON APPLICATION FOR
Nissinen, et al.	: PATENT TERM ADJUSTMENT
Application No. 10/544,397	:
Filed: January 6, 2006	:
Atty Docket No. 0696-0221PUS1	:

This decision is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(d)," filed May 26, 2009. This matter is being properly treated as an application for patent term adjustment pursuant to 37 CFR §1.705(b).

Applicants submit that the correct patent term adjustment to be indicated on the patent is seven hundred forty-two (742) days, not three hundred forty-two (342) 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[1].

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**.

[1] Applicants reference February 18, 2005 as the actual filing date upon which the 37 CFR 1.702(b) calculation is to be made. See p.2, petition. The reference to this date is unclear. The over three year delay will, in this instance, be calculated based on the application commencement date, which is not February 18, 2005. See 35 U.S.C. 371(b).

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[2].

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[2] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

Mail Date: 04/20/2010

Applicant	: Timo Nissinen	: DECISION ON REQUEST FOR
Patent Number	: 7595034	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/544,397	: 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 **763** 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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Date Mailed: September 7, 2007

HAHN & VOIGHT PLLC
1012 14TH STREET, NW
SUITE 620
WASHINGTON DC 20005

Applicant: Domen et al.
Appl. No.: 10/544,402
Filing Date: August 3, 2005
Title: POLYCYCLIC AROMATIC CARBON BASED SOLID STRONG ACID
Attorney Docket No.: TAN-353
Pub. No.: US 2006/0276668 A1
Pub. Date: December 7, 2006

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on June 29, 2007, for the above-identified application.

The request under 37 CFR 1.221(a) is DISMISSED.

37 CFR 1.221(a) requires "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.

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a) because the Applicant submitted the papers as follow-on "Document", which are entered into the application file and not as a "Pre-Grant Publication" submission. The request for republication does not comply with the electronic filing system requirements, thus republication will not take place.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a Pre-Grant publication submission.

Any questions or requests 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

Telephone inquiries regarding this correspondence should be directed to The Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Tammy J. Koontz
Program & Management Analyst
Pre-Grant Publication Division
Office of Patent Publication

Adjustment date: 09/07/2007 KKING1
06/29/2007 INTEFSW 00005218 10544402
01 FC:1504 -300.00 OP

Refund Ref:
09/07/2007 0030044475

Credit Card Refund Total: $300.00

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Date Mailed: October 11, 2007

HAHN & VOIGHT PLLC
1012 14TH STREET, NW
SUITE 620
WASHINGTON DC 20005

Applicant: Domen et al.
Appl. No.: 10/544,402
Filing Date: August 3, 2005
Title: POLYCYCLIC AROMATIC CARBON BASED SOLID STRONG ACID
Attorney Docket No.: TAN-353
Pub. No.: US 2006/0276668 A1
Pub. Date: December 7, 2006

This is a decision on the second request for republication of patent application publication under 37 CFR 1.221(a), filed on October 3, 2007, for the above-identified application.

The request under 37 CFR 1.221(a) is DISMISSED.

37 CFR 1.221(a) requires "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.

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a) because the Applicant submitted the papers as follow-on "Document", which are entered into the application file and not as a "Pre-Grant Publication" submission. The request for republication does not comply with the electronic filing system requirements, thus republication will not take place.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a Pre-Grant publication submission.

Any questions or requests for reconsideration of the decision, should be addressed as follows:

02 FC:1504 300.00 CR

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Telephone inquiries regarding this correspondence should be directed to The Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Tammy J. Koontz
Program & Management Analyst
Pre-Grant Publication Division
Office of Patent Publication

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The Dow Chemical Company
P.O. BOX 1967
Midland, MI 48641

Mail Date: 04/21/2010

Applicant	: Robert A. Kirchhoff	: DECISION ON REQUEST FOR
Patent Number	: 7585785	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/544,415	: 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 **480** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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THE LAW OFFICE OF RANDALL T. ERICKSON, P.C.
1749 S NAPERVILLE ROAD
SUITE 202
WHEATON IL 60187

MAILED

JUL 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Muller et al.	:	
Application No. 10/544,423	:	DECISION ON PETITION
Filed: December 13, 2005	:	
Attorney Docket No. 6580P0010US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 27, 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 November 13, 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 February 14, 2009. A Notice of Abandonment was mailed May 21, 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 $1,620.00, and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This matter is being referred to Technology Center AU 1797 for appropriate action by the Examiner in the normal course of business on the reply received.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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The Dow Chemical Company
P.O. BOX 1967
Midland, MI 48641

Mail Date: 04/21/2010

Applicant	: Youngfu Li	: DECISION ON REQUEST FOR
Patent Number	: 7598114	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/544,428	: 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 **604** 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.

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In re Patent No. 7,482,457	: DECISION ON REQUEST
Chambers et al.	: FOR
Issue Date: January 27, 2009	: RECONSIDERATION OF
Application No. 10/544,440	: PATENT TERM ADJUSTMENT
Filed: August 4, 2005	: and
Atty Docket No. T1579P	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on March 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 seven hundred eighty-five (785) 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 eighty-five (785) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred eighty-five** (785) 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 : 7,482,457 B2

DATED : **January 27, 2009** **DRAFT**

INVENTOR(S) : Chambers 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 609 days

Delete the phrase "by 609 days" and insert – by 785 days--

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MORRISON & FOERSTER, LLP
755 PAGE MILL ROAD
PALO ALTO, CA 94304-1018

MAILED

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OFFICE OF PETITIONS

In re Application of	:	
William John Jones, et al.	:	
Application No. 10/544,451	:	DECISION ON PETITION
Filed: June 16, 2005	:	TO WITHDRAW
Attorney Docket No. 562492004700	:	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 30, 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

#3

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30 NOV 2005

JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA GA 30309

In re Application of	:	
CADD, Gary et al.	:	
Application No.: 10/544,510	:	
PCT No.: PCT/US03/35626	:	DECISION
Int. Filing Date: 07 November 2003	:	
Priority Date: 07 November 2002	:	ON PETITION UNDER
Docket No.: 01051-0271	:	
For: NOVEL INHIBIN-RELATED MULTIPLE ANTIGENIC PEPTIDE COMPOSITIONS THAT ENHANCE PRODUCTION PERFORMANCE IN AVIANS	:	37 CFR 1.137(b)

Applicants' "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 04 August 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 has not 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, including issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

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OFFICE OF PETITIONS

EGBERT LAW OFFICES
412 MAIN STREET, 7TH FLOOR
HOUSTON TX 77002

In re Application of	:	
Yvon Pellegrin	:	
Application No. 10/544,516	:	ON PETITION
Filed: March 24, 2006	:	
Attorney Docket No. 1512-67	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 29, 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 April 30, 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) was obtained. Accordingly, the application became abandoned on July 31, 2009. The Notice of Abandonment was mailed November 17, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

The application file is being referred to Technology Center AU 2836 for appropriate action on the concurrently filed amendment.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

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JUL 23 2008

OFFICE OF PETITIONS

In re Application of	:	
Willy DILLEN, et al	:	
Application No. 10/544,539	:	DECISION ON PETITION
Filed: August 5, 2005	:	TO WITHDRAW
Attorney Docket No. BJS-4982-7	:	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 8, 2008.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Nixon & Vanderhye, PC, has been revoked by the assignee of the patent application on July 9, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: DR ROBERT MAKOWSKI
CONNOLLY BOVE LODGE & HUTZ, LLP
THE NEMOURS BUILDING
1007 NORTH ORANGE STREET
P.O. BOX 2207
WILMINGTON, DE 19899

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/30/09

TO SPE OF : ART UNIT 1646

SUBJECT : Request for Certificate of Correction for Appl. No.: 10544553 Patent No.: 7544486

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Gary Blackstone AU 1646

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JAN 10 2008

WILLIAM F. LAWRENCE
FROMMER LAWRENCE & HUNG
745 FIFTH AVENUE
NEW YORK, NY 10151

In re Application of:	:
Walter Muller	:
Serial No.: 10/544,565	: PETITION DECISION
Filed: August 5, 2005	:
Attorney Docket No.: 512100-2049	:

This is in response to the petition under 37 CFR § 1.181, filed December 10, 2007, requesting that the holding of Lack of Unity made by the examiner on March 8, 2007 be withdrawn.

BACKGROUND

This application was filed as a national stage application under 35 U.S.C. 371 of PCT/EP04/00944 and, as such, is eligible for unity of invention practice.

A review of this application reveals that the examiner mailed a restriction requirement to applicant on March 8, 2007. The examiner divided claims 1-17 into 3 Groups and indicated that the Groups lacked unity of invention and therefore were properly restrictable under PCT Rule 13.1. The Groups of the Lack of Unity requirement were set out by the examiner as follows:

> Group I, claims 1-14, drawn to a transdermal therapeutic system;
> Group II, claims 15 and 16, the (method of) use of a transdermal therapeutic system; and
> Group III claim 17, drawn to a packaging unit.

Upon holding the lack of unity of invention between Groups I, II and III, the examiner reasoned:

> The inventions listed as Groups I-III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the common technical feature in all groups is a transdermal drug delivery system comprising a heating element. Stanley, et al. (U.S. Patent No. 6,261,595) teach a transdermal drug delivery system comprising a heating element (see abstract). (p. 2, Restriction requirement)

The examiner additionally required an election of species between an internal or external heating element, as well as an election of species between the active ingredients of claim 12 and the active ingredients of claim 14.

Applicant replied on April 9, 2007 electing with traverse Group I as well as the species 'internal heating element' and the 'active ingredient' of claim 12. The response by applicant included amendments to claims 1-3 and 15-17 including deleting the species of 'external heating element' from the claims. Applicant traversed the holding of Lack of Unity of invention.

The examiner mailed a non-final Office action to applicant on July 2, 2007, responding to applicant's traversal of the Lack of Unity; however, the examiner indicated that applicant's arguments were not persuasive in light of the examiner's reliance on Stanley et al. (U.S. 6,261,595) teaching the technical feature present in Groups I-III and made the holding FINAL. Claims 1-13 were then rejected under 35 U.S.C. 103(a) as unpatentable over Stanley in view of Cleary and further in view of Miller.

Applicant filed this petition on December 10, 2007, requesting that the holding of Lack of Unity made by the examiner on March 8, 2007 be withdrawn.

DISCUSSION

The application history and petition have been carefully considered.

First, Applicant argues that "the Stanley reference does not teach the applicant's invention." This argument is not persuasive. The examiner has indicated in the first Office action on the merits that claims of the elected invention were not patentable under 35 U.S.C. 103(a) in view of Stanley, Cleary and Miller. Because the product of Group I fails to make a contribution over the prior art, in view of the combination of references cited in the first action on the merits, unity of invention is lacking per PCT Rule 13.2.

Applicant is advised, though, that should all claims directed to the elected invention become in condition for allowance, the examiner should consider non-elected claims for rejoinder. MPEP 1893.03(d) states:

> 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 and § 821.04(a). Any nonelected processes of making and/or using an allowable product should be considered for rejoinder following the practice set forth in MPEP § 821.04(b).

Second, applicant argues that because the claims of Group II and Group III each incorporate the limitations of the claims of Group I, they also possess the special technical features of Group I" (p. 2, Petition).

The claims of Group II and II are drafted in a format such that they depend from claim 1 of Group I. For this reason, applicants argue that the claims of Groups II and III possess the same

special technical features of Group I. This is incorrect. Dependent claims are defined in the ISPE Guidelines. Paragraph 10.06 states:

> 10.06 Unity of invention has to be considered in the first place only in relation to the independent claims in an international application and not the dependent claims. By "dependent" claim is meant a claim which contains all the features of one or more other claims and contains a reference, preferably at the beginning, to the other claim or claims and then states the additional features claimed (Rule 6.4). The examiner should bear in mind that a claim may also contain a reference to another claim even if it is not a dependent claim as defined in Rule 6.4. One example of this is a claim referring to a claim of a different category (for example, "Apparatus for carrying out the process of Claim 1 ...," or "Process for the manufacture of the product of Claim 1 ..."). Similarly, in a situation like the plug and socket example in paragraph 5.19, a claim to the one part referring to the other cooperating part, for example, "plug for cooperation with the socket of Claim 1 ...") is not a dependent claim.

In this application, Group II refers to a different category of invention (a process in Group II, instead of the product of Group I) and claim 17 of Group III, as originally filed, is broader in scope than Claim 1 because it exclude one of the technical features specifically required for Claim 1. The claims of Group II and III are not considered "dependent claims" for unity of invention.

Third, Applicant argues that the Report of the PCT Assembly, 18th Session (1991) indicates that "designated Offices should not raise an objection to lack of unity if no such opinion is expressed in the international search report" (p. 2, Petition).

Applicant is correct in stating that Unity or Lack of Unity in a National Stage application is reviewed under PCT guidelines. However, it is also true that Unity or Lack of Unity is reassessed or reviewed at each stage of prosecution, as has been done here. The MPEP states that a holding of a Lack of Unity during the national stage is at the discretion of the examiner:

> 37 CFR 1.499. Unity of invention during the national stage:
>
> If the examiner finds that a national stage application lacks unity of invention under § 1.475, the examiner may in an Office action require the applicant in the response to that action to elect the invention to which the claims shall be restricted. Such requirement may be made before any action on the merits but may be made at any time before the final action at the discretion of the examiner. Review of any such requirement is provided under § 1.143 and 1.144.

Hence, applicant's arguments with regard to the International Searching Authority not making a holding of Lack of Unity are not found persuasive.

Finally, Applicant further traverses the election of species requirement set forth by the examiner (p. 2, Petition), however, Applicant does not provide any specific arguments concerning the election of species requirement in the petition and it will not be addressed here.

DECISION

The petition is **DENIED.**

The lack of unity requirement is maintained

Should all claims directed to the elected invention become in condition for allowance, the Examiner should consider non-elected product and process claims for rejoinder, per MPEP 1893.03(d) and 821.04(a) and (b).

Applicant remains under obligation to reply to the Office action mailed July 2, 2007, within the time period set therein or as extended under 37 CFR1.136(a).

Should there be any questions about this decision please contact Quality Assurance Specialist Julie Burke, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0512 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

MAILED
JUL 02 2010
OFFICE OF PETITIONS

In re Patent No. 7,700,128	:	
Doken, et al.	:	DECISION ON REQUEST FOR
Issue Date: April 20, 2010	:	RECONSIDERATION OF
Application No. 10/544,581	:	PATENT TERM ADJUSTMENT AND
Filed: April 5, 2006	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 074129-0538	:	CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM UNDER 37 CFR 1.705(d)" filed April 6, 2010. Patentees request that the patent term adjustment for the above-identified patent be set at 831 days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED.**

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **831 days.**

On April 20, 2010, the above-identified application matured into U.S. Patent No. 7,700,128. The instant request for reconsideration was timely filed on April 6, 2010. The patent issued with a revised Patent Term Adjustment of 711 days.

Patentees dispute the reduction of 120 days pursuant to 37 CFR 1.704(c)(10) for filing a miscellaneous incoming letter on December 7, 2009. Specifically, patentees assert that this paper was filed in the application by the firm of Connolly Bove returning to the Office a copy of a Notice of Allowability that was erroneously sent to the firm. Patentees assert that this filing should not be considered a failure to engage in reasonable efforts to conclude processing or examination of an application.

Pursuant to 37 CFR 1.704:

> (c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping: . . . .
>
> (10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or
>
> (ii) Four months

Furthermore, the OG Notice states that:

> … the Office is publishing this notice to provide guidance in interpreting the provisions of 37 CFR 1.704(c)(10) to clarify that submission of certain papers after a "Notice of Allowance," which do not cause substantial interference and delay in the patent issue process, are not considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application. The following are examples of such papers: (1) Issue Fee Transmittal (PTOL-85B), (2) Power of Attorney, (3) Power to Inspect, (4) Change of Address, (5) Change of Status (small/not small entity status), (6) a response to the examiner's reasons for allowance, and (7) letters related to government interests (e.g., those between NASA and the Office). Therefore, the submission of these papers after a Notice of Allowance will not be considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application and would not result in

reduction of a patent term adjustment pursuant to 37 CFR 1.704(c)(10).

Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001).

The record confirms that a miscellaneous letter was filed in the application on December 7, 2009, after the mailing of the Notice of Allowance. Nonetheless, under the circumstances, the filing of the miscellaneous letter should not be considered "a failure to engage in reasonable efforts" to conclude processing or examination of an application and should not result in reduction of the patent term adjustment pursuant to 37 CFR 1.704(c)(10). The letter was filed by the firm of Connolly Bove which is not of record in the application. Further, the letter is accompanied by a handwritten notation from the docketing manager of Connolly Bove indicating that the letter is being returned to the USPTO because it was erroneously sent to Connolly Bove. The record does not support a conclusion that patentees took any action that might be considered "a failure to engage in reasonable efforts" to conclude processing or examination of an application in this instance. Accordingly, the reduction of 120 days is not warranted and is being removed.

In view thereof, the patent term adjustment indicated in the patent should be **831 days**.

The $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. The fee is a requirement of a petition under 37 CFR 1.705(d) and will not be refunded. No additional fee is required.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **831 days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,700,128 B2

DATED : Apr. 20, 2010

INVENTOR(S) : Doken 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 (711) days

Delete the phrase "by 711 days" and insert – by 831 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

03 AUG 2006

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

In re Application of:	:	
LEWI, Paulus, Joannes, et al.	:	DECISION REGARDING
U.S. Application No.: 10/544,584	:	SUBMISSION UNDER
PCT No.: PCT/EP2004/050084	:	37 CFR 1.42
International Filing Date: 05 February 2004	:	
Priority Date: 07 February 2003	:	
Attorney's Docket No.: PRD-2021USPCT	:	
For: HIV INHIBITING 1,2,4-	:	
TRIAZINES	:	

This communication is issued in response to applicants' submission on 21 June 2006 of a declaration executed on behalf of deceased inventor Paul Adriaan Jan JANSSEN by the deceased inventor's legal representative, treated herein as a submission under 37 CFR 1.42.

BACKGROUND

On 05 February 2004, applicants filed international application PCT/EP2004/050084. The international application claimed a priority date of 07 February 2003, and it designated the United States. On 02 September 2004, International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 07 August 2005.

On 03 August 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 21 April 2006, 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.

On 21 June 2006, applicants filed a response to the Notification Of Missing Requirements that included payment of the required surcharge and declarations executed by each of the surviving inventors and on behalf of deceased inventor Paul Adriaan Jan JANSSEN by his legal representative.

DISCUSSION

37 CFR 1.42 states in part:

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Section 409.01(a) of the MPEP states that the application can also be executed by all of the heirs of the deceased inventor, where no legal representative has been appointed or is required to be appointed by law.

37 CFR 1.497(b)(2) states:

> If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

Pursuant to 37 CFR 1.497(b)(2), the declaration must provide the citizenship, mailing address, and residence information for the legal representative and the citizenship of the deceased inventor.

Here, the "Declaration and Power of Attorney For Utility or Design Patent Application" (the Declaration) filed by applicants includes a signature block for the deceased inventor (which includes all required information for this inventor) and a separate signature block for the deceased inventor's legal representative (which includes all required information for the legal representative). Accompanying the Declaration is a separate document entitled "Signature On Behalf Of Deceased Or Incapacitated Inventor." This document states that the legal representative is "executing and signing the attached Declaration and Power of Attorney For Utility or Design Patent Application for the above-captioned application as Legal representative (or heirs) of Paul Adriaan Jan JANSSEN." However, the legal representative did not execute the attached Declaration in the signature block setting forth his name and information. Rather, the legal representative signed only the separate "Signature On Behalf Of Deceased Or Incapacitated Inventor" form, which does not include all the information required under 37 CFR 1.497 and which does not include the language required under 37 CFR 1.68 for proper execution of a declaration.

Because the legal representative did not properly execute the Declaration, the Declaration filed 21 June 2006 cannot be accepted on behalf of the deceased inventor under 37 CFR 1.42.

CONCLUSION

The request for status under 37 CFR 1.42 is **REJECTED** without prejudice.

Applicants have **TWO (2) MONTHS** from the mail date this communication to submit a proper response under 37 CFR 1.42 and 1.497. Failure to file a proper and timely response will result in abandonment.

Extensions of time are available under 37 CFR 1.136(a).

A proper response must include an oath or declaration executed on behalf of the deceased inventor by his legal representative and containing all the information required under 37 CFR 1.497, including, as discussed above, the citizenship, residence, and mailing address of the legal representative and the citizenship of the deceased inventor.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

0 2 NOV 2006

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

In re Application of: LEWI, Paulus, Joannes, et al. U.S. Application No.: 10/544,584 PCT No.: PCT/EP2004/050084 International Filing Date: 05 February 2004 Priority Date: 07 February 2003 Attorney Docket No.: PRD-2021USPCT For: HIV INHIBITING 1,2,4-TRIAZINES	DECISION REGARDING RENEWED SUBMISSION UNDER 37 CFR 1.42

This communication is issued in response to the "Response To Decision Regarding Submission Under 37 CFR 1.42" filed by applicants on 10 October 2006 and supplemented on 31 October 2006. No petition fee is required.

BACKGROUND

The procedural background for this application was set forth in the decision mailed by this Office on 03 August 2006. In that decision, the declaration materials filed on 21 June 2006 under 37 CFR 1.42 were rejected without prejudice for failure to be properly executed by the legal representative of the deceased inventor.

On 10 October 2006, applicants filed the "Response To Decision Regarding Submission Under 37 CFR 1.42" considered herein (with required one-month extension fee).

On 31 October 2006, applicants supplemented the 10 October 2006 submission by filing a complete copy of the declaration executed on behalf of the non-signing inventor (the copy of such declaration filed 10 October 2006 was missing a page).

DISCUSSION

The 31 October 2006 supplement to the 10 October 2006 submission includes a complete declaration executed on behalf of deceased inventor Paul Adriaan Jan JANSSEN by his legal representative Frank Xavier Jozef Herwig ARTS (the copy of this declaration filed 10 October 2006 was missing a page). The declaration filed 31 October 2006 includes all required information with respect to the deceased inventor and the legal representative. Accordingly, acceptance under 37 CFR 1.42 and 1.497 of the declaration filed 10 October 2006 is appropriate.

CONCLUSION

Applicants' request for status under 37 CFR 1.42 with respect to deceased inventor Paul Adriaan Jan JANSSEN is **GRANTED**.

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 31 October 2006.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

Mail Date: 04/20/2010

Applicant	: Paulus Joannes Lewi	: DECISION ON REQUEST FOR
Patent Number	: 7585861	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/544,584	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/31/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **98** 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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GIBSON & DERNIER L.L.P.
900 ROUTE 9 NORTH
SUITE 504
WOODBRIDGE NJ 07095

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DEC 29 2009

OFFICE OF PETITIONS

In re Application of	:	
Rudolf et al.	:	DECISION ON PETITION
Application No. 10/544,590	:	TO WITHDRAW
Filed: August 4, 2005	:	FROM RECORD
Attorney Docket No. 649/2	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed October 30, 2009.

The request is **NOT APPROVED**.

The Request for Withdrawal as Attorney or Agent and Change of Correspondence Address submitted on October 30, 2009 is hereby not accepted. Petitioner has not complied with current USPTO requirements, as set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address. Specifically, pursuant to 37 CFR 10.40, the Office will require the practitioner(s) to certify that he, she or 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 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 replies that may be due and the time frame within which the client must respond.

Petitioner has not complied with the above certifications. Petitioner contends that "the applicant instructed the former attorney of this firm to take their file to a new firm, thereby discharging this firm". This instruction by applicant did not discharge petitioner from their responsibility.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Currently, there is an outstanding Office action mailed July 29, 2009 that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

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FEB 04 2010

In re Application of Erhard Rudolf Application No. 10/544,590 Filed: August 4, 2005 Attorney Docket No. 649/2	: : : : :	DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 12, 2010.

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 will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which 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 replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The request was signed by Matthew B. Dernier on behalf of all attorneys of record who are associated with Customer No. 27538.

All attorneys/agents associated with Customer Number 27538 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the applicant at the address indicated below.

Currently, there is an outstanding Office action mailed July 29, 2009 that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Erhard Rudolf
Linsenbuhlstrasse 3A
Oberndorf, Germany 86698

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2 2 JAN 2008

PERMAN & GREEN
425 POST ROAD
FAIRFIELD CT 06824

In re Application of: NIELSEN, et al. U.S. Application No.: 10/544,594 PCT No.: PCT/IB2003/000426 International Filing Date: 10 February 2003 Priority Date: None Atty Docket No.: 1006-012296-US (PAR) For: METHOD AND DEVICE FOR IDNETIFYING PATTERNS IN A MESSAGE AND GENERATING AN ACTION	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT (37 CFR 1.181)

This decision is issued in response to the "Petition To Withdraw Holding Of Abandonment" filed 11 January 2008, treated herein as a petition under 37 CFR 1.181 to withdraw the holding of abandonment based on applicants' failure to receive the Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 16 June 2006. No petition fee is required.

BACKGROUND

On 10 February 2003, applicants filed international application PCT/IB2003/000426. The international application did not claim an earlier priority date, and it designated the United States. On 19 August 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 international filing date, i.e., 10 August 2005.

On 04 August 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 16 June 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that $730 in addition fees were required (specifically, the search fee, the examination fee, and the surcharge for filing these fees later than thirty months after the priority date.

Applicants did not file a response to the Notification Of Missing Requirements before the expiration of the response deadline. Accordingly, this application became abandoned as of midnight on 16 August 2006.

On 06 March 2006, applicants filed the "Petition To Withdraw Holding Of Abandonment" considered herein. The petition asserts that applicants never received the Notification of Missing Requirements mailed 16 June 2006 and that the holding of abandonment should therefore be withdrawn.

DISCUSSION

A review of the present application file reveals that the declaration filed in the international application is defective. Specifically, the declaration does not indicate the citizenship of the second inventor, Christian KRAFT (the citizenship for the inventor is listed as "Hvidovre" which is not a recognized nationality). Thus, applicants have not filed a declaration herein that is acceptable under 37 CFR 1.497.

The Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 16 June 2006 did not indicate that an oath or declaration in compliance with 37 CFR 1.497 was required. Accordingly, the Notification Of Missing Requirements was defective and is hereby appropriately vacated.

The Notification Of Abandonment (Form PCT/DO/EO/909) mailed 29 November 2007, based as it was on applicants' failure to respond to the now vacated Notification Of Missing Requirements, is therefore also appropriately vacated.

Based on the above, applicants present petition requesting withdrawal of the holding of abandonment based on applicants' failure to receive the Notification Of Missing Requirements is now moot.

A corrected Notification Of Missing Requirements will be issued which requires submission of the fees listed on the previous Notification as well as an oath or declaration in compliance with 37 CFR 1.497.

CONCLUSION

The Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 16 June 2006 and the Notification Of Abandonment (Form PCT/DO/EO/909) mailed 29 November 2007 are hereby **VACATED**.

Applicants' petition to withdraw the holding of abandonment is **DISMISSED AS MOOT**.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a corrected "Notification Of Missing Requirements" (Form PCT/DO/EO/905) requiring the

submission of the additional fees required (i.e., search fee, examination fee, surcharge) and an oath or declaration in compliance with 37 CFR 1.497.

Richard M. Ross
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Morrison & Foerster LLP
1650 Tysons Boulevard
Suite 400
Mclean, VA 22102

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OFFICE OF PETITIONS

In re Application of	:	
Clemens Hoga et al.	:	
Application No. 10/544,622	:	DECISION ON PETITION
Filed: August 5, 2005	:	TO WITHDRAW
Attorney Docket No. 2002P11728	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 28, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on July 24, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Lerner Greenberg Stemer LLP**
P O Box 2480
Hollywood, FL 33022-2480

04 MAY 2006

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23373
SUGHRUE MION PLLC
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Suite 800
Washington, DC 20037

In re Application of	:	
FUKATANI, Juichi *et al*	:	
U.S. Application No.: 10/544,635	:	
PCT No.: PCT/JP04/18663	:	**DECISION**
Int. Filing Date: 14 December 2004	:	
Priority Date: 11 February 2003	:	
Attorney Docket No.: Q89399	:	
For: INTERLAYER FILM FOR LAMINATE	:	
GLASS AND LAMINATE GLASS	:	

Applicants' "Request for Corrected Official Filing Receipt" and "Request for Corrected Notice of Acceptance . . ." filed via facsimile on 21 April 2006 are treated under 37 CFR 1.181 and hereby **GRANTED** as follows:

The filing receipt mailed 24 February 2006 listed the residence of inventor, Juichi Fukatani, as Kota-shi, Japan. It should be Koka-shi, Japan. A new filing receipt will be mailed with this decision acknowledging the change.

Applicants also note that the Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) mailed 24 February 2006 contain erroneous information on the date of receipt of the Information Disclosure Statements (IDS), Assignment and Power of Attorney.

The correct date of receipt for the IDS are 04 October 2005 and 04 November 2005. The date of receipt for the Assignment and Power of Attorney was 21 December 2005. No further action will be taken.

This application is being forwarded to Tech Center 1700 for further processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

14 JUN 2006

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SUGHRUE MION PLLC
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Washington, DC 20037

In re Application of	:	
FUKATANI, Juichi *et al*	:	
U.S. Application No.: 10/544,635	:	
PCT No.: PCT/JP04/18663	:	**DECISION**
Int. Filing Date: 14 December 2004	:	
Priority Date: 11 February 2003	:	
Attorney Docket No.: Q89399	:	
For: INTERLAYER FILM FOR LAMINATE	:	
GLASS AND LAMINATE GLASS	:	

Applicants' "Second Request for Corrected Notice of Acceptance . . ." filed via facsimile on 09 June is treated under 37 CFR 1.181 and hereby **GRANTED** as follows:

The Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) mailed 24 February 2006 indicates that the priority date of the international application is 11 February 2003. This date is incorrect.

However, PCT/JP04/18663 claims priority to a Japanese Patent Application filed 26 December 2003, not 11 February 2003. This priority claim was also recorded on the declaration filed in the subject application on 21 December 2005.

As such, the Form PCT/DO/EO/903 mailed 24 February 2006 and filing receipt indicating a priority date of 11 February 2003 contain erroneous information and are both **VACATED**.

This application is being forwarded to the DO/EO/US to mail a corrected Form PCT/DO/EO/903 and filing receipt indicating the correct priority information.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

02 AUG 2006

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SUGHRUE MION PLLC
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Suite 800
Washington, DC 20037

In re Application of	:	
FUKATANI, Juichi *et al*	:	
U.S. Application No.: 10/544,635	:	
PCT No.: PCT/JP04/18663	:	**DECISION**
Int. Filing Date: 14 December 2004	:	
Priority Date: 26 December 2003	:	
Attorney Docket No.: Q89399	:	
For: INTERLAYER FILM FOR LAMINATE	:	
GLASS AND LAMINATE GLASS	:	

Applicants' "Third Request for Corrected Notice of Acceptance . . ." filed via facsimile on 01 August 2006 is treated under 37 CFR 1.181 and hereby **GRANTED** as follows:

The Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) mailed 14 June 2006 indicates an international filing date of "12/26/2003" and a priority date of "02/11/2003." These dates are wrong.

The correct international filing date is **14 December 2004**.

The correct priority date of the international application is **26 December 2003**.

For this reason, the Form PCT/DO/EO/903 mailed 14 June 2006 is **VACATED**.

This application is being forwarded to the DO/EO/US to mail a corrected Form PCT/DO/EO/903.

James Thomson
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Office of PCT Legal Administration

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ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

Mail Date: 04/20/2010

Applicant	: Akinobu Izawa	: DECISION ON REQUEST FOR
Patent Number	: 7605347	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/544,637	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/11/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **370** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

23 JUN 2006

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FOLEY AND LARDNER LLP
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3000 K STREET NW
WASHINGTON DC 20007

In re Application of Taro TOZUKA Application No.: 10/544,643 PCT No.: PCT/JP04/01174 Int. Filing: 5 February 2004 Priority Date: 6 February 2003 Attorney Docket No.: 057927-0102 For: MAGNETIC DISPLAY PANEL	DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on applicants' "Request to Withdraw Notification of Missing Requirements under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US)" filed in the United States Patent and Trademark Office (USPTO) on 05 April 2006. The communication is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 05 August 2005, applicants filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO 1390) along with, *inter alia*, the basic national fee and an executed declaration.

On 21 March 2006, 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), and the surcharge for filing oath or declaration after the thirty month period, were required.

On 05 April 2006, in response to the Notification of Missing Requirements, applicant filed the instant response with, *inter alia*, a copy of executed declaration submitted on 05 August 2005 and an itemized USPTO date-stamped postcard indicating that an executed declaration was filed on 05 August 2005.

DISCUSSION

The original declaration filed on 05 August 2005 is not located in the application file.

As stated in section 503 of the Manual of Patent Examining Procedure (Rev. 2, May 2004)(MPEP):

> 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.

A review of the USPTO date-stamped, itemized postcard receipt indicates that the combined declaration and power of attorney was deposited with the USPTO on 05 August 2005. The evidence submitted is sufficient to establish that a declaration for this application was received in the USPTO on 05 August 2005. The communication filed 05 April 2006 includes a

copy of the executed declaration. Accordingly, it is appropriate to accept the copy of the declaration as a replacement for the missing original declaration with a deposit date of 05 August 2005. The evidence submitted by applicant, the postcard receipt date stamped by the USPTO, is sufficient to overcome the *prima facie* evidence of the application file itself.

A review of the declaration reveals that the declaration identifies the inventor, and states the citizenship and mailing address of the inventor. Thus, the declaration is acceptable and the requirements of 37 CFR 1.497 are met.

On 5 April 2006, Applicant's deposit account was incorrectly charged the $130 surcharge incurred when filing the oath or declaration after the thirty month period or on 6 August 2006. This amount will be refunded to the deposit account because the filing of the declaration did not occur after the thirty month period.

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED**.

The copy of the declaration originally submitted on 05 August 2005 and resubmitted on 05 April 2006 is acceptable and meets the requirements of 37 CFR 1.497(a) & (b). For the reason set forth above, Applicant's deposit account will be refunded $130 (fee code 1617).

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 **05 August 2005**.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

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Facsimile: (571) 273-0459

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1 9 JUN 2008

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of:	:	
ANDO, Junji, et al.	:	
U.S. Application No.: 10/544,674	:	DECISION ON PETITION
PCT No.: PCT/JP2004/001482	:	(37 CFR 1.182)
International Filing Date: 12 February 2004	:	
Priority Date: 12 February 2003	:	
Attorney Docket No.: 276493US3PCT	:	
For: AMORPHOUS CARBON FILM	:	
FORMING METHOD AND DEVICE	:	

This decision is issued in response to the "Petition Under 37 CFR 1.182 To Withdraw Holding Of Abandonment" filed 27 March 2008. Applicants have submitted the required petition fee.

BACKGROUND

On 12 February 2004, applicants filed international application PCT/JP2004/001482. The international application claimed a priority date of 12 February 2003, and it designated the United States. On 26 August 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 August 2005.

On 04 August 2005, applicant filed a Transmittal Letter requesting entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee, an Application Data Sheet (ADS), and a translation of the international application into English.

On 16 March 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an executed oath or declaration in compliance with 37 CFR 1.497 was required.

On 28 March 2006, applicants filed a response to the Notification Of Missing Requirements that included a cover letter entitled "Response To Notice Of Missing Requirements Under 35 U.S.C. 371," a copy of the Notification of Missing Requirements, an executed declaration, and a supplemental ADS. However, the Response misidentified the application number to which the submission was directed as 10/554,674. Accordingly these materials were placed in U.S. application file 10/554,674.

On 19 February 2008, the DO/EO/US mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a response to the Notification Of Missing Requirements.

On 27 March 2008, applicant filed the "Petition Under 37 CFR 1.182 To Withdraw Holding Of Abandonment" considered herein.

DISCUSSION

The present petition requests that the materials filed on 28 March 2006 (misdirected to application number 10/554,674) be treated as having been filed in the present application, 10/544,674, on 28 March 2006 as a timely response to the Notification Of Missing Requirements mailed 16 March 2006. Granting of this petition is required in order to avoid abandonment of the present application.

The required petition fee accompanied the petition, and a review of the documents filed 28 March 2006 confirms that the proper application number was listed thereon (specifically, on the supplemental ADS and on the copy of the Notification Of Missing Requirements included with such submission).

Applicants' present submission satisfies the requirements for a grantable petition under 37 CFR 1.182. Accordingly, the response to the Notification Of Missing Requirements, including the executed declaration, will be treated as having been filed in the present application on 28 March 2006 as a timely response to the Notification of Missing Requirements mailed 16 March 2006.

A review of the declaration confirms that the declaration complies with the requirements of 37 CFR 1.497.

The Notification of Abandonment mailed 19 February 2008, based as it was on applicant's purported failure to file a timely response to the Notification Of Missing Requirements, is appropriately vacated.

CONCLUSION

The petition under 37 CFR 1.182 is **GRANTED**.

The response to the Notification Of Missing Requirements filed 28 March 2006, including the executed declaration, will be treated as having been filed in the present application on 28 March 2006.

The declaration satisfies the requirements of 37 CFR 1.497.

The Notification of Abandonment (Form PCT/DO/EO/903) mailed 19 February 2008 is hereby **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the PCT Operations Division for further processing in accord with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 28 March 2006.

Richard M. Ross
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600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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JUN 23 2010

OFFICE OF PETITIONS

In re Application
Douglas I. Johnson et al.
Application No. 10/544,691
Filed: February 15, 2006
Attorney Docket No.
V0139.70064US01

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705 filed February 16, 2010. Applicant requests that the determination of patent term adjustment be corrected from 236 to 832 days, in part on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 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 patent term adjustment relating to those provisions until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of

allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

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).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Director
Office of Petitions

[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.

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25 SEP 2006

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In re Application of SCHÖFFTER Application No.: 10/544,693 PCT No.: PCT/EP04/01126 Int. Filing Date: 06 February 2004 Priority Date: 07 February 2003 Attorney's Docket No.: PN/4-32849A For: BENZO (1,2,5) THIADIAZOLE ALS CRF-ANTAGONISTEN	DECISION ON PETITION UNDER 37 CFR 1.47(b)

This is a decision on petition under 37 CFR 1.47(b), filed 24 July 2006 to permit petitioner (applicant) to file the above-captioned application on behalf of the non-signing inventor Philippe Schöffter. Petitioner requests a four month extension of time, which is granted.

BACKGROUND

On 06 February 2004, applicant filed international application No. PCT/EP04/01126 which claimed a priority date of 07 February 2003, and which designated the United States.

On 05 August 2005, within 30 months from the priority date, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*,: basic national filing fee.

On 23 January 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS indicating that the oath or declaration of the inventor, in compliance with 37 CFR 1.497(a) and (b) must be furnished within two months from the mail date of the notice or the application would be abandoned. Extensions of time were available.

On 24 July 2006, petitioner filed the instant petition requesting that the above-identified application be accepted under the provisions of 37 CFR 1.47(b). The petition was accompanied by an executed declaration and a copy of an executed Assignment.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the requisite petition fee, (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Petitioner has satisfied Item (1) with payment of the requisite petition fee and Item (3) with a statement of the last known address of the inventor.

With regard to Item (2), petitioner has provided proof that the inventor refuses to sign the application. On 20 April 2006 and 13 June 2006, the inventor was presented with a copy of the application papers including the declaration. Thereafter on 29 June 2006, in a letter to Novartis (assignee), the inventor refused to sign the application. Copies of all correspondence were provided. The statement of Biljan Colovic, Head of Foreign Filing of the Corporate Intellectual Property Department of Novartis AG, having first hand knowledge of the facts, was also provided. There is sufficient evidence to conclude that the inventor refuses to sign the application. Item (2) is satisfied.

As for Item (4), petitioner has provided a declaration executed on behalf of the inventor by the 37 CFR 1.47(b) petitioner. As stated, in pertinent part, in the MPEP §409.03(b):

> The 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP § 324.... Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).

(Emphasis added.)

Here, Petitioner has provided a declaration executed by the individuals, whose titles are "Head of Patents ABGU/NS" and the "Head of Patent NIBR&PH, Lit & Transaction". As indicated above, these titles are not recognized as having authority to act on behalf of the corporation. Proof of the authorized individual's authority to sign on behalf of the corporation is required. *See* MPEP § 324. Item (4) is not yet satisfied.

Regarding Item (5), Section 409.03(f) of the MPEP, **Proof of Proprietary Interest**, states, in part:

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that
>
> (A) the invention has been assigned to the applicant, or
> (B) the inventor has agreed in writing to assign the invention to the applicant, or
> (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.
>
> If the application has been assigned, a copy of the assignment (in the English Language) must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR

> 1.47(b) applicant. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324)....
>
> When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted....

Here, petitioner is attempting to prove that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the subject matter to justify filing the application. A copy of the assignment was provided to prove this interest. However, Petitioner has not provided a statement under 37 CFR 3.73(b) by the assignee. Such statement must also be submitted. *See* MPEP § 324. Item (5) is not satisfied.

As for Item (6), irreparable damage may be established by a showing (a statement) that a filing date is necessary to preserve the rights of the party and to prevent irreparable damage. Petitioner has submitted such statement in the declaration. Thus, item (6) is satisfied.

Accordingly, items (4) and (5) above have not been satisfied and the petition under 37 CFR 1.47(b) must be dismissed.

CONCLUSION

The petition under 37 CFR 1.47(b) is **DISMISSED WITHOUT PREJUDICE**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, P.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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12 JAN 2007

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In re Application of SCHÖFFTER Application No.: 10/544,693 PCT No.: PCT/EP04/01126 Int. Filing Date: 06 February 2004 Priority Date: 07 February 2003 Attorney's Docket No.: PN/4-32849A For: BENZO (1,2,5) THIADIAZOLE ALS CRF-ANTAGONISTEN	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(b)

This is a decision on renewed petition under 37 CFR 1.47(b), filed 13 November 2006 to permit petitioner (applicant) to file the above-captioned application on behalf of the non-signing inventor Philippe Schöffter. Petitioner requests a four month extension of time, which is granted.

BACKGROUND

On 06 February 2004, applicant filed international application No. PCT/EP04/01126 which claimed a priority date of 07 February 2003, and which designated the United States.

On 05 August 2005, within 30 months from the priority date, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*,: basic national filing fee.

On 23 January 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS indicating that the oath or declaration of the inventor, in compliance with 37 CFR 1.497(a) and (b) must be furnished within two months from the mail date of the notice or the application would be abandoned. Extensions of time were available.

On 24 July 2006, petitioner filed the instant petition requesting that the above-identified application be accepted under the provisions of 37 CFR 1.47(b). The petition was accompanied by an executed declaration and a copy of an executed Assignment.

On 25 September 2006, a decision dismissing the petition was mailed to applicant indicating that (1) a statement under 37 CFR 3.73(b) by the assignee and (2) proof of the authorized individual's authority to sign the 37 CFR 1.47(b) declaration on behalf of the corporation were required.

On 13 November 2006, Petitioner filed a renewed petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the requisite petition fee, (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Petitioner has previously satisfied Items (1),(2), (3), and (6). Petitioner has now satisfied Item (5) with a statement under 37 CFR 3.73(b) by the assignee.

However, with regard to Item (4), while petitioner has provided a declaration executed on behalf of the inventor by the 37 CFR 1.47(b) petitioner, the authority of those signing on behalf of the 37 CFR 1.47(b) petitioner is not clear.

As stated in the decision mailed 25 September 2006, MPEP §409.03(b) states, in pertinent part:

> The 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP § 324.... Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).

(Emphasis added.)

Here, Petitioner provided a declaration executed by the individuals, whose titles are "Head of Patents ABGU/NS" and the "Head of Patent NIBR&PH, Lit & Transaction". As indicated above, these titles are not recognized as having authority to act on behalf of the corporation. Proof of the authorized individual's authority to sign on behalf of the corporation is required. *See* MPEP § 324. Item (4) is not yet satisfied.

Accordingly, items (4) above has not been satisfied and the petition under 37 CFR 1.47(b) must be dismissed.

CONCLUSION

The petition under 37 CFR 1.47(b) is **DISMISSED WITHOUT PREJUDICE**.

If reconsideration on the merits of this petition is desired, a proper response must be filed

within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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28 FEB 2007

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In re Application of SCHÖFFTER Application No.: 10/544,693 PCT No.: PCT/EP04/01126 Int. Filing Date: 06 February 2004 Priority Date: 07 February 2003 Attorney's Docket No.: PN/4-32849A For: BENZO (1,2,5) THIADIAZOLE ALS CRF-ANTAGONISTEN	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(b)

This is a decision on renewed petition under 37 CFR 1.47(b), filed 08 February 2007 to permit petitioner (applicant) to file the above-captioned application on behalf of the non-signing inventor Philippe Schöffter.

BACKGROUND

On 06 February 2004, applicant filed international application No. PCT/EP04/01126 which claimed a priority date of 07 February 2003, and which designated the United States.

On 05 August 2005, within 30 months from the priority date, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*,: basic national filing fee.

On 23 January 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS indicating that the oath or declaration of the inventor, in compliance with 37 CFR 1.497(a) and (b) must be furnished within two months from the mail date of the notice or the application would be abandoned. Extensions of time were available.

On 24 July 2006, petitioner filed the instant petition requesting that the above-identified application be accepted under the provisions of 37 CFR 1.47(b). The petition was accompanied by an executed declaration and a copy of an executed Assignment.

On 25 September 2006, a decision dismissing the petition was mailed to applicant indicating that (1) a statement under 37 CFR 3.73(b) by the assignee and (2) proof of the authorized individual's authority to sign the 37 CFR 1.47(b) declaration on behalf of the corporation were required.

On 13 November 2006, Petitioner filed a renewed petition under 37 CFR 1.47(b). On 12 January 2007, a decision dismissing the petition was mailed, indicating that proof of the authorized individual's authority to sign on behalf of the corporation was required.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by (1) the requisite petition fee, (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Petitioner had previously satisfied Items (1),(2), (3), (5) and (6).

With regard to Item (4), petitioner previously provided a declaration executed on behalf of the inventor by the 37 CFR 1.47(b) petitioner. Petitioner now has provided proof of the authority of those signing on behalf of the 37 CFR 1.47(b) petitioner to sign on behalf of the corporation.

Here, Petitioner provided a declaration executed by the individuals, whose titles are "Head of Patents ABGU/NS" and the "Head of Patent NIBR&PH, Lit & Transaction". The Statement of Edward J. Wilusa, Jr., Vice President of Novartis Services indicates that Regina Voegeli-Lange and Juregen Dresssel have the authority to sign on behalf of assignee Novartis AG. Item (4) is now yet satisfied. The petition under 37 CFR 1.47(b) is Granted.

CONCLUSION

The petition under 37 CFR 1.47(b) is **GRANTED**.

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the non-signing inventor at the last known address of record as set forth in the papers filed 24 July 2006, and a notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

Applicant has completed the requirements for acceptance under 35 U.S.C. § 371(c). The application has an international filing date of 06 February 2004, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **26 July 2006.**

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Tel: 571-272-3286
Fax: 571-273-0459

28 FEB 2007

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PHILIPPE SCHÖFFTER
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68128 Village-Neuf
France

In re Application of SCHÖFFTER Application No.: 10/544,693 PCT No.: PCT/EP04/01126 Int. Filing Date: 06 February 2004 Priority Date: 07 February 2003 Attorney's Docket No.: PN/4-32849A For: BENZO (1,2,5) THIADIAZOLE ALS CRF-ANTAGONISTEN	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(b)

Dear Mr. Schöffter:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Cynthia M. Kratz
Attorney Advisor
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In re Application of SCHÖFFTER Application No.: 10/544,693 PCT No.: PCT/EP04/01126 Int. Filing Date: 06 February 2004 Priority Date: 07 February 2003 Attorney's Docket No.: PN/4-32849A For: BENZO (1,2,5) THIADIAZOLE ALS CRF-ANTAGONISTEN	DECISION ON PETITION FOR CORRECTED FILING RECEIPT

This is a decision on applicant's request for a corrected filing receipt and corrected Notification of Acceptance, filed on 19 April 2007 in the United States Patent & Trademark Office

On 19 March 2007, a Notification of Acceptance was issued indicating that an erroneous 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 26 July 2006, based upon an error in the decision mailed on 28 February 2007.

A review of the application indicates that the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 24 July 2006.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 19 March 2007 is hereby **VACATED**.

This application is being forwarded the US Designated/Elected Office for issuance of a corrected Notification of Acceptance (FORM PCT/DO/EO/903) indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of **24 July 2006** and mailing of a corrected filing receipt in accord with applicant's request..

Cynthia M. Kratz

Cynthia M. Kratz
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FOLEY AND LARDNER LLP
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WASHINGTON, DC 20007

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OFFICE OF PETITIONS

In re Application of	:	
Regina VOEGELL-LANGE, et al	:	
Application No. 10/544,693	:	DECISION ON PETITION
Filed: July 26, 2006	:	TO WITHDRAW
Attorney Docket No. 093286-0158	:	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 15, 2009.

The request is **NOT APPROVED because it is moot**.

A review of the file record indicates that the power of attorney to Rouget F. Henschel and the attorneys associated with Customer No. 22428, has been revoked by the assignee of the patent application on November 20, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 6735.

/Diane Goodwyn/
Petitions Examiner
Office of Petitions

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NOVARTIS INSTITUTES FOR BIOMEDICAL RESEARCH, INC.
400 TECHNOLOGY SQUARE
CAMBRIDGE MA 02139

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OFFICE OF PETITIONS

In re Application of	:	
Francis Paul Buxton, et al.	:	
Application No. 10/544,694	:	DECISION ON PETITION
Filed: April 27, 2006	:	
Attorney Docket No. PN/4-32868A	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 29, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 26, 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 June 27, 2007. The Notice of Abandonment was mailed December 20, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a an amendment, (2) the petition fee of $1, 540 and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571)272-2991.

This application is being referred to Technology Center AU 1624 for appropriate action by the Examiner in the normal course of business on the reply received

Chris Bottorff
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Francis Paul BUXTON, et al	:	
Application No. 10/544,694	:	DECISION ON PETITION
Filed: April 27, 2006	:	TO WITHDRAW
Attorney Docket No. 093286-0152	:	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 15, 2009.

The request is **NOT APPROVED because it is moot.**

A review of the file record indicates that the power of attorney to Rouget F. Henschel and the attorneys associated with Customer No. 22428, has been revoked by the assignee of the patent application on November 20, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 6735.

/Diane Goodwyn/
Petitions Examiner
Office of Petitions

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JAN 15 2010

In re Application of	:	
Muller et al.	:	DECISION ON PETITION
Application No. 10/544,725	:	TO WITHDRAW
Filed: August 3, 2005	:	FROM RECORD
Attorney Docket No. 085449-0193	:	

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 24, 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 will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which 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 replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The request was signed by Michele Simkin on behalf of all attorneys of record who are associated with customer No. 22428.

All attorneys/agents associated with the Customer Number 22428 have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

The correspondence address of record remains unchanged.

The address given on the petition differs from the address of record. 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.

Currently, there is an outstanding Office action mailed September 14, 2009 that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Michele Simkin
Washington Harbour
3000 K Street NW, Suite 600
Washington, D.C. 20007-5109

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/544,729	08/05/2005	Satoshi Futenma	273731US6PCT	5303

22850 7590 01/28/2008
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
SAMUEL, DEWANDA A

ART UNIT	PAPER NUMBER
2616	

NOTIFICATION DATE	DELIVERY MODE
01/28/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/544,729	08/05/2005	Satoshi Futenma	273731US6PCT	5303

7590 01/28/2008
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
SAMUEL, DEWANDA A

ART UNIT	PAPER NUMBER
2616	

NOTIFICATION DATE	DELIVERY MODE
01/28/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Refund Ref:
01/25/2008 0030049652

Credit Card Refund Total: $1100.00

Am Exp..: XXXXXXXXXXX1008

FORM PET651G (Rev. 08/07)

Notice of Abandonment	Application No.	Applicant(s)	
	10/544,729	FUTENMA ET AL.	
	Examiner	Art Unit	
	Samuel, Dewanda	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
   (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
   (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
   (d) ☐ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
   (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
   (b) ☐ The submitted fee of $_____ is insufficient. A balance of $_____ is due.
   The issue fee required by 37 CFR 1.18 is $_____. The publication fee, if required by 37 CFR 1.18(d), is $_____.
   (c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
   (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ No corrected drawings have been received.

4. ☑ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☐ The reason(s) below:

/Rick Clemons/ ☐☐Administrative Assistant☐☐Art Unit: 3900

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/544,733	04/04/2006	Koji Naniwada	09792909-6285	5311

7590 12/13/2007
SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606-1080

EXAMINER
RAHLL, JERRY T

ART UNIT	PAPER NUMBER
2874	

MAIL DATE	DELIVERY MODE
12/13/2007	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☑ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/544,733	04/04/2006	Koji Naniwada	09792909-6285	5311

7590 04/11/2008
SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606-1080

EXAMINER
RAHLL, JERRY T

ART UNIT	PAPER NUMBER
2874	

MAIL DATE	DELIVERY MODE
04/11/2008	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☐ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.

4. ☑ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Tomi Farmer

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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Rutan & Tucker, LLP
611 Anton Boulevard
Suite 1400
Costa Mesa, CA 92626

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NOV 06 2008

In re Application of	:	
James L. Wyatt et al.	:	
Application No. 10/544,738	:	DECISION ON PETITION
Filed: May 24, 2006	:	TO WITHDRAW
Attorney Docket No. 100560.0013US	:	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 9, 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 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Robert Fish
Fish & Associates, PC
2603 Main Street, Suite 1050
Irvine, CA 92614

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OFFICE OF PETITIONS

JAE Y. PARK
KILE, GOEKJIAN, REED & MCMANUS, PLLC
1200 NEW HAMPSHIRE AVE. NW, SUITE 570
WASHINGTON DC 20036

In re Application of	:	
Do Y. LEE et al.	:	
Application No. 10/544,739	:	DECISION ON PETITION
Filed: August 08, 2005	:	
Attorney Docket No. **GUA-0005-SE**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 27, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 10, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed June 10, 2009. Accordingly, the date of abandonment of this application is September 11, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay. Accordingly, the failure to timely pay the issue fee as required by the Notice of Allowance and Fee(s) is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Office of Data Management for processing into a patent.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

07 NOV 2006

Smith Gambrell & Russell
1850 M Street N W
Suite 800
Washington DC 20036

In re Application of: PILLING, Mark, et al	:	
U.S. Application No.: 10/544,744	:	DECISION ON PETITION TO
PCT No.: PCT/US2004/003201	:	CORRECT INVENTORSHIP
International Filing Date: 05 February 2004	:	
Priority Date: 06 February 2003	:	
Attorney's Docket No.: 032791R003	:	
For: TRAY APPARATUS, COLUMN WITH	:	
SAME AND METHOD OF	:	
ASSEMBLING AND USING	:	

This decision is issued in response to the "Request To Correct Inventorship" filed 04 October 2006, treated herein under 37 CFR 1.497(d). Applicants have paid the required processing fee.

BACKGROUND

On 05 February 2004, applicants filed international application PCT/US2004/003201. The application claimed a priority date of 06 February 2003, and it designated the United States. The published international application identified two applicant/inventors for the United States: Mark PILLING and Markus FISCHER.

The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 08 August 2005 (06 August 2005 was a Saturday).

On 08 August 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 25 May 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that an executed oath or declaration in compliance with 37 CFR 1.497, the surcharge for filing the oath or declaration later than thirty months after the priority date, and additional claims fees were required.

On 24 July 2006, applicants filed a response to the Notification Of Missing Requirements that included payment of the required surcharge and claims fees, as well a declaration executed by the two inventors of record and two additional inventors, Giuseppe MOSCA and Elena TACCHINI.

On 31 August 2006, the DO/EO/US mailed a Notification Of Defective Response (Form PCT/DO/EO/916) indicating that the declaration filed 24 July 2006 was defective based on its inclusion of the two inventors who were not named on the published international application.

On 04 October 2006, applicants filed the "Request To Correct Inventorship" considered herein under 37 CFR 1.497(d) (with required three-month extension fee). This submission requests that Giuseppe MOSCA and Elena TACCHINI be added to the present application as inventors of record.

DISCUSSION

Where, as here, the inventorship in the national stage declaration is not consistent with the inventorship in the international application, applicants must correct the inventorship pursuant to 37 CFR 1.497(d), which states the following:

> (d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:
>
> > (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
> >
> > (2) The processing fee set forth in § 1.17(i); and
> >
> > (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees (see § 3.73(b) of this chapter).
> >
> > (4) any new oath or declaration required by paragraph (f) of this subsection.

With respect to item (1), applicants have submitted statements from the inventors being added, Giuseppe MOSCA and Elena TACCHINI, in which the inventors state that the earlier error in inventorship did not result from deceptive intent on their part. Item (1) is therefore satisfied.

With respect to item (2), applicants have submitted the required $130 processing fee. Item (2) is therefore satisfied.

With respect to item (3), applicants have submitted a statement executed on behalf of the assignee, SULZER CHEMTECH AG, consenting to the addition of these two inventors; the

assignee had previously filed a statement under 37 CFR 3.73(b) and recorded the relevant assignment documents. Item (3) is therefore satisfied.

Item (4) does not apply to the present application.

Based on the above, applicants have satisfied all the requirements for correction of inventorship under 37 CFR 1.497(d).

CONCLUSION

Applicants' request for correction of inventorship under 37 CFR 1.497(d) is **GRANTED**.

Giuseppe MOSCA and Elena TACCHINI are added as inventors herein.

Based on the addition of these inventors, the declarations submitted by applicants on 24 July 2006 is now in compliance with 37 CFR 1.497.

This application is being referred to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 24 July 2006.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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03 NOV 2006

OTIS ELEVATOR COMPANY
INTELLECTUAL PROPERTY DEPARTMENT
10 FARM SPRINGS
FARMINGTON, CT 06032

In re Application of	:	
STUFFEL, Andreas et al.	:	
Application No.: 10/544,760	:	DECISION ON
PCT No.: PCT/EP03/01254	:	
Int. Filing Date: 07 February 2003	:	PETITION
Priority Date: None	:	
Attorney Docket No.: OT-5238	:	UNDER 37 CFR 1.181
For: MOVING FLANGE FASTENING	:	
FOR PASSENGER CONVEYORS	:	

This decision is in response to applicant's "Petition Regarding Notification of Defective Response," filed on 29 August 2006.

BACKGROUND

On 07 February 2003, applicant filed international application PCT/EP03/01254. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 19 August 2004. The deadline for entry into the national stage in the United States was thirty months from the priority date, 07 August 2005.

On 05 August 2005, applicants filed a transmittal letter for entry into the national phase in the United States, accompanied by the basic national fee.

On 07 March 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 of the oath or declaration were required.

On 21 March 2006, applicants submitted a response to the Notification of Missing Requirements, indicating that a Rule 4.17 declaration was filed during the international phase.

On 09 August 2006, the Office mailed Notification of Defective Response (Form PCT/DO/EO/916) indicating that the surcharge for late filing of the search fee, examination fee or oath or declaration was still required.

On 29 August 2006, applicant submitted the instant petition requesting that the Office vacate the Notification of Defective Response as the declaration was not received after 30 months.

DISCUSSION

A Rule 4.17 declaration in compliance with 37 CFR 1.497(a)-(b) was supplied under Rule 26*ter* during the international phase. An additional declaration was not required. As the declaration was filed within 30 months of the priority date and the other fees were timely paid, a surcharge was not required. As such, both the Notification of Missing Requirements and the Notification of Defective Response issued in error. They are vacated.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 07 March 2006 is **VACATED**.

The Notification of Defective Response (Form PCT/DO/EO/916) mailed 09 August 2006 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The application has a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 05 August 2005.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: (571) 272-3292
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY AND LARDNER, LLP
3000 K STREET NW
WASHINGTON, DC 20007

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MAY 19 2008

In re Application of	:	
STASSI, et al.	:	
Application No. 10/544,794	:	DECISION ON PETITION
Filed: May 8, 2006	:	TO WITHDRAW
Attorney Docket No. **026926-000500US**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 11, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **FOLEY AND LARDNER, LLP** has been revoked by the applicant of the patent application on March 6, 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.

MaGraves

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **TOWNSEND TOWNSEND & CREW, LLP**
TWO ENBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO, CA 94111-3834

UNITED STATES PATENT AND TRADEMARK OFFICE

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Giorgio Stassi	: DECISION ON REQUEST FOR
Patent Number	: 7645449	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/544,794	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/08/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **428** 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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 05/18/2010

Applicant : Giorgio Stassi
Patent Number : 7645449
Issue Date : 01/12/2010
Application No : 10/544,794
Filed : 05/08/2006

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **482** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

In re Application of Takeshima, Shinicihi et al Application No. 10/544,795 Filed: Aug. 8, 2005 Attorney Docket No. 960-226 For: EXHAUST PURIFICATION METHOD AND EXHAUST PURIFICATION APPARATUS OF INTERNAL COMBUSTION ENGINE	DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program under 37 CFR 1.102(d), filed Nov. 15, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h) of $130.00 has been charged to the Deposit Account #15-0461 pursuant to the transmittal letter of Aug. 8, 2005.

The request to participate in the PPH pilot program and petition comply with the above requirements. Receipt of the Preliminary Amendment filed on Nov. 15, 2007 is acknowledged and has been entered. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Henry C. Yuen, at 571-272-4856.

All other inquiries concerning the examination or status of the application should be directed to Examiner Tu Nguyen, Art Unit 3748, 571-272-4862.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Henry C. Yuen, Special Programs Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products
571-272-4856

05 JUL 2006

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Milton Oliver
WARE, FRESSOLA, VAN DER SLUYS
ADOLPHSON, LLP.
PO BOX 224
MONROE, CT 06468

In re Application of	:	DECISION ON
WINKLER, Wolfgang	:	
Application No.: 10/544,811	:	
PCT No.: PCT/EP2005/001437	:	
Int. Filing Date: 12 February 2005	:	REQUEST UNDER
Priority Date: 30 March 2004	:	
Attorney Docket No.: 870-003-194	:	
For: FAN ARRANGEMENT	:	37 CFR 1.48(b)

This is a decision on applicant's "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS" filed on 03 April 2006, which is being treated as a request under 37 CFR 1.48(b), requesting deleting inventor, Walter Angelis, in the executed declaration.

BACKGROUND

On 12 February 2005, applicants filed international application No. PCT/EP2005/001437, which claims a priority date of 30 March 2004. Accordingly, the deadline for entry into the national stage in the U.S. expired 30 September 2006.

On 05 August 2005, applicant filed in the United States Patent and Trademark Office (PTO) a Transmittal Letter (Form PTO-1390) accompanied by, *inter alia*, the basic national fee. An executed declaration was filed with the signature of inventor Wolfgang WINKLER. Co-joint inventor Walter Angelis although listed in the international application was not listed in the executed declaration.

On 21 March 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. The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it: signature of second inventor Walter George Angelis is missing." It must be submitted within two months date of mailing or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 05 August 2005, applicant filed a "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS," which included, inter alia, a declaration by Dr. Walter Georg ANGELIS, who states that he was not involved in the contribution of the subject-matter of US claims 1-22 as recited in the preliminary amendment filed in the US application 10/544,811 on 08 August 2005.

DISCUSSION

A submission under 37 CFR 1.48(b) (nonprovisional application- fewer inventors due to amendment or cancellation of claims) must include:

(1) a request signed by a party set forth in §1.33(b) to correct the inventorship that identifies the named inventor or inventors being deleted and acknowledges that the inventor's invention is no longer being claimed in the nonprovisional application; and

(2) the processing fee set forth in § 1.17(i).

A review of the application file suggests that at the time of filing the international application Walter Georg ANGELIS was correctly listed as a joint inventors of the invention. The submission under 37 CFR 1.48(b) is due to the deletion of certain claims attributed to the inventor. Specifically, the preliminary amendment submitted on 05 August 2005 that deletes claims 1-18. Under this situation, applicants are required to file an oath or declaration with the signatures of all the inventors that are listed in the international application in order to enter the national stage. In this instance, Walter Georg ANGELIS has not been listed in the declaration and the declaration has not been properly executed. Thus, the requirements under 35 USC 371 have not been satisfied.

Accordingly, after the requirements under 35 USC 371 are satisfied, applicants may petition under 37 CFR1.48(b) to correct inventorship as a consequence of claim amendments.

CONCLUSION

For the reasons above, the request under 37 CFR 1.48(b) is held in **ABEYANCE** until the requirements under 35 USC 371 are met.

If reconsideration on the merits of this petition is desired, a proper reply is an executed oath or declaration with the signatures of all the inventors that are listed in the international application must be filed within TWO (2) MONTHS from the mail date of this decision. The failure to provide the proper reply will result in Abandonment of the application. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
Facsimile: (703) 308-6459

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2 2 JUN 2007

Milton Oliver
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MONROE, CT 06468

In re Application of	:	DECISION ON
WINKLER, Wolfgang	:	
Application No.: 10/544,811	:	
PCT No.: PCT/EP2005/001437	:	PETITION UNDER
Int. Filing Date: 12 February 2005	:	
Priority Date: 30 March 2004	:	
Attorney Docket No.: 870-003-194	:	
For: FAN ARRANGEMENT	:	37 CFR 1.181

This is a decision on applicants' "SUBMISSION OF FORM PCT/IB/306" filed on 05 September 2006, which is being treated as a petition under 37 CFR 37 CFR 1.181 requesting that the PCT/IB/306 form was timely filed.

BACKGROUND

In a Notification communication from this office on 05 July 2006, the Office indicated that the executed declaration of the inventors was not acceptable at that time, in that the name of co-inventor, ANGELIS, Walter Georg had been deleted in the declaration (this inventor was listed on the international application) and applicants had not provided proper documentation, such as PCT/IB/306, supporting such action.

On 05 September 2006, applicant filed this petition accompanied with the "NOTIFICATION OF THE RECORDING OF A CHANGE" Form PCT/IB/306.

DISCUSSION

A review of the file shows that the "NOTIFICATION OF THE RECORDING OF A CHANGE" Form PCT/IB/306 mailed on 09 May 2006 to the applicants from the IB. The Notification indicates that applicant/inventor GODFREY, Anne, Pauline had been removed from the record and this change was effected in accordance with PCT Rule 92*Bis*.

Accordingly, the declaration filed 05 August 2005 is accepted because applicants have provided a showing that the applicant/inventor removal was effected in accordance with PCT Rule 92*bis* prior to commencement of national stage application.

CONCLUSION

The petition under 37 CFR §1.181 is **GRANTED.**

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371 (c)(1), (c)(2), and (c)(4) date of this application is **05 August 2005**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

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OFFICE OF PETITIONS

In re Application of	:	
Wolfgang Arno Winkler	:	
Application No. 10/544,811	:	ON PETITION
Filed: August 5, 2005	:	
Attorney Docket No. 870-003-194	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 17, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed November 12, 2008 , which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 13, 2008. A Notice of Abandonment was mailed June 18, 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 election of the invention to be examined, (2) the petition fee of $1,620, and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This matter is being referred to Technology Center 3745 for further examination on the merits.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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FISH & RICHARDSON P.C.
P.O BOX 1022
Minneapolis, MN 55440-1022

Mail Date: 05/06/2010

Applicant	: Finlay Doogan Morrison	: DECISION ON REQUEST FOR
Patent Number	: 7611578	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/544,816	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/28/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **587** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MIDLAND MI 48641-1967

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OFFICE OF PETITIONS

In re Application of	:	
Patterson et al.	:	
Application No. 10/544,817	:	ON APPLICATION FOR
Filed: August 5, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. UC18038A	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT filed on December 8, 2008. Applicant requests that the determination of patent term adjustment be increased from five hundred twenty-nine (529) days by one hundred eighty-two (182) days to seven hundred eleven (711) days, if the patent issues on Tuesday, August 5, 2008. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008).

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated

in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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01 FC:1462 400.00 DA

Fulbright & Jaworski LLP
666 Fifth Ave
New York, NY 10103-3198

In re Application of	:	
FROHNWIESER, Werner	:	DECISION ON
Application No.: 10/544,820	:	
PCT No.: PCT/EP04/02203	:	REQUEST
Int. Filing Date: 04 March 2004	:	
Priority Date: 04 March 2003	:	UNDER 37 CFR 1.42 AND PETITION
Attorney's Docket No.: HUBR-1284	:	
For: METHOD FOR PRODUCING ...	:	UNDER 37 CFR 1.182
IMPROVED CHARACTERISTICS	:	

This application is before the Office of PCT Legal Administration for matters arising under 35 USC 371. A review of the submission reveals an indication that inventor Frohnwieser is deceased. Applicants' submission has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 04 March 2004, applicants filed international application PCT/EP04/02203, which claimed a priority date of 04 March 2003. The deadline for entry into the national stage in the United States was 04 September 2005.

On 04 August 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, 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) is required.

On 20 April 2006, applicants submitted a response to the Notification of Missing Requirements, including a declaration, that has been treated as a request under 37 CFR 1.42. The declaration identifies the fourth named inventor, by a name other than the one listed on the international application.

DISCUSSION

PETITION UNDER 37 CFR 1.182

Under 37 CFR 1.41(a)(4), the inventorship of the international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any change effected under PCT Rule 92*bis*. The Office does not have a record of such a change.

The declaration of inventorship lists the inventors in the international application, but the surname "Bart" for the fourth inventor has been stricken and the name " Skorupinski," has been filled in. Applicants have also provided a marriage certificate for Fabienne Bart showing that she married Marc Skorupinski. This is not an appropriate way to change inventor Fabienne Bart's name. The appropriate

method of changing the name of the inventor is set out in MPEP 605.04(c). The fee for the filing of this petition will be charged to deposit account no. 50-0624, as authorized.

REQUEST UNDER 37 CFR 1.42

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, with the name discrepancy discussed above, and their citizenships and the legal representative and the legal representative's citizenship, residence and postal address. Should applicants change the name of the fourth inventor to the one stated in the declaration, the declaration would then comply with 37 CFR 1.42 and 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, the petition under 37 CFR 1.182 is **DISMISSED** without prejudice and the request for status under 37 CFR 1.42 is **REFUSED**.

Applicant is required to submit either a grantable petition under 37 CFR 1.182 or a declaration in compliance with 37 CFR 1.497(a)-(b) and an explanation of the discrepancy 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 1.182."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

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28 NOV 2006

Fulbright & Jaworski LLP
666 Fifth Ave
New York, NY 10103-3198

In re Application of	:	
FROHNWIESER, Werner	:	DECISION ON
Application No.: 10/544,820	:	
PCT No.: PCT/EP04/02203	:	REQUEST
Int. Filing Date: 04 March 2004	:	
Priority Date: 04 March 2003	:	UNDER 37 CFR 1.42 AND PETITION
Attorney's Docket No.: HUBR-1284	:	
For: METHOD FOR PRODUCING ...	:	UNDER 37 CFR 1.182
IMPROVED CHARACTERISTICS	:	

This application is before the Office of PCT Legal Administration for matters arising under 35 USC 371. A review of the submission reveals an indication that inventor Frohnwieser is deceased. Applicants' submission has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 13 September 2006, the Office mailed Decision On Request Under 37 CFR 1.42 and Petition Under 37 CFR 1.182, dismissing applicants' request and petition.

On 29 September 2006, applicants filed this renewed request and petition.

DISCUSSION

PETITION UNDER 37 CFR 1.182

Under 37 CFR 1.41(a)(4), the inventorship of the international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any change effected under PCT Rule 92*bis*. The Office does not have a record of such a change.

Applicants have supplied a petition under 37 CFR 1.182, as described in MPEP 605.04(c). Applicants indicate that Ms. Bart has changed her name to " Skorupinski," as indicated in the declaration and have supplied a copy of the marriage certificate and a translation.

REQUEST UNDER 37 CFR 1.42

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, with the name discrepancy discussed above, and their citizenships and the legal representative and the legal representative's citizenship, residence and postal address.

However, a review of the declaration reveals that the strike-through of the name "Bart" and the addition of "Skorupinski" is not dated and initialed. See MPEP 605.04(a) stating "Any changes made in ink in the application or oath prior to signing should be initialed and dated by applicants prior to execution of the oath or declaration."

CONCLUSION

For the above reasons, the petition under 37 CFR 1.182 is **GRANTED** and 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 an explanation of the discrepancy within a time period of **TWO (2) MONTHS** from the mail date of this Decision. THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT. Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

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Fulbright & Jaworski LLP
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New York, NY 10103-3198

12 JUN 2007

In re Application of	:	
FROHNWIESER, Werner	:	DECISION ON
Application No.: 10/544,820	:	
PCT No.: PCT/EP04/02203	:	REQUEST
Int. Filing Date: 04 March 2004	:	
Priority Date: 04 March 2003	:	UNDER 37 CFR 1.42
Attorney's Docket No.: HUBR-1284	:	
For: METHOD FOR PRODUCING ...	:	
IMPROVED CHARACTERISTICS	:	

This is a decision on applicant's renewed request for status under 37 CFR 1.42, filed in the United States Patent and Trademark Office on 27 February 2007.

BACKGROUND

On 28 Novembe2006, the Office mailed Decision On Request Under 37 CFR 1.42 and Petition Under 37 CFR 1.182, granting applicant's petition under 37 CFR 1.182 and refusing applicant's request under 37 CFR 1.42.

On 27 February 2007, applicants filed this renewed request accompanied by a new declaration of the inventors.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42.

The new declaration supplied by applicants is not in compliance with 37 CFR 1.497(a)-(b). The declaration includes one page each of pages 1 and 2 and the added pages for the legal representative, two pages 3 and 5 and three pages 4. While it is acceptable for inventors to execute separate copies of the oath or declaration, the complete copy, as executed by the inventor, must be supplied to the Office. It is not permitted to piece together pages from separately executed declarations to create a single composite declaration.

Further, applicants were previously informed that "Any changes made in ink in the application or oath prior to signing should be initialed and dated by applicants prior to execution of the oath or declaration." See MPEP 605.04(a). A review of the new declaration reveals that the address of Ms. Skorupinski has been stricken-through and revised, but the revision was not dated and initialed.

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) within a time period of **TWO (2) MONTHS** from the mail date of this Decision. THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT. Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

19 NOV 2007

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Fulbright & Jaworski LLP
666 Fifth Ave
New York, NY 10103-3198

In re Application of	:	
FROHNWIESER, Werner	:	
Application No.: 10/544,820	:	DECISION ON
PCT No.: PCT/EP04/02203	:	
Int. Filing Date: 04 March 2004	:	REQUEST
Priority Date: 04 March 2003	:	
Attorney's Docket No.: HUBR-1284	:	UNDER 37 CFR 1.42
For: METHOD FOR PRODUCING ...	:	
IMPROVED CHARACTERISTICS	:	

This is a decision on applicant's renewed request for status under 37 CFR 1.42, filed in the United States Patent and Trademark Office on 10 September 2007.

BACKGROUND

On 12 June 2007, the Office mailed Decision On Request Under 37 CFR 1.42 refusing applicant's request for status under 37 CFR 1.42.

On 10 September 2007, applicants filed this renewed request accompanied by complete copies of the declarations of the inventors and of the legal representative.

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 complies with 37 CFR 1.497(a)-(b) and 37 CFR 1.42. The declaration lists the inventors and their citizenships and the legal representative and the legal representative's citizenship, residence and postal address. See 37 CFR 1.497.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **GRANTED**.

This application is being forwarded to the National Stage Processing Division of the Office of the Patent Application Processing for continued processing in accordance with this decision. The application has a date of 10 September 2007 under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4).

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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Facsimile: 571-273-0459

11/19/2007 SBASHEIR 00000003 500624 10544820
Sale Ref: 00000003 DA#: 500624 10544820
01 FC:1251 120.00 DA

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Panayiotis D. Papadimitriou	: DECISION ON REQUEST FOR
Patent Number	: 7616609	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/544,830	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/06/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **796** 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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20123 Milano
Europe IT ITALY

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SEP 05 2008

OFFICE OF PETITIONS

In re Application of :
Antonio Tucci :
Application No. 10/544,840 : DECISION ON PETITION
Filed: August 8, 2005 :
Attorney Docket No. 40750/GM/ps :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 28, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 15, 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 16, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $770.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 3736 for appropriate action by the Examiner in the normal course of business on the reply received.

Irvin Dingle
Petitions Examiner
Office of Petitions

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KLEIN, O''Neill & SINGH, LLP
18200 Von Karman Avenue
Suite 725
IRVINE, CA 92612

Mail Date: 04/21/2010

Applicant	: Sven R. Kjaer	: DECISION ON REQUEST FOR
Patent Number	: 7607304	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/544,858	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/06/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **560** 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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KLEIN, O''NEILL & SINGH, LLP
18200 VON KARMAN AVENUE
SUITE 725
IRVINE, CA 92612

Mail Date: 05/18/2010

Applicant : Sven R. Kjaer
Patent Number : 7607304
Issue Date : 10/27/2009
Application No : 10/544,858
Filed : 06/06/2006

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **585** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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NOVOZYMES NORTH AMERICA, INC.
500 FIFTH AVENUE
SUITE 1600
NEW YORK, NY 10110

Mail Date: 04/20/2010

Applicant	: Peter Rahbek Oestergaard	: DECISION ON REQUEST FOR
Patent Number	: 7588926	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/544,861	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/05/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **415** 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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NOVOZYMES NORTH AMERICA, INC.
500 FIFTH AVENUE
SUITE 1600
NEW YORK, NY 10110

Mail Date: 05/17/2010

Applicant : Peter Rahbek Oestergaard
Patent Number : 7588926
Issue Date : 09/15/2009
Application No : 10/544,861
Filed : 08/05/2005

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **446** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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TECHNOLOGY CENTER 2600

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of KONDO, TETSUJIRO, et al. Application No. 10/544,873 Filed: August 9, 2005 Attorney Docket No. 274736US6PCT	: : : : : : :	DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed October 30, 2008, to make the above-identified application special.

The request and petition are **DISMISSED AS MOOT**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition are dismissed as moot as the examination of the above-identified application has begun. An Office Action was mailed on November 13, 2008.

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/544,876	08/09/2005	Shinji Takemoto	056937-0189	8250

20277 7590 04/29/2010
MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

EXAMINER
ATALA, JAMIE JO

ART UNIT	PAPER NUMBER
2621	

MAIL DATE	DELIVERY MODE
04/29/2010	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.

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

In re Application of	:	
TAKEMOTO, SHINJI et al.	:	DECISION GRANTING PETITION
Application No. 10/544,876	:	TO RESET PERIOD FOR REPLY
Filed: August 9, 2005	:	
For: **TELEVISION CAMERA**	:	

This is a decision on the petition filed on February 17, 2010 and supplemented on 4/20/10, requesting that the shortened statutory period for reply set forth in the Office communication mailed on November 24, 2009 be reset to run from the date on which the Office communication was actually received at the correspondence address of record.

The petition is **GRANTED.**

Petitioner provided a statement that the Office action was received on February 16, 2010 and further provided evidence in the way of a copy of the Office action transmittal page having a date stamped by the firm as being received on February 16, 2010. A copy of the envelope which contained the Office action was not provided. However, petitioner submitted a copy of the docket record where the non-receipt office communication would have been entered had it been received and docketed. The petition was filed within two weeks of receipt of the Office communication. A substantial portion of the set reply period had elapsed on the date of receipt. The petition meets the criteria for resetting a time period to respond to an Office action as set forth in MPEP § 710.06.

Accordingly, the shortened statutory period that was originally set forth in the Office action originally mailed on November 24, 2009 is hereby reset to run THREE MONTHS FROM THE RECEIPT DATE OF February 16, 2010.

/Doris To/

Doris To
Quality Assurance Specialist
Technology Center 2600
Communications

D.2p

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20 SEP 2006

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David W Highet
Chief Intellectual Property Counsel
Becton Dickinson and Company
1 Becton Drive Mail Code 110
Franklin Lakes NJ 07417-1880

09/20/2006 SBASHEIR 00000004 021666 10544886
01 FC:1464 130.00 DA

In re Application of
Ross et al.
Application No.: 10/544,886
PCT No.: PCT/US04/02019
Int. Filing Date: 13 February 2004
Priority Date: 13 February 2003
Attorney Docket No.: P-5881
For: Devices For Component Removal During Blood Collection, And Uses Thereof

DECISION

This is in response to the "Request To Correct Inventorship Pursuant To 37 C.F.R. §1.48(a)" filed on 19 April 2006, which is being treated under 37 CFR 1.497(d).

BACKGROUND

This international application was filed on 13 February 2004 and claimed a priority date of 13 February 2003. 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 13 August 2005. Applicants filed inter alia the basic national fee on 05 August 2005.

On 06 December 2005, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an oath or declaration of the inventors in compliance with 37 CFR 1.497(a) and (b).

On 03 March 2006, applicants filed a response, including a declaration.

On 21 March 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 "The second inventor on the declaration, Bruce Haywood, is not on the published application. In addition, I do not have an IB Form 306 indicating that he is added as an inventor."

DISCUSSION

Counsel states that "the correct inventors of this application are Julie Ross and Bruce Haywood." Counsel requests correction of inventorship under 37 CFR 1.48(a), 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 an appropriate statement by Bruce Haywood. Accordingly, requirement (1) has been satisfied.

Regarding requirement (2), the required processing fee is being charged to counsel's Deposit Account No. 02-1666, as authorized by the instant "Request..."

Regarding requirement (3), the "Consent Of Assignee To Inventorship Change" document included among the instant correspondence is signed on behalf of Becton, Dickinson and Company by David W. Highet, who states that "The undersigned is authorized to act on behalf of the assignee." Mr. Highet states that "Becton, Dickinson and Company states that it is the assignee of the entire right, title and interest in the above-captioned patent application, as evidenced by an assignment from the currently-listed inventor. The Assignment was recorded in the Patent and Trademark Office at Reel 017306, Frame 0010. Assignee consents to the correction of inventorship on the application, as requested by the accompanying documents." This document satisfies requirement (3) of 37 CFR 1.497(d), as well as the requirements of 37 CFR 3.73(b).

CONCLUSION

The declaration 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 **03 March 2006**.

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

George M. Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVENUE, SUITE 5400
SEATTLE, WA 98104-7092

Mail Date: 04/21/2010

Applicant	: Anton Daanen	: DECISION ON REQUEST FOR
Patent Number	: 7643847	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/544,888	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/04/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **719** 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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300 S. WACKER DRIVE
CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Patent of Alastair Lawson et al.	:	DECISION ON REQUEST
Patent No. 7,608,694	:	FOR RECONSIDERATION OF
Issue Date: October 27, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/544,911	:	AND NOTICE OF INTENT TO
§ 371(c) Date: January 24, 2006	:	ISSUE CERTIFICATE OF
Attorney Docket No. 07-1037-WO-US	:	CORRECTION

This is a decision on the petition filed December 18, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by seven hundred seventy-one (771) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the patent is extended or adjusted by seven hundred seventy-one (771) days is **GRANTED to the extent indicated herein**.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 C.F.R. § 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 C.F.R. § 1.136.

Patentees assert the Office improperly entered a reduction of 90 days in patent term adjustment and miscalculated the period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay").

The Office entered a 90-day reduction as a result of an entry in the Office's PALM system indicating drawings were filed by Patentees on July 30, 2009, after the Office had mailed a Notice of Allowance. Patentees assert drawings were not actually filed on July 30, 2009.

The Office has reviewed the record and determined drawings were not filed July 30, 2009. Therefore, the Office agrees entry of the 90-day reduction was improper.

Patentees assert the Office miscalculated the period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay"). Patentees assert the period of B Delay is 440 days.

If the date of commencement was August 13, 2005, as alleged by Patentees, the Office would agree with Patentee's calculation of B Delay. However, the date of commencement is actually August 15, 2005.

The date of commencement in this case is not August 13, 2005, the date 30-months after the priority date, because August 13, 2005, was a Saturday. When the expiration of the 30-month period pursuant to 35 U.S.C. § 371(b) falls on a Saturday or Sunday, the 30-month time period expires on the subsequent business day. *See* PCT Rule 80.5. Therefore, the date of commencement is August 15, 2005, not August 13, 2005, and the period of B Delay is 438 days, not 440 days.

In view of the prior discussion, the patent term adjustment for the instant patent is 769 days which is the sum of 353 days of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") and 438 days of B Delay reduced by 22 days of Applicant Delay.[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **seven hundred sixty-nine (769)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

[1] The Office notes the period of A Delay and the period of B Delay do not overlap in this case.

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,608,694 B2
APPLICATION NO.	:	10/544,911
DATED	:	October 27, 2009
INVENTOR(S)	:	Alastair Lawson et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the Title page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 241 days.

Delete the phrase "by 241 days" and insert -- by 769 days--

15 DEC 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Michael A. Cornman
SCHWEITZER, CORNMAN, GROSS & BONDELL
292 Madison Ave. - 19th Floor
New York, NY 10017

In re Application of: KOHLSTEDT, Hermann, et al. U.S. Application No.: 10/544,924 PCT No.: PCT/EP2004/000039 International Filing Date: 07 January 2004 Priority Date: 28 January 2003 Attorney's Docket No.: 0412-116P For: FAST REMANENT RESISTIVE FERROELECTRIC MEMORY	DECISION ON PETITION FOR REVIVAL OF ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

The petition for revival under 37 CFR 1.137(b) filed 09 August 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" 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, including the mailing of a Notification Of Missing Requirements (Form PCT/DO/EO/905) requiring submission of an English translation of the international application, an oath or declaration in compliance with 37 CFR 1.497, the search and examination fees, and the surcharge and processing fee for submitting these materials later than thirty months from the priority date.

Richard M. Ross
PCT Petitions Attorney
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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03 JAN 2006

DAVIDSON, DAVIDSON & KAPPEL, LLC
485 Seventh Avenue, 14th Floor
New York, NY 10018

In re Application of VOTHKNECHT, Claus *et al* U.S. Application No.: 10/544,925 PCT No.: PCT/EP2003/009170 Int. Filing Date: 19 August 2003 Priority Date: 13 September 2002 Attorney Docket No.: 5028.1009 For: REAL TIME-CAPABLE CONTROL SYSTEM HAVING AN SPS APPLICATION . . .	**DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)**

Applicants' "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed with the national stage papers on 09 August 2005 is hereby **GRANTED** as follows:

The basic national fee and petition fee have been paid. Applicants' statement in the petition is sufficient to meet the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

An executed declaration in compliance with 37 CFR 1.497(a) and (b) was submitted with the national stage papers. However, an English translation of the international application is also required.

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 English translation, a $130.00 processing fee and a $130.00 surcharge fee are required.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

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OFFICE OF PETITIONS

In re Application of	:	
Hakan, Miefalk	:	DECISION ON PETITION
Application No. 10/544,927	:	TO MAKE SPECIAL
Filed: August 10, 2005	:	37 CFR 1.102(D)
Attorney Docket No. 64553.001051	:	

This is a decision on the petition under 37 CFR §1.102(d), filed March 24, 2006, 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 **DISMISSED.**

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 instant petition fails to meet the last requirement set forth above for special status. Specifically, the six "Non-Patent Literature Documents" listed on the Information Disclosure Statement submitted on March 24, 2006 do not appear to be of record. A copy of each of these references should be submitted.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Petitions Examiner 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.

This matter is being referred to the Office of Initial Patent Examination for further processing. Thereafter, the matter will be referred to the Technology Center Art Unit 1744 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

In re Application of	:	
Hakan Miefalk et al	:	
Application No. 10/544,927	:	DECISION ON PETITION
Filed: April 13, 2007	:	
Attorney Docket No. 69409.001002	:	

This is a decision on the petition under 37 CFR 1.182, filed, June 11, 2009, to correct the inventors' names which were inadvertently transposed in the executed Declaration and Power of Attorney filed April 13, 2007.

The petition is **GRANTED**.

Office records have been updated to reflect the inventors' correction of names. A corrected Filing Receipt, which reflects the inventors' correction of names, accompanies this decision on petition.

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210.

Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.

Irvin Dingle
Petition Examiner
Office of Petitions

Attachment: corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/544,927	04/13/2007	3723	3180	69409.001002	59	4

CONFIRMATION NO. 8715

CORRECTED FILING RECEIPT

21967
HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

OC000000036887291

Date Mailed: 07/13/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Hakan Miefalk, Jarfalla, SWEDEN;
Fredrik Bergling, Nyhammslage, SWEDEN;
Stefan Jonsson, Stockholm, SWEDEN;
Esbjorn Svantesson, Taby, SWEDEN;
Christian Agren, Stockholm, SWEDEN;

Power of Attorney: The patent practitioners associated with Customer Number 21967

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/SE04/00136 01/30/2004

Foreign Applications

SWEDEN 0300355-5 02/10/2003

If Required, Foreign Filing License Granted: 08/17/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/544,927**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Hand Held Vacuum Cleaner

Preliminary Class

015

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

Mail Date: 04/21/2010

Applicant	: Simo Sarkilahti	: DECISION ON REQUEST FOR
Patent Number	: 7662439	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/544,933	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/10/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1179** 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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ERICSSON INC.
6300 LEGACY DRIVE
M/S EVR 1-C-11
PLANO TX 75024

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OFFICE OF PETITIONS

In re Application of :
YEUNG et al. :
Application No. 10/544961 : DECISION ON PETITION
Filed: March 8, 2005 :
Attorney Docket No. P17915-US1 :

This is a decision on the petitions under the unintentional provisions of 37 CFR 1.137(b), filed April 3, 2008 and on April 22, 2008, to revive the above-identified application.

The petition filed April 22, 2008, is **GRANTED**. The petition filed April 3, 2008, is **DISMISSED as moot**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 14, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed December 14, 2007. Accordingly, the date of abandonment of this application is March 15, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440 and the publication fee of $300, (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

The petitioner may request a refund of the petition fee of $510 paid April 3, 2008, by writing to the following address:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to Ramesh Krishnamurthy at (571) 272 - 4914.

This application is being referred to the Office of Data Management for processing into a patent.

Anthony Knight for
David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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FISH AND RICHARDSON, PC
225 FRANKLIN STREET
BOSTON, MA 02110

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JUN 0 6 2008

Applicant: Alvarez, et al.
Appl. No.: 10/544,968
International Filing Date: February 20, 2004
Title: SOLID PHASE SYNTHESIS OF ANTITUMORAL COMPOUNDS
Attorney Docket: 14620-041US1-FUSP287268
Pub. No.: US 2006/0287529 A1
Pub. Date: December 21, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on May 10, 2007, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on the front page of the publication wherein an inventor's name is misspelled and through the specification chemical formulas have errors.

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 10, 2007, was not timely filed under 37 CFR 1.221(b).

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

Applicant: Wolfgang Höss
Appl. No.: 10/544,970
International Filing Date: February 19, 2004
Title: FLIP-FLOP CIRCUIT ASSEMBLY
Attorney Docket No.: 14603-016US1 / P2003,0256 US N
Pub. No.: US 2007/0146030-A1
Pub. Date: June 28, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on July 27, 2007, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the inventor's name is misspelled on the front page of the patent application publication, as the inventor's name should be "Wolfgang Höss" not "Wolfgang Hoss."

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 misspelling of the inventor's name. 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.

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 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] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

§ 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a) must be submitted via the EFS system 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

1 9 NOV 2007

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LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD FL 33022-2480

In re Application of	:	
LACKNER, et al.	:	
Application No.: 10/544,997	:	DECISION ON PETITION
PCT No.: PCT/AT04/00041	:	
Int. Filing Date: 09 February 2004	:	UNDER 37 CFR 1.10
Priority Date: 10 February 2003	:	
Attorney Docket No.: SB-523	:	
For: PROCESS FOR PRODUCING A HARD METAL BATCH	:	

This decision is in response to applicant's "REQUEST FOR CORRECTED FILING RECEIPT" filed 13 March 2006. The correspondence is being treated as a petition under 37 CFR 1.10 to accord a filing date of 10 August 2005 and issue a corrected filing receipt.

BACKGROUND

On 10 August 2005, applicants filed a request to enter into the national stage under 35 U.S.C. 371 along with the appropriate basic national filing fee. No declaration was filed.

On 26 September 2005, applicants filed an executed declaration of the inventors.

On 22 February 2006, a Notification of Acceptance (Form PCT/DO/EO/903) was issued identifying the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) dates, as well as the completion of all 35 U.S.C. 371 dates as 26 September 2005. Subsequently, an Official Filing Receipt was issued indicating a "FILING DATE" of 26 September 2005.

On 13 March 2006, applicants filed the present petition urging that the Filing Receipt be corrected to indicate a filing date of 10 August 2005, rather than 26 September 2005.

DISCUSSION

The actual filing date of the present application is considered to be the international filing date, 09 February 2004. The date in the filing date portion on the filing receipt of a national stage application is the date upon which the requirements set forth in 35 U.S.C. 371(c) for entry into the national stage were completed. (See MPEP §1895.01) A review of the application file reveals that the declaration was filed with the USPTO on 26 September 2005, the date which the requirements set forth in 35 U.S.C. 371(c) for entry into the national stage were completed.

Therefore, the correction of the "FILING DATE" on the filing receipt to indicate a date of 10 August 2005 is not proper since applicants completed the requirements set forth in 35 U.S.C. 371(c) on 26 September 2005. (Note MPEP section 1893.03(b)).

As to the title, a review of the application file finds that applicant has supplied an "Application Data Sheet" which indicates the title as "Process for Producing a Hard Metal Batch." Therefore, a corrected filing receipt will be issued to indicate this title.

CONCLUSION

Applicant's petition under 37 CFR 1.10 to accord a filing date of 10 August 2005 is **DISMISSED**.

The application will be forwarded to United States Designated/Elected Office for processing in accordance with this decision; namely the issuance of a corrected filing receipt with the application title, "Process for Producing a Hard Metal Batch." Thereafter, it will be returned to Art Unit 3725 for further prosecution.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

23 MAR 2006

#6

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LICATLA & TYRRELL P.C.
66 E. MAIN STREET
MARLTON NJ 08053

In re Application of	:	
FUCHS et al.	:	
Application No.: 10/544,999	:	DECISION
PCT No.: PCT/US04/05847	:	
Int. Filing Date: 27 February 2004	:	
Priority Date: 27 February 2003	:	
Attorney Docket No.: RCK0015US.NP	:	
For: METHOD FOR MODULATING EPITHELIAL	;	
STEM CELL LINEAGE	:	

This decision is in response to applicants' submission filed in the United States Patent and Trademark Office (USPTO) on 26 January 2006, which has properly been treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 27 February 2004, applicant filed international application PCT/US04/05847, which designated the United States and claimed a priority date of 27 February 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 10 September 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 29 August 2005 (27 August 2005 being a Saturday).

On 09 August 2005, applicant filed, *inter alia*, a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and an assertion of small entity status.

On 12 January 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 in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date were required. The Notification set a two-month extendable period for reply.

On 26 January 2006, applicants filed the instant submission, which has been treated as a

petition under 37 CFR 1.181. The petition was accompanied by, *inter alia*, a date-stamped postcard receipt and a copy of three declarations of the inventors.

DISCUSSION

Applicant has provided sufficient evidence to establish that on 30 December 2005 applicant filed three declarations of the inventors. The proof is in the form of the copy of the postcard receipt for the above-identified application which bears a USPTO date stamp of 30 December 2005 and which itemizes the three declarations and identifies the above-captioned docket number and application number. Further, the indication in the Transmittal Letter that the postcard receipt evidences receipt of the three declarations included with the submission has been construed as meaning that the copies of the declarations filed 26 January 2006 are copies of the declarations originally filed 30 December 2005. If this interpretation is incorrect, applicants should notify the Office of PCT Legal Administration *immediately*. Therefore, in view of the date-stamped receipt and practitioner's statement, the declarations received on 26 January 2006 may properly be accepted as originally received in the USPTO on 30 December 2005.

The declarations filed 30 December 2005 are in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED** for the reasons set forth above.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
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KUBOVCIK & KUBOVCIK
SUITE 1105
1215 SOUTH CLARK STREET
ARLINGTON, VA 22202

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MAY 11 2009

OFFICE OF PETITIONS

In re Application of	:	
Gerard Perrin, et al.	:	
Application No. 10/545,016	:	DECISION ON PETITION
Filed: April 6, 2006	:	TO MAKE SPECIAL UNDER
Attorney Docket No. RBC-002	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 3, 2009, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from applicant's representative that he is in possession of proof of applicant's age.. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. 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 3781 for action on the merits commensurate with this decision.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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MILLER, MATTHIAS & HULL
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CHICAGO, IL 60606

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MAY 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Gerald Perrin, et al.	:	
Application No. 10/545,016	:	DECISION ON REQUEST FOR
Filed: April 6, 2006	:	REVOCATION OF POWER
Attorney Docket No. 50200/G1045CA00	:	OF ATTORNEY
	:	

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed April 3, 2009.

The request is **NOT APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The request cannot be approved because the statement under 3.73(b) is not proper or no statement under 3.73(b) was filed.

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 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

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MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: Jochen Wessner	: DECISION ON REQUEST FOR
Patent Number	: 7637115	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/545,045	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **802** 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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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

In re Application of	:	
VAN MARLE, et al.	:	
Application No.: 10/545,067	:	DECISION ON PETITION
PCT No.: PCT/EP04/50109	:	
Int. Filing Date: 10 February 2004	:	UNDER 37 CFR 1.181
Priority Date: 12 February 2003	:	
Attorney Docket No.: 02299.002220	:	
For: PACKAGE FOR CANDY BARS AND HOLDER THEREFOR	:	

This decision is in response to applicant's petition to withdraw the holding of abandonment filed 26 July 2006 and again on 26 April 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 10 February 2004, applicant filed international application PCT/EP04/50109, which claimed priority of an earlier application filed 12 February 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 26 August 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 12 August 2005.

On 09 August 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a preliminary amendment.

On 30 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 a signed oath or declaration of the inventor, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date and provide payment of the surcharge for providing an oath or declaration later than thirty months from the priority date. Applicant was afforded two months to file a proper response and advised that this period could be extended pursuant to 37 CFR 1.136(a).

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 30 March 2006 within the time period set therein and that above-identified application was abandoned as to the United States.

On 26 July 2006, applicant filed the present petition to withdraw the holding of abandonment arguing that the extendable period for responding had yet to expire.

On 07 August 2006, applicant filed a response to the Form PCT/DO/EO/905 which included an executed combined declaration and power of attorney, a petition for a two-month extension of time and certification under 37 CFR 1.8 that the filing was deposited as a first class mailing on 31 July 2006.

On 26 April 2007, applicant filed a status request and additional copy of the petition to withdraw the holding of abandonment.

DISCUSSION

A review of the application record finds that applicant's contention is correct and that the mailing of the Form PCT/DO/EO/909 indicating that the application was abandoned was premature and in error. An examination of applicant's filing of 07 August 2005 finds that with the filing of the petition for a two-month extension of time, payment of the appropriate extension of time fee and certification under 37 CFR 1.8 that the filing was deposited as a first class mailing on 31 July 2006, the filing was a timely response to the Form PCT/DO/EO/905 mailed 30 March 2006. (It is noted that 30 July 2006 was a Sunday). As explained in 37 CFR 1.8(a) the actual date of receipt will be used for all other purposes. Therefore, the application will be accorded a date of 07 August 2006 under 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4).

CONCLUSION

For the reasons detailed above, applicant's petition under 37 CFR 1.181 is **GRANTED**.

The Form PCT/DO/EO/909 mailed 14 July 2006 is hereby **VACATED**.

The application has an international filing date of 10 February 2004 under 35 U.S.C. 363 and will be given a date of **07 August 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 the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) and a corrected 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

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of KONDO, TETSUJIRO, et al. Application No. 10/545,081 Filed: August 9, 2005 Attorney Docket No. 276103US6PCT	: : : : : : :	DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed October 30, 2008, to make the above-identified application special.

The request and petition are **DISMISSED AS MOOT**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition are dismissed as moot as the above-identified application has been allowed.

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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Harness, Dickey & Pierce, P.L.C.
P.O. Box 8910
Reston, VA 20195

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OFFICE OF PETITIONS

In re Application of	:	
Markus Franciscus Brouwer et al.	:	
Application No. 10/545,087	:	DECISION ON PETITION
Filed: July 21, 2006	:	TO WITHDRAW
Attorney Docket No. 5100-000023/US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 2, 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- 4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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Reston, VA 20195

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JAN 21 2009

In re Application of	:	
Markus Franciscus Brouwer et al.	:	
Application No. 10/545,087	:	DECISION ON PETITION
Filed: July 21, 2006	:	TO WITHDRAW
Attorney Docket No. 5100-000023/US	:	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 December 3, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Donald J. Daley on behalf of all attorneys/agents associated with customer number 30593. All attorneys/agents associated with 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. Accordingly, all correspondence will be mailed to the first named signing inventor. A courtesy copy of this decision will be mailed to the address noted on the request. If this person(s) desire to receive future correspondence regarding this application, the proper power of attorney documents and/or a proper statement under 37 CFR 3.73(b) must be submitted if an assignee has interest in this application.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Markus Franciscus Brouwer
Krabbenhoek 13,
5384 MS Heesch, The Netherlands

cc: TraskBritt
230 South 500 East
Suite 300
Salt Lake City, UT 84102

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/545,087	07/21/2006	Markus Franciscus Brouwer	5100-000023/US

CONFIRMATION NO. 6875

POWER OF ATTORNEY NOTICE

30593
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

OC000000034128613

Date Mailed: 01/21/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/03/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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Schwabe Williamson & Wyatt
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Jorge Sanchez	: DECISION ON REQUEST FOR
Patent Number	: 7633233	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/545,097	: 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 **400** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

#3

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DELLETT & WALTERS
PO Box 2786
Portland, OR 97208-2786

In re Application of: ZAVODCHIKOV, et al. U.S. Application No.: 10/545,124 PCT No.: PCT/RU2003/000570 International Filing Date: 22 December 2003 Priority Date: 23 December 2002 Attorney's Docket No.: V-320 For: ZIRCONIUM-NIOBIUM OXYGEN-CONTAINING ALLOY AND METHOD FOR PRODUCING SAID ALLOY	DECISION ON PETITION FOR REVIVAL OF ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

The petition for revival under 37 CFR 1.137(b) filed 09 August 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 submitted the basic national fee, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Missing requiring submission of an English translation of the international application, an oath or declaration in compliance with 37 CFR 1.497, and required fees and surcharge.

Richard M. Ross
PCT Petitions Attorney
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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30 NOV 2006

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In re Application of: ZAVODCHIKOV, et al. U.S. Application No.: 10/545,124 PCT No.: PCT/RU2003/000570 International Filing Date: 22 December 2003 Priority Date: 23 December 2002 Attorney's Docket No.: V-320 For: ZIRCONIUM-NIOBIUM OXYGEN-CONTAINING ALLOY AND METHOD FOR PRODUCING SAID ALLOY	DECISION ON REQUEST TO CORRECT SPELLING OF INVENTOR'S NAME

This decision is issued in response to applicants' "Response To Communication Mailed 2 August 2006" filed 02 October 2006, clarified by the "Confirmation Of Telephone Call Of November 27, 2006 Regarding Response To Communication Mailed 2 August 2006" filed 27 November 2006. The submission is treated herein as a request to correct the spelling of the last name of the eighth inventor from PHILIPPOV, as indicated on the declaration and Application Data Sheet (ADS), to FILIPPOV, the last name for this inventor indicated on the international application. No petition fee is required.

BACKGROUND

The procedural background for the present application was set forth in the Communication mailed herein on 02 August 2006. That communication noted the discrepancy between the last name of the eighth inventor as listed on the declaration filed 15 July 2006 (PHILIPPOV) and as listed on the international application (FILIPPOV), and it required clarification from applicants with respect to this discrepancy.

On 02 October 2006, applicants filed the "Response To Communication Mailed 2 August 2006" considered herein.[1] Applicants' submission confirms that the correct name for the eighth inventor is FILIPPOV, as listed on the international application, and that the error in this inventor's name on the declaration and the ADS was the result of a transliteration error.

DISCUSSION

Section 605.04(b) of the Manual of Patent Examining Procedure (MPEP) states that, where a typographical or transliteration error in the spelling of an inventor's name is discovered,

[1] This submission was clarified in the "Confirmation Of Telephone Call Of November 27, 2006 Regarding Response To Communication Mailed 2 August 2006" filed 27 November 2006.

a petition is not required, nor is a new oath or declaration under 37 CFR 1.63 needed. Here, applicants' 02 October 2006 submission, taken in combination with the clarifying statement filed 27 November 2006, confirms that the eighth inventor's last name was listed incorrectly on the declaration and ADS due to a transliteration error, and that the spelling of this inventor's last name on the international application (FILIPPOV) is correct.

Based on the above, the correct spelling of the last name of the eighth inventor is accepted as FILIPPOV.

Applicants should note the following, also set forth in MPEP section 605.04(b):

> applicants are strongly encouraged to use an application data sheet such that any patent to issue will reflect the correct spelling of the inventor's name. Without an application data sheet with the corrected spelling, any patent to issue is less likely to reflect the correct spelling since the spelling of the inventor's name is taken from the oath or declaration, or any subsequently filed application data sheet.

CONCLUSION

Applicants' request to correct the spelling of the last name of the eighth inventor is **GRANTED**. The correct last name for this inventor is accepted as FILIPPOV, as set forth in the international application.

An annotation will be added to the declaration document in the electronic application file (filed on 15 July 2006) to indicate the correct spelling of this inventor's name. The declaration is acceptable in compliance with 37 CFR 1.497.

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 15 July 2006.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

20 OCT 2006

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Alexandria, VA 22313-1450
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Richard L. Mayer
Kenyon & Kenyon
One Broadway
New York, NY 10004

In re Application of	:	
KIENLE, et al.	:	
Application No.: 10/545,127	:	DECISION ON PETITION
PCT No.: PCT/EP04/50116	:	
Int. Filing Date: 19 February 2004	:	UNDER 37 CFR 1.497(d)
Priority Date: 21 February 2003	:	
Attorney Docket No.: 10191/4311	:	
For: METHOD, COMPUTER PROGRAM AND	:	
CONTROL UNIT FOR OPERATING AN	:	
INTERNAL COMBUSTION ENGINE	:	

This decision is in response to applicant's "Response to "Notification of Defective Response" to Missing Requirements Under 35 U.S.C. 371" filed 18 August 2006 in the United States Patent and Trademark Office (USPTO). For the reasons discussed below, the filing is being treated as a request under 37 CFR 1.497(d).

BACKGROUND

On 19 February 2004, applicant filed international application PCT/EP04/50116, which claimed priority of an earlier application filed 21 February 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 21 August 2005.

On 09 August 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the international application; an unsigned declaration and a preliminary amendment.

On 21 March 2005, applicant was mailed a "Notification of Missing Requirements" (Form PCT/DO/EO/905) indicating that an executed oath or declaration of the inventors was required, as well as, payment of the surcharge for providing an executed oath or declaration later than thirty months from the earliest claimed priority date. Applicant was afforded two months to file a proper response.

On 04 May 2006, applicant responded with an executed combined declaration and power of attorney, as well as, payment of the appropriate surcharge.

On 20 July 2006, applicant was mailed a "Notification of Defective Response" (Form

PCT/DO/EO/916) indicating that the filed declaration identified two inventors who did not appear on the published international application. Applicant was afforded one month to file a proper response.

On 18 August 2006, applicant filed the response discussed herein.

DISCUSSION

Applicant states that the inventors in question, Stuerzl and Bucholz, were accidently omitted from the international application and that a request for correction of inventorship has been requested in the European Patent Office as receiving office. Applicant is advised that once the thirty month time period for entering the National stage has expired, unless the error occurred on the part of the receiving office, correction of inventorship must be requested in each National office. As such, in order to be considered a timely response to the Form PCT/DO/EO/916 mailed 20 July 2006, applicant's present filing is being considered as a petition under 37 CFR 1.497(d) t0 add inventors Stuerzl and Bucholz to the present U.S. National stage application.

37 CFR 1.497(d) [formally, 37 CFR 1.48] states in part: "If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application....applicant must submit:

(1) a petition including a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part;

(2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.63;

(3) the fee set forth in 37 CFR 1.17(h); and

(4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

Applicant has satisfied items (2) and (3). Regarding item 3, the $130.00 petition fee will be charged to deposit account number 11-0600 as authorized.

Regarding Item (1), applicant has not submitted a statement from inventors Stuerzl and Bucholz avowing that the error in inventorship occurred without any deceptive intention on their part.

As to Item (4), applicant has not provided a statement granting the consent of the assignee. Assignee is required to establish its ownership in accordance with 37 CFR 3.73 (See MPEP 201.03 and 324).

In light of the above, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons above, applicant's request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file any request for reconsideration. Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.497(d)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Derek A. Putonen
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10/26/2006 SBASHLIR 00000001 110600 10545127
Sale Ref: W00000001 DA#: 110600 10545127
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30 JAN 2007

Richard L. Mayer
Kenyon & Kenyon
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New York, NY 10004

In re Application of	:	
KIENLE, et al.	:	DECISION ON RENEWED
Application No.: 10/545,127	:	
PCT No.: PCT/EP04/50116	:	PETITION UNDER
Int. Filing Date: 19 February 2004	:	
Priority Date: 21 February 2003	:	37 CFR 1.497(d)
Atty. Docket No.: 10191/4311	:	
For: METHOD, COMPUTER PROGRAM AND	:	
CONTROL UNIT FOR OPERATING AN	:	
INTERNAL COMBUSTION ENGINE	:	

This decision is in response to applicant's renewed petition under 37 CFR 1.497(d) filed 18 January 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 20 October 2006, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.497(d). Applicant was afforded two months to file any request for reconsideration.

On 18 January 2007, applicant responded with the present renewed petition accompanied by a petition for a one-month extension of time and payment of the appropriate extension of time fee. The response is timely filed.

DISCUSSION

As detailed in the decision mailed 20 October 2006, 37 CFR 1.497(d) [formally, 37 CFR 1.48] states in part: "If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application....applicant must submit:

(1) a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part;

(2) the fee set forth in 37 CFR 1.17(h); and

(3) if an assignment has been executed by any of the original named inventors, the written

consent of the assignee in compliance with 37 CFR 3.73(b); and

(4) any new oath or declaration required by paragraph (f) of this section.

Applicant previously satisfied items (2) and (4). Applicant has presently satisfied the remaining items in the form of a signed statement of consent from the assignee in compliance with 37 CFR 3.73(b) and statements from inventors Stuerzl and Bucholz avowing that the error occurred without any deceptive intention on their part.

CONCLUSION

For the reasons discussed above, the renewed request under 37 CFR 1.497(d) is **GRANTED**.

This application has an international application filing date of 19 February 2004 and will be given a date of **04 May 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.

Derek A. Putonen
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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8-20-08 **Paper No.:** _____

TO SPE OF : ART UNIT 2856

SUBJECT : Request for Certificate of Correction for Appl. No.: 10545129 Patent No.: 7401513

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Valerie Sadler
Certificates of Correction Branch
703-308-9390 ext. 114

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Hezron Williams
SPE

2856
Art Unit

18 APR 2006

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WESTBORO MA 01581

In re Application of	:	
GAMLIN et al.	:	
Application No.: 10/545,139	:	DECISION ON
PCT No.: PCT/GB04/00095	:	
Int. Filing Date: 13 January 2004	:	PETITION UNDER
Priority Date: 13 January 2003	:	
Attorney Docket No.: 610P017	:	37 CFR 1.137(b)
For: COMPOSTER	:	

This decision is in response to applicants' submission filed 10 August 2005.

BACKGROUND

On 13 January 2004, applicants filed international application PCT/GB04/00095 which designated the U.S. and claimed a priority date of 13 January 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 29 July 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 13 July 2005.

On 10 August 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 surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date, an assertion of small entity status, and a petition under 37 CFR 1.137(b) to revive the application.

On 09 November 2005, applicants submitted, *inter alia*, a declaration of inventors.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee on 10 August 2005.

As to item (2), applicant submitted the petition fee on 10 August 2005.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

The declaration of inventors filed 09 November 2005 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.

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OFFICE OF PETITIONS

In re Application of :
Lee et al. :
Application Number: 10/545179 :
Filing Date: 04/26/2006 :
Attorney Docket Number: :
223255/121090 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on September 10, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on March 24, 2009, for failure to timely file a response to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on February 23, 2009, which set a one (1) month shortened period for reply. Notice of Abandonment was mailed on September 4, 2009.

On September 10, 2009, the subject petition was filed, accompanied by an amendment in reply to the last Office action.

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[2] The five (5)-month extension request filed on September 10, 2009, was submitted more than five (5) months after the end of the period for reply to the Notice of Non-Compliant Amendment mailed on February 23, 2009, and therefore is unnecessary. The extension of time fee paid on September 10, 2009, will be refunded to counsel.

The application is being referred to Technology Center Art Unit 1624 for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[2] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

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3-12-09

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Patent No. : 7,486,182 B2
Ser. No. : 10/545,212
Inventor(s) : Ulrich Hahn, et. al.
Issued : February 3, 2009
Title : ELECTRONIC INTERMEDIATE MODULE
Docket No. : 56/44

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
40l Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 125

John C. Freeman
Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, Illinois 60610

ej