13 NOV 2006

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

In re Application of	:	
VENNERI		
Application No.: 10/545,229	:	DECISION
PCT No.: PCT/EP2004/001307	:	
Int. Filing Date: 12 February 2004	:	
Priority Date: 14 February 2003	:	
Attorney Docket No.: 02491.0037	:	
For: MILK COMPONENT-BASED SWEET	:	
COMPRISING DEFINED EDIBLE FAT	:	
AGGLOMERATES, AND METHOD AND DEVICE	:	
FOR THE PRODUCTION THEREOF	:	

This decision is in response to applicants' "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181" filed in the United States Patent and Trademark Office (USPTO) on 24 August 2006. No petition fee is required.

BACKGROUND

On 12 February 2004, applicants filed international application PCT/EP2004/001307, which designated the United States and claimed a priority date of 14 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. The thirty-month period for paying the basic national fee in the United States expired at midnight on 15 August 2005 (14 August 2005 being a Sunday).

On 12 August 2005, applicants filed, *inter alia*, a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 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 in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h). The Notification set a two-month extendable period for reply.

On 07 August 2006, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DE/EO/909) indicating that the application was abandoned as to the United States of

America for failure to reply to the NOTIFICATION OF MISSING REQUIREMENTS mailed 27 December 2005.

On 24 August 2006, applicants filed the instant "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181". The petition was accompanied by, *inter alia*, a copy of a declaration of inventors.

DISCUSSION

Applicant has provided sufficient evidence to establish that on 10 February 2006 applicant filed a declaration of the inventor. The proof is in the form of the copy of the receipt for the above-identified application which bears a USPTO date stamp of 10 February 2006 and which itemizes a "Declaration of the inventor" and identifies the above-captioned application number, docket number, and applicant. Further, practitioner states that the copy of the declaration filed 24 August 2006 is a copy of the declaration originally filed 10 February 2006. Therefore, in view of the date-stamped receipt and practitioner's statement, the declaration received on 24 August 2006 may properly be accepted as originally received in the USPTO on 10 February 2006. The NOTIFICATION OF ABANDONMENT mailed 07 August 2006 is hereby vacated.

The declaration filed 10 February 2006 is 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.

The NOTIFICATION OF MISSING ABANDONMENT mailed 07 August 2006 is **VACATED**.

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

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

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LLP
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WASHINGTON DC 20001-4413

MAILED

JUL 14 2009

OFFICE OF PETITIONS

Applicant: Vennari
Appl. No.: 10/545,229
International Filing Date: February 12, 2004
Title: MILK COMPONENT-BASED SWEET COMPRISING DEFINED EDIBLE FAT AGGLOMERATES, AND METHOD AND DEVICE FOR THE PRODUCTION THEREOF
Attorney Docket No.: 02491.0037
Pub. No.: US 2008/0299280 A1
Pub. Date: December 4, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on February 4, 2009, for the above-identified application. Applicant requests that the application be republished because the patent application publication contains material errors in several paragraphs of the specification.

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

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11 OCT 2006

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

In re Application of	:	
NISHIKAWA et al.	:	
Application No.: 10/545,239	:	DECISION
PCT No.: PCT/JP2004/001602	:	
Int. Filing Date: 13 February 2004	:	
Priority Date: 18 February 2003	:	
Attorney Docket No.: 0033-1016PUS1	:	
For: METHOD FOR EVALUATING PERFORMANCE OF GAS DEACTIVATING ANTIGENIC SUBSTANCE AND APPARATUS FOR GENERATING PROCESSED ANTIGENIC SUBSTANCE USED AS EVALUATION SAMPLE OF THE EVALUATING METHOD	:	

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 27 July 2006 in the United States Patent and Trademark Office (USPTO). The petition is **DISMISSED** without prejudice.

BACKGROUND

On 13 February 2004, applicants filed international application PCT/JP2004/001602, which designated the United States and claimed a priority date of 18 February 2003. A copy of the international application was communicated from the International Bureau to the USPTO on 02 September 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 18 August 2005.

On 12 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, 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, and an English translation of the international application.

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 27 July 2006, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, a declaration in support of the 37 CFR 1.47(a) petition by Nobuo Shimizu, copies of e-mails sent to non-signing inventor Hideo Nojima, a copy of a letter sent to Hideo Nojima, and a printout from the internet indicating an address for Hideo Nojima.

DISCUSSION

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

Items (1), (3), and (4) have been met.

Item (2) has not been met. As noted in MPEP § 409.03(d), the statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Here, it does not appear that Nobuo Shimizu has firsthand knowledge of the facts recited in the declaration by him. It appears that the e-mails referred to were sent by a Manuro Morikawa. It is not clear who the letter was sent by since no translation was provided. Statements based on hearsay will not normally be accepted. Additionally, it is not clear whether it is being alleged that Mr. Nojima refuses to execute the application or that he cannot be reached after diligent effort. The two are distinct. *See, e.g.,* MPEP 409.03(d), item I. "Inventor Cannot Be Reached" and item II. "Refusal to Join." E-mail communications were purportedly sent to Mr. Nojima on 01 August 2005, 31 August 2005, 16 September 2005, and 14 December 2005. A letter was also purportedly sent to him on 27 December 2005 at the address at Stanford University obtained from the internet. However, it is not clear if Mr. Nojima received these e-mails and/or letter and did not respond or if he did not receive any of the e-mails or the letter and his whereabouts are unknown. The letter does not appear to have been sent by any means which confirms delivery or obtains a signature for the package. If it is being alleged that Mr. Nojima refuses to sign, the inventor must be presented with a complete copy of the application papers (specification, including claims, drawing, and oath or declaration) for a refusal to be established. Thus, if Mr. Nojima resides at the last known address, a complete copy of the application papers would still need to be presented to him. If it is being alleged that the inventor cannot be reached or found, copies of documentary evidence such as *internet searches*, certified mail return receipts, cover letters of instructions, and telegrams, that support a finding that the non-signing inventor could not be found or reached should be made part of the affidavit or declaration. See MPEP § 409.03, item I. It is noted that the information from the internet regarding Stanford University includes a telephone number. It is suggested that applicants call this number to see if Mr. Nojima can still be found at that address. If he does not, an attempt must be made to find his new address.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

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

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

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
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Facsimile: (571) 273-0459

10 MAY 2007

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FALLS CHURCH VA 22040-0747

In re Application of	:	
NISHIKAWA et al.	:	
Application No.: 10/545,239	:	DECISION
PCT No.: PCT/JP2004/001602	:	
Int. Filing Date: 13 February 2004	:	
Priority Date: 18 February 2003	:	
Attorney Docket No.: 0033-1016PUS1	:	
For: METHOD FOR EVALUATING PERFORMANCE OF GAS DEACTIVATING ANTIGENIC SUBSTANCE AND APPARATUS FOR GENERATING PROCESSED ANTIGENIC SUBSTANCE USED AS EVALUATION SAMPLE OF THE EVALUATING METHOD	:	

This is a decision on applicants' "PETITION TO WITHDRAW ABANDONMENT SINCE REPLY WAS TIMELY FILED" filed 10 April 2007, which has properly been treated as a petition under 37 CFR 1.181. The petition is **GRANTED**.

This is also a decision on applicants' renewed petition under 37 CFR 1.47(a) filed 10 April 2007 in the United States Patent and Trademark Office (USPTO). The petition is **DISMISSED** as **MOOT**.

BACKGROUND

On 13 February 2004, applicants filed international application PCT/JP2004/001602, which designated the United States and claimed a priority date of 18 February 2003. A copy of the international application was communicated from the International Bureau to the USPTO on 02 September 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 18 August 2005.

On 12 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, 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, and an English translation of the international application.

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 27 July 2006, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, a declaration in support of the 37 CFR 1.47(a) petition by Nobuo Shimizu, copies of e-mails sent to non-signing inventor Hideo Nojima, a copy of a letter sent to Hideo Nojima, and a printout from the internet indicating an address for Hideo Nojima.

On 11 October 2006, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a) without prejudice because factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort had not been provided.

On 20 February 2007, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT indicating that the application was abandoned as to the United States of America for failure to respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 27 December 2005.

On 10 April 2007, applicants filed the instant "PETITION TO WITHDRAW ABANDONMENT SINCE REPLY WAS TIMELY FILED," which has properly been treated as a petition under 37 CFR 1.181, and the instant renewed petition under 37 CFR 1.47(a). The submission was accompanied by, *inter alia*, a petition/fee for a four month extension of time and a declaration of inventors.

DISCUSSION

Petition Under 37 CFR 1.181

The NOTIFICATION OF ABANDONMENT mailed 20 February 2007 was mailed in error. As set forth above, a response to the NOTIFICATION OF MISSING REQUIREMENTS mailed 27 December 2005 was submitted on 27 July 2006. The decision mailed 11 October 2006 set a new two month extendable time period. The submission filed 10 April 2007 was timely submitted. Accordingly, the NOTIFICATION OF ABANDONMENT mailed 20 February 2007 is hereby VACATED.

Petition Under 37 CFR 1.47(a)

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 10 April 2007 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

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

For the reasons set forth above, the NOTIFICATION OF ABANDONMENT mailed 20 February 2007 is VACATED.

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

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

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23 JUL 2008

DON W. BULSON
RENNER, OTTO, BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE, 19TH FLOOR
CLEVELAND, OH 44115

In re Application of CHOY :
U.S. Application No.: 10/545,288 :
PCT Application No.: PCT/GB2004/000553 :
Int. Filing Date: 11 February 2004 : DECISION
Priority Date Claimed: 11 February 2003 :
Attorney Docket No.: FRYHP0134US :
For: FABRICATION METHOD AND :
APPARATUS :

This is in response to applicant's "Request for Reinstatement of Application" filed 11 July 2008, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 11 February 2004, applicant filed international application PCT/GB2004/000553, which claimed priority of an earlier United Kingdom application filed 11 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 11 August 2005.

On 11 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 15 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 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 11 July 2008, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

A review of the application file reveals that the Notification of Missing Requirements was sent to an incorrect address.

CONCLUSION

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

The Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 15 March 2006 is hereby VACATED.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 27 December 2006 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 mailing of the Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) to the correspondence address of record.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

28 SEP 2006

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Smith Patent Office
1901 Pennsylvania Ave., N.W.
Suite 901
Washington, DC 20006-3433

In re Application of: MIYAKE, et al.	:	
Application No.: 10/545,301	:	
PCT Application No.: PCT/JP2004/001567	:	DECISION ON REQUEST
Int. Filing Date: 13 February 2004	:	FOR REFUND
Priority Date Claimed: 14 February 2003	:	
Attorney Docket No.: 0070/019001	:	
For: Button Making Device, Button, and Method of Mounting Pressing Mold in Button Making Device	:	

This decision is issued in response to applicant's Request for Refund dated 11 July 2006. The request is **GRANTED**.

The request for refund states that applicant was incorrectly charged $310.00 as multiple dependent claim fee, and that applicant requests a credit of $310.00 back to the Deposit Account No. 19-2586. A review of the finance record reveals that Deposit Account No. 19-2586 was charged $310 in excess claims fee (multiple dependent surcharge) and in addition, applicant's credit card was charged $50.00 for the same reason. A review of the application file shows that a preliminary amendment, which deleted the multiple dependent claims was filed concurrently with the application filed on 11 August 2005. Therefore, applicant is entitled to a refund of the excess claims fee (multiple dependent surcharge) paid in this application.

The United States Designated/Elected Office (DO/EO/US) will apply a credit in the amount of **$310.00** to Deposit Account No. 19-2586, and a credit in the amount of **$50.00** to applicant's credit card.

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

Peter B. Kim
PCT Legal Administration Detailee
Telephone: 571-272-6095
Facsimile: 571-273-0459

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

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MCCARTER & ENGLISH, LLP NEWARK
FOUR GATEWAY CENTER
100 MULBERRY STREET
NEWARK, NJ 07102

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OFFICE OF PETITIONS

In re Application of

Robert **MCKITTRICK**
Application No. 10/545,302
Filed: June 19, 2006
Attorney Docket No. **99809-00004**

DECISION ON PETITION TO WITHDRAW FROM RECORD UNDER 37 CFR 1.36(b)

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 18, 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 Michael R. Friscia 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 Robert McKittrick at the 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: **ROBERT MCKITTRICK**
194 WATERMAN LAKE DRIVE
GLOCESTER, RI 02814

#3

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25 NOV 2005

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Ross J. Christie
Bachman & LaPointe, P.C.
900 Chapel Street, Suite 1201
New Haven, CT 06510

In re Application of	
OH, et al.	
Application No.: 10/545,333	
PCT No.: PCT/US03/03324	DECISION ON PETITION
Int. Filing Date: 03 February 2003	
Priority Date: 03 February 2003	UNDER 37 CFR 1.137(b)
Atty. Docket No.: 03-113	
For: PASSIVE ULTRASONIC RFID ELEVATOR POSITIONING REFERENCE SYSTEM	

The petition to revive under 37 CFR 1.137(b) filed 10 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" 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.

In addition, a review of the application file finds that applicant submitted an executed declaration of the inventors on 26 October 2005. Therefore all of the 35 U.S.C. 371 requirements have been met. The application has an international filing date of 03 February 2003 under 35 U.S.C. 363 and will be given a date of **26 October 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

Derek A. Putonen
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Office of PCT Legal Administration
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OFFICE OF PETITIONS

In re Application of :
Bros et al. :
Application No. 10/545,335 : ON PETITION
Filed: August 11, 2005 :
Attorney Docket No. 1567P580 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 13, 2007, which will be treated as a petition to withdraw of the holding of abandonment in the above-identified application.

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

The above-identified application was held abandoned for failure to timely and properly reply to the final Office action mailed December 22, 2006, which set a shortened statutory period for reply of three (3) months. A reply was due on or before March 22, 2007.

Petitioner states "that the cause of the abandonment was due to an inadvertent mistake during electronic filing. In particular, the RCE document was not included in the filing nor the fee." However, petitioner contends that the June 20, 2007 amendment "that was submitted did include the RCE mail stop," along with the proper authorization to charge the requisite fee to their deposit account.

A review of the above-mentioned amendment shows that the RCE mail stop was listed in the address block and the deposit account authorization was also present.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status. The petition to revive under 37 CFR 1.137(b) is hereby dismissed as moot.

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee. Petitioner submitted a separate Request for Refund on September 19, 2007, asking for the petition fee to be reimbursed. On November 9, 2007, the $1500.00 fee was refunded. Any questions regarding this refund should be directed to the Office of Finance.

This matter is being referred to Technology Center AU 3677 for processing of the Request for Continued Examination under 37 CFR 1.114 filed on June 20, 2007 and resubmitted with the instant petition.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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Gibson & Dernier, LLP
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Suite 504
Woodbridge, NJ 07095

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OFFICE OF PETITIONS

In re Application of :
Xiaorong Li :
Application No. 10/545,369 : DECISION ON PETITION
Filed: August 12, 2005 : TO WITHDRAW
Attorney Docket No. 565/3 : 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 2, 2009.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Gibson & Dernier, LLP has been revoked by the assignee of the patent application on November 9, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Kaplan Gilman & Pergament, LLP
1480 Route 9 North
Woodbridge, NJ 07095

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08 DEC 2007

30593
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of :
FINGLER *et al* :
U.S. Application No.: 10/545,375 :
PCT No.: PCT/CA04/09176 :
Int. Filing Date: 12 February 2004 : **DECISION**
Priority Date: 12 February 2003 :
Attorney Docket No.: 5101-000004/US :
For: FIBER-OPTIC PREMISES WIRING SYSTEM :

This decision is in response to applicants' petition Under 37 CFR 1.47(a) filed with the United States Designated/Elected Office (DO/EO/US) on 28 August 2006.

BACKGROUND

On 26 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 under 37 CFR 1.136(a).

On 04 August 2006, the DO/EO/US mailed Notification of Abandonment (Form PCT/DO/EO/909) for failing to timely respond to the Form PCT/DO/EO/905.

On 28 August 2006, applicants filed the subject petition which was accompanied by, *inter alia*, a five-month extension and fee; a $130.00 petition fee; a declaration signed by two of the three named inventors; a statement of facts signed by David A. Ruston; and documentary evidence listed as exhibits A-H.

On 13 September 2006, the DO/EO/US mailed a Withdrawal of Previously Sent Notice vacating the Form PCT/DO/EO/909 mailed 04 August 2006. A Notification of Acceptance of Application Under 35 U.S.C. 371 and 1.495 (Form PCT/DO/EO/903) and a filing receipt were also mailed indicating a filing or 371(c) date of 28 August 2006.

On 18 October 2006, a request for a corrected filing receipt was mailed.

DISCUSSION

A review of the subject application shows that the Form PCT/DO/EO/909 sent 04

August 2006 was properly vacated. There was still time remaining to respond to the Form PCT/DO/EO/905 mailed 26 January 2006. Petitioners did respond on 28 August 2006 with a declaration signed by two of the inventors, a petition under 37 CFR 1.47(a) and a five-month extension of time. However, the DO/EO/US erroneously mailed a Form PCT/DO/EO/903 and filing receipt on 13 September 2006 prior to the granting of applicants' petition under 37 CFR 1.47(a).

Therefore, the Form PCT/DO/EO/903 and filing receipt mailed 13 September 2006 are hereby **VACATED**. Applicants' request for a corrected filing receipt will not be addressed.

Petition Under 37 CFR 1.47(a)

In the papers filed 28 August 2006, applicants claim that co-inventor, Iain Galloway refuses to cooperate and filed a petition under 37 CFR 1.47(a). The elements needed for a grantable petition under 37 CFR 1.47(a) are: (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.

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. The $70.00 difference has been charged to Deposit Account No. 08-0750 as authorized.

Regarding item (2), the 37 CFR 1.47(a) applicants included a statement of facts signed by David A. Ruston on the steps taken to obtain the signature of Mr. Galloway. These steps include sending letters to Mr. Galloway on 07 September 2005, 16 March 2006 and 20 April 2006 requesting the nonsigning inventor's signature on a declaration for the subject application. An email was then sent to Mr. Galloway on 04 May 2006. Mr. Galloway responded to the email on 05 May 2006 with questions of payment for current invoices. Regardless, there was no evidence (as of this time) that a complete copy of the subject application was also provided to the nonsigning inventor.

On 13 August 2006, Mr. Ruston sent another email to Mr. Galloway requesting cooperation in the subject application. This email did include a copy of the above-captioned patent application. Mr. Galloway responded on 15 August 2006 with a written confirmation of his refusal to sign the documents. All relevant documentary evidence was provided in the petition.

This evidence is sufficient to meet the requirements outlined in section 409.03(d) of the MPEP to show that an inventor refuses to cooperate. As such, item (2) of 37 CFR 1.47(a) is satisfied.

The last known address of Mr. Iain Galloway is listed as:

24 Humphrey Drive
Stratford, Prince Edward Island
Canada C1B 1K2

Regarding item (4), the 37 CFR 1.47(a) applicant submitted declaration signed by two of the three joint inventors on behalf of the nonsigning joint inventor. The residence, citizenship and mailing information for all inventors are listed. However, the declaration contains noninitialed alterations on the information for the third inventor.

The Office does not consider whether noninitialed alterations were made before or after signing of the declaration but requires a new oath or declaration. *See* MPEP § 605.04(a). As such, item (4) of 37 CFR 1.47(a) is not yet complete.

CONCLUSION

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

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

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

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25 APR 2007

30593
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of :
FINGLER *et al* :
U.S. Application No.: 10/545,375 :
PCT No.: PCT/CA04/09176 :
Int. Filing Date: 12 February 2004 : **DECISION**
Priority Date: 12 February 2003 :
Attorney Docket No.: 5101-000004/US :
For: FIBER-OPTIC PREMISES WIRING SYSTEM :

This decision is in response to applicants' renewed petition under 37 CFR 1.47(a) filed 12 March 2007.

BACKGROUND

On 08 January 2007, a decision dismissing applicants' 37 CFR 1.47(a) petition was mailed. Applicants were given two months to respond.

On 12 March 2007, applicants filed a renewed petition which contained a declaration executed by two of the three named inventors.

DISCUSSION

As noted in the original decision, applicants' petition under 37 CFR 1.47(a) was dismissed for failing to provide an acceptable declaration. The declaration contained a non-initialed alteration. In response, the 37 CFR 1.47(a) applicants submitted another declaration executed by two of the three named inventors. This declaration meets the requirements of section 409.03(a) of the MPEP and is in compliance with 37 CFR 1.497(a) and (b).

Accordingly, all the requirements of 37 CFR 1.47(a) are now complete.

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 12 February 2004 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 08 January 2007.

10/545,375

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.

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Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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24 NOV 2006

Vinson & Elkins
First City Tower
1001 Fannin Street
Suite 2300
Houston

In re Application of	:	DECISION ON
Allen et al	:	
Application No.: 10/545,381	:	
PCT No.: PCT/GB2004/000534	:	
Int. Filing Date: 12 February 2004	:	PETITION UNDER
Priority Date: 13 February 2003	:	
Attorney Docket No.: NAN525/400145	:	
For: TISSUE REGENERATION	:	37 CFR 1.10(c)

This decision is in response to the "PETITION UNDER 37 CFR 1.10(c) TO CORRECT FILING DATE" filed 16 October 2006, requesting that the correct date of filing date under 371(c) be changed from 02 November 2005 to 12 August 2005.

BACKGROUND

On 12 August 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 as required by 35 U.S.C. 371(c)(2). However, an executed declaration was not submitted at such time.

On 02 November 2005, applicants filed a second transmittal letter, which was accompanied by, inter alia, an executed declaration.

On 25 May 2006, the USPTO mailed a "NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 C.F.R. 1.495 (Form PCT/DO/EO/903)," indicating that date of receipt of 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) requirements is 02 November 2005, and a date of completion of all 35 USC 371 requirements is 02 November 2005.

On 16 October 2006, applicants filed the current petition pursuant 37 CFR 1.10(c) requesting a corrected filing receipt, stating that the correct filing date under 35 USC 371 is 12 August 2005, and not what is shown in the filing receipt as 02 November 2005.

DISCUSSION

The filing receipt correctly indicates that the National Stage papers were received on 12 August 2005. It indicates, *inter alia*, that a copy of the international application, a copy of the international search report, and U.S. basic national fee were received on 12 August 2005.

However, the date that applicants competed the requirements under section (c) of 35 USC 371 is 02 November 2005, which is the date that an executed declaration was filed with the Office, and it is the date that the applicable sections of 35 USC 371 were met.

Accordingly, the date of receipt of 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) requirements is 15 April 2005, and a date of completion of all 35 USC 371 requirements is 02 November 2005, which the date that a proper executed declaration was filed in the application.

Thus, the filing receipt shows the correct date, which is 02 November 2005.

DECISION

The petition under 37 CFR 1.10(c) is **DISMISSED**.

If reconsideration of the merits of the petition under 37 CFR 1.181 is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." Extensions of time are available under 37 CFR 1.136(a).

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

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PCT Legal Examiner
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0 8 MAY 2007

Douglas D. Russell
TAYLOR RUSSELL & RUSSELL
4807 Spicewood Springs Rd.
#2-250
Austin, TX 78759

In re Application of :
LLOYD, Anne Helen :
U.S. Application No.: 10/545,385 :
PCT No.: PCT/GB04/00555 :
Int. Filing Date: 13 February 2004 : **DECISION**
Priority Date: 13 February 2003 :
Docket No.: 800804 :
For: DEVICE FOR USE IN FLOWER ARRANGING :

This decision is in response to the "Petition Under 37 CFR 1.181(a)(3), MPEP Section 1002.02(b)(3) and 37 CFR 1.8(b)" filed on 07 March 2007. No fee is required.

BACKGROUND

On 09 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 that a declaration in compliance with 37 CFR 1.497(a) and (b) and a $65.00 surcharge fee must be provided. A two-month time period for response was set with extensions of time available pursuant to 37 CFR 1.136(a).

On 07 March 2006, applicant purportedly filed via facsimile a reply to the Form PCT/DO/EO/905 which was accompanied by, *inter alia*, an executed declaration and authorization to charge the required fees to a credit card.

On 07 March 2007, applicant filed the subject petition which was accompanied by, *inter alia*, copies of the documents purportedly filed via facsimile on 07 March 2006 and a copy of an "Auto-Reply Facsimile Transmission" dated 07 March 2006.

DISCUSSION

Applicant claims that a response to the Form PCT/DO/EO/905 was filed via facsimile on 07 March 2006. This response included an executed declaration and authorization to charge the required surcharge fee to a credit card. However, these papers were not located in the file. Moreover, USPTO financial records for the above-captioned application show that the surcharge fee has not been charged.

37 CFR 1.8 *Certificate of mailing or transmission*, states in part:

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit 's report confirming transmission may be used to support this statement.

In the subject petition, applicant has provided a copy of the documents purportedly filed 07 March 2006. Applicant included an "Auto-Reply Facsimile Transmission" from the USPTO. The statements in the petition are sufficient to satisfy item (3) of 37 CFR 1.8(b). A review of the evidence shows that the USPTO received a facsimile on 07 March 2006. The cover page of the facsimile was titled "Certification of Transmission" and lists the proper U.S. application number, title and applicant. The document certifies that a "Declaration of Inventor" and "Credit Card Payment Form" were among the papers received.

This evidence meets the requirements of 37 CFR 1.8(b) and is sufficient for a grantable petition.

CONCLUSION

Applicant's petition under 37 CFR 1.8(b) is **GRANTED**.

The declaration originally filed 07 March 2006 is in compliance with 37 CFR 1.497(a) and (b). The surcharge fee of $65.00 has been paid.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 13 February 2004, under 35

U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 07 March 2006.

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

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JAN 0 3 2008

OFFICE OF PETITIONS

In re Patent No. 7,233,872	:	
Issue Date: June 19, 2007	:	
Application No. 10/545,388	:	ON PETITION
Filed: August 12, 005	:	
Patentee(s): Ryosuke Shibasaki, et. al.	:	

This is a decision on the request under 37 CFR 3.81[1], filed June 4, 2007, to add the name of the second assignee on the front page of the above-identified patent by way of a Certificate of Correction.

Since the request is found to be in compliance with 37 CFR 3.81(b), the request is **GRANTED**.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

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

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10 SEP 2007

HAYNES & BOONE, LLP
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Dallas, Texas 75212-3789

In re Application of:
JOHANSSON, et al.
Application No.: 10/545,391
PCT No.: PCT/EP2004/000415
Int. Filing Date: 15 January 2004
Priority Date: 14 February 2003
Attorney Docket No.: 35365.2
For: AUTOMATED SAMPLE ANALYZER AND CUVETTE

DECISION ON REFUND REQUEST

This decision is issued in response to applicants' "Petition For Review Of A Decision By PCT Legal Administration Denying A Refund Request" filed 12 March 2007. No petition fee is required.

BACKGROUND

On 15 January 2004, applicants filed international application PCT/EP2004/000415. The international application claimed a priority date of 14 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 filing the basic national fee was thirty months from the priority date, i.e., 14 August 2005.

The claims, as set forth in the published international application, included 27 chargeable claims and at least one multiple dependent claim.

On 12 August 2005, applicants filed a transmittal letter for entry into the national stage accompanied by, among other materials, payment of the basic national fee, an authorization to charge Deposit Account No. 08-1394 for all required fees, and a substitute specification containing only 21 chargeable claims (with no multiple dependent claims).

On 08 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 oath or declaration of the inventors in compliance with 37 CFR 1.497 and an additional $660 in claims fee was required. The Notification specified that the claims fees included $300 for 7 total claims over 20[1] and $360 for inclusion of a multiple dependent claim.

[1] The fee for each claim over 20 is $50; the fee required for 7 claims over 20 here was $300, rather than $350, because applicants had included a $50 payment for one fee over twenty with its original filing.

On 09 May 2006, applicants filed a response to the Notification Of Missing Requirements that included an executed declaration and the authorization to charge Deposit Account No. 08-1394 for any required fees. However, the response argued that the $660 in fees required by the Notification Of Missing Requirements was unnecessary based on the purported amendment of the claims contained in the substitute specification filed with the original national stage papers.

The DO/EO/US subsequently charged Deposit Account No. 08-1394 the required claims fees of $660 and issued a Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt identifying the date under 35 U.S.C. 371(c) as 09 May 2006.

On 03 January 2007, applicants filed a "Request for Refund" seeking a refund of the $660 in claims fees charged. The request was based on the assertion that the substitute specification filed with the national stage papers had amended the claims in a manner that eliminated the need for the additional claims fees.

On 28 February 2007, the USPTO issued a communication that denied applicants' refund request.

On 12 March 2007, applicants filed the "Petition For Review Of A Decision By PCT Legal Administration Denying A Refund Request" considered herein. The petition requests reconsideration of applicants' refund request, again arguing that the $660 in additional claims fees charged were inappropriate based on the filing of the substitute specification.

DISCUSSION

The present petition asserts that the 21 claims contained in the substitute specification filed 12 August 2005 are the proper basis for determining the fees due herein. This is only correct if the substitute specification is accompanied by an effective amendment of the claims; otherwise, the 27 chargeable claims (including multiple dependent claims) contained in the international application remain of record and are the proper basis for determining the fees. See MPEP § 1893.01(c):

> A preliminary amendment accompanying the initial national stage submission under 35 U.SC. 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.

In the present case, applicants did not include with the original national stage submission an effective amendment of the claims, as required to reduce the claims fees required, nor did applicants submit such an amendment in response to the Notification Of Missing Requirements mailed 08 March 2006.

The purported substitute specification included with the original national stage submission on 12 August 2005 is not effective to amend the claims in the application because, absent a specific request from the Office, the claims in an application cannot be amended by use of a substitute specification. See 37 CFR 1.121(b)(3): "The specification, **other than the claims**, may also be amended by submitting ... a substitute specification in compliance with §§ 1.125(b) and (c)" (emphasis added).

37 CFR 1.121(c) sets forth the requirements for effectively amending claims and, upon review, it is clear that the pages of claims included with the substitute specification do not comply with these requirements. These pages simply set forth a new set of 21 claims. Applicants did not reference the claims of record, indicate the specific changes made, or identify which claims were original, amended, or cancelled, all of which is required for a proper amendment of the claims pursuant to 37 CFR 1.121(c). Thus, the revised claims contained in the substitute specification filed 12 September 2005 do not constitute an effective amendment of the claims of record herein.

Applicants argue that the USPTO was required to notify applicants that the substitute specification had not been entered and that applicants have been penalized by a USPTO error in "failing to properly and timely notify Applicants of the non-entry of the substitute specification." However, as discussed above, the filing of a substitute specification, whether eventually entered or not (such determination will be made by the examiner in due course) is not a proper mechanism for amending the claims in a national stage application so as to reduce the claims fees due.

Moreover, the USPTO provided applicants with an additional opportunity to properly amend the claims (and thereby reduce the claims fees due) by requiring payment of the additional claims fees in the Notification Of Missing Requirements mailed 08 March 2006 (the Office could have simply charged applicants the additional claims fees based on the claims of record and the authorization to charge contained in applicants' 12 August 2005 submission). However, applicants did not take advantage of this opportunity to properly amend the claims, again relying on the substitute specification rather than filing a proper preliminary amendment of the claims in compliance with 37 CFR 1.121(c).

Based on the above, the fees due in this national stage application are properly calculated based on the 27 chargeable claims of record (including multiple dependent claims) included in the international application. The $660 in additional fees charged to applicants are proper, based on these claims (and applicants' previous $50 payment). The request for a refund of these fees is therefore appropriately dismissed.

CONCLUSION

The request for a refund of the additional $660 fee for additional claims over twenty and for inclusion of a multiple dependent claim is **DISMISSED** without prejudice.

Any request for reconsideration on the merits of this decision must be filed within **TWO (2) MONTHS** from the mailing date of this decision, indicated above.

Any such request should include a cover sheet entitled "Renewed Petition For Refund Under 37 CFR 1.26" and must include a proper showing that the claims herein were effectively amended by applicants prior to the USPTO's charging of all required fees.

Any further correspondence with respect to this matter should be addressed 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
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14 AUG 2009

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In re Application of:
JOHANSSON, et al.
U.S. Application No.: 10/545,391
PCT No.: PCT/EP2004/000415
International Filing Date: 15 January 2004
Priority Date: 14 February 2003
Atty Docket No.: 35365.2
For: AUTOMATED SAMPLE ANALYZER AND CUVETTE

DECISION ON PETITION

This decision is issued in response to the "Second Petition For Review Of A Decision By PCT Legal Administration Denying A Refund Request" filed 09 November 2007. No petition fee is required.

BACKGROUND

On 15 January 2004, applicants filed international application PCT/EP2004/000415. The international application claimed a priority date of 14 February 2003, and it designated the United States. On 26 August 2004, a copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) by the International Bureau (IB). The deadline for submission of the basic national fee was thirty months from the international filing date, i.e., 14 August 2005.

The claims, as set forth in the published international application, included 21 numbered claims, including at least one multiple dependent claim.[1] The claims were not amended during the international phase.

On 12 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, an authorization to charge Deposit Account No. 08-1394 for all required fees and a substitute specification containing a revised set of 21 claims (with no multiple dependent claims). The submission did not, however, include a preliminary amendment of the claims in compliance with 37 CFR 1.121(c).

[1] Because of the inclusion of multiple dependent claims, this claim set contains a total of 27 claims, for purposes of U.S. fee calculation.

On 08 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 oath or declaration in compliance with 37 CFR 1.497 and an additional $660 in claims fees were required. The Notification specified that the additional claims fees included $300 for 7 total claims over 20 (applicant had already paid $50 for one additional claim) and $360 for inclusion of a multiple dependent claim.

On 09 May 2006, applicants filed a response to the Notification Of Missing Requirements that included an executed declaration and the authorization to charge Deposit Account No. 08-1394 for any required fees. However, the response argued that the $660 in additional claims fees were not necessary, based on applicants' purported replacement of the claims of record with the revised set of claims listed in the substitute specification. The response did not include a preliminary amendment directed to the claims of record in compliance with 37 CFR 1.121(c).

Subsequently, the DO/EO/US charged Deposit Account No. 08-1394 the required claims fees of $660 (as required to avoid abandonment of the application for failure to file a proper response to the Notification Of Missing Requirements), and mailed a "Notification Of Accceptance" (Form PCT/DO/EO/903) identifying the date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) as 09 May 2006.

On 03 January 2007, applicants filed a "Request For Refund" seeking a refund of the $660 in additional claims fees charged to applicants' Deposit Account. The refund request was based on the assertion that the substitute specification filed with the national stage papers had effectively amended the claims in a manner that eliminated the need for the additional fees.

On 28 February 2007, the National Stage Processing Branch of the Office of PCT Operations issued a brief communication denying applicants' refund request. The communication indicated that the substitute specification was inapplicable absent a preliminary amendment.

On 12 March 2007, applicants filed a "Petition For Review Of A Decision By PCT Legal Administration Denying A Refund Request." This petition requested review of the previous Office communication that had denied applicants' refund request. The petition again argued that the $660 in additional claims fees were unnecessary based on applicants inclusion of a revised set of claims in the substitute specification filed 12 August 2005.

On 10 September 2007, the Office of PCT Legal Administration mailed a decision dismissing without prejudice applicants' refund request. The decision indicated that the claims fees were properly calculated based on the claims of record herein and that, based on applicants' failure to file a preliminary amendment in compliance with 37 CFR 1.121, the revised set of claims filed 12 August 2005 were not of record and therefore could not properly serve as the basis for calculating the appropriate fees due.

On 09 November 2007, applicants filed the "Second Petition For Review Of A Decision By PCT Legal Administration Denying A Refund Request" petition considered herein. The

petition again argues that the additional claims fees charged herein should be refunded, based on the filing of the revised set of claims. The petition also requests review of the previous decision "OUTSIDE the Office of PCT Legal Administration."

DISCUSSION

1. Request for Review Outside Office of PCT Legal Administration

As discussed above, the present petition involves a request for a refund of the fees charged with respect to the present U.S. national stage application filed under 35 U.S.C. 371. MPEP section 1002.02(p)(4) expressly states that petitions requesting a refund of fees in a U.S. national stage application are decided by the PCT Legal Administrator. Thus, the present petition is properly decided by the Office of PCT Legal Administration. Applicants' request that the present petition be decided by an authority within the USPTO other than the Office of PCT Legal Administration is appropriately dismissed. However, based on applicants' request, the present petition has been granted supervisory review within the Office of PCT Legal Administration by the undersigned Supervisory Legal Examiner.

2. Refund Request

As discussed in the previous decision, the claims of record in a U.S. national stage application filed under 35 U.S.C. 371 are the claims contained in the international application, unless the claims are properly amended during the international phase under PCT Article 19 or PCT Article 34 or pursuant to a preliminary amendment in compliance with 37 CFR 1.121 (see MPEP section 1893.01(a)-(c)). As expressly set forth in MPEP section 1893.01(c):

> A preliminary amendment accompanying the initial national stage submission under 35 U.S.C. 371 that is effective to cancel claims and/or eliminate 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.

In the present case, the claims were not amended during the international phase. Thus, the claims of record for the national stage application are the 21 numbered claims set forth in the published international application, subject to any "preliminary amendment accompanying the initial national stage submission under 35 U.S.C. 371 that is effective to cancel claims and /or eliminate multiple dependent claims."

The materials filed by applicants to initiate the present national stage application did not include the preliminary amendment required to effectively reduce the number of claims. Applicants' initial submission did include a purported substitute specification that contained a revised set of 21 claims with the national stage materials filed 12 August 2005; however, as discussed in the previous decision, this revised set of claims does not satisfy the requirements for

an effective amendment of claims under 37 CFR 1.121(c).[2] The submission of this revised set of claims as part of a purported substitute specification, with no accompanying preliminary amendment directed to the claims, is not effective to cancel or reduce the number of claims herein because, absent a specific request from the USPTO, the claims cannot be amended by the submission of a substitute specification. See 37 CFR 1.121(b)(3) (emphasis added): "The specification, **other than the claims**, may also be amended by submitting ... a substitute specification in compliance with §§ 1.125(b) and (c)."

Based on the above, the materials filed by applicants with the original national stage application materials on 12 August 2005 did not include an effective amendment of the claims. Thus, pursuant to the procedures described in section 1893.01(c) of the MPEP, applicants were properly charged the claims fees applicable to the claims of record herein, that is, the claims as set forth in the published international application. [3]

Applicants have alleged that the substitute specification has not been entered and argue that the USPTO is somehow barred from charging applicants the appropriate claims fees without first informing applicants that the substitute specification was not entered. However, the entry of a substitute specification is determined by the patent examiner in the Technology Center. Moreover, as pointed out above, a substitute specification cannot contain amended claims (amendments to the claims are governed by 37 CFR 1.121, while substitute specifications are governed by 37 CFR 1.125). As set forth above, the procedure for reducing the number of claims considered in determining the applicable claims fees is clearly set forth in MPEP section 1893.01(c) and has no relation to whether an applicant has filed a substitute specification or whether applicant has been informed of the status of such substitute specification. This is appropriate because the submission of a substitute specification without a separate preliminary amendment directed to the claims is not a mechanism by which the claims upon which these fees are based may be amended.

In summary, the claims fees in a national stage application are based on the claims of record in the application. The mechanism by which the claims of record for an application entering the U.S. national stage may be reduced upon national stage entry, pursuant to MPEP section 1893.01(c) and 37 CFR 1.121, is the filing of a proper and effective preliminary amendment in compliance with 37 CFR 1.121. Applicant did not file such a preliminary amendment prior to being charged for the appropriate claims fees. Accordingly, the claims fees were properly based on the claims of record in the international application, and a refund of such fees is not appropriate.

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[2] For example, the submission does not reference the claims of record, indicate the specific changes made, or identify which claims were original, amended, or cancelled, all of which is required for an effective amendment of claims pursuant to 37 CFR 1.121(c).

[3] It is noted that the USPTO did not immediately charge applicants the required claims fees. Rather, as set forth above, the DO/EO/US issued a Form PCT/DO/EO/905 requiring, among other materials, payment of the necessary claims fees. The mailing of the Form PCT/DO/EO/905 provided applicants with a second opportunity to avoid payment of the extra claims fees, in that the submission of an effective preliminary amendment in response to the Form PCT/DO/EO/905 would have been an acceptable response. However, the response to the Form PCT/DO/EO/905 filed on 09 May 2006 did not include a preliminary amendment directed to the claims.

CONCLUSION

The "Second Petition For Review Of A Decision By PCT Legal Administration Denying A Refund Request" is **DISMISSED** without prejudice.

Based on applicants' failure to include with the original national stage submission (or the response to the Notification Of Missing Requirements) a preliminary amendment effective to cancel claims and/or eliminate multiple dependent claims, the fees for the present application were properly determined based on the claims contained in the published international application. The requested refund of such fees is therefore not appropriate on the present record.

Any request for reconsideration on the merits of this decision must be filed within **TWO (2) MONTHS** from the mailing date of this decision, indicated above. Any such request must include a proper showing that the claims of record herein were effectively amended by applicants prior to the USPTO's charging of all required fees.

Any further correspondence with respect to this matter should be addressed 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

Leonard E. Smith
Supervisor Legal Examiner
Office of PCT Legal Administration
Telephone: (571) 272-3297
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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HAMRE, SCHUMANN, MUELLER & LARSON, P.C.
P.O. BOX 2902
MINNEAPOLIS, MN 55402-0902

Mail Date: 04/21/2010

Applicant	: Shigeru Doi	: DECISION ON REQUEST FOR
Patent Number	: 7651595	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/545,394	: 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 **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.

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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LRK Patent Law Firm
1952 Gallows Rd
Suite 200
Vienna VA 22182

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JUL 02 2010

OFFICE OF PETITIONS

In re Application of
Ui J. OH
Application No. 10/545,415
Filed: June 05, 2006
Attorney Docket No. **P10078US**

DECISION ON PETITION

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 **DISMISSED**.

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

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed April 02, 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 July 03, 2008.

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

Petitioner failed to provide an amendment that prima facie places the application in condition for allowance. See attached courtesy copy of examiner's advisory action.

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.

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 Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Encl: Examiner's Advisory Action (PTOL-303)

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/545,415	**Applicant(s)** OH, UI JIN	
	Examiner Vijay Shankar	**Art Unit** 2629	

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

THE REPLY FILED 27 May 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

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

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

NOTICE OF APPEAL

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

AMENDMENTS

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

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

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1,6-8 and 10-14*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:

    _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: See Continuation Sheet.

/Richard Hjerpe/
Supervisory Patent Examiner, Art Unit 2629

Continuation of 13. Other: The key guide means including a guide slit and a contact with protrusion raises new issues.

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WASHINGTON DC 20005

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AUG 11 2009

OFFICE OF PETITIONS

In re Patent No. 7,494,805	: DECISION ON REQUEST
Sisk et al.	: FOR RECONSIDERATION OF PATENT
Application No. 10/545420	: TERM ADJUSTMENT
Issue Date: 02/24/2009	:
Filing or 371(c) Date: 08/12/2005	:
Attorney Docket No.	:
2159.0590001/EKS/LMB	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(d)," filed March 10, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from 329 days to 525 days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On February 24, 2009, the above-identified application matured into US Patent No. 7,494,805 with a patent term adjustment of 329 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35 U.S.C. 154(b)(1)(B) only if the delays occur on the same day. Patentees maintain that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR 1.703(b), of 196 days and the period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a), of 329 days do not overlap.

Patentees assert that the 196-day period is calculated as the period beginning on the day after August 12, 2008 *(i.e.,* the date three years from the date on which the national stage commenced under 35 U.S.C. §§ 371(b) or (f)) and ending on February 24, 2009 *(i.e.,* the date the patent issued).

Patentees do not contest the period of adjustment due to examination delay pursuant to 37 CFR 1.702(a)(1) of 329 days. This 329-day period is the period of delay for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which application was filed under 35 U.S.C. 371(b), pursuant to 37 CFR 1.702(a)(1).

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay and the period of Examination Delay to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that no portion of the Three Year Delay period overlaps with the period of examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 525 days, which is the sum of the period of Three Year Delay (196 days) and the period of Examination Delay (329 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 525 days (196 days + 329 days less zero days of overlap less zero days of applicant delay).

Regarding Patentees request for recalculation of the patent term adjustment based on the decision in Wyeth, 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.

A review of the record reveals that Patentees have incorrectly calculated the period of adjustment under 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) for failing to issue the patent within three years of the 'actual filing date' of the application. The period of adjustment under 35 U.S.C. 154(b)(1)(B) and 37 CFR 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 national stage commenced under 35 U.S.C. 371(b) or (f)). See MPEP § 2730. The commencement date is the date 30 months from the earliest priority date claimed in the international application[1]. 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 March 21, 2006, is February 14, 2003. Accordingly, the commencement date is August 14, 2005, and the period of adjustment pursuant to 37 CFR 1.703(b) began August 15, 2008, the day after the date that the national stage commenced, and ended February 24, 2009, the date that the patent issued, or 194 days.

As undisputed, the patent was accorded an adjustment of 329 days pursuant to 37 CFR 1.702(a)(1). At issue is whether patentees should accrue 194 days of patent term adjustment due to the Three Year Delay by the Office, as well as 329 days for Office failure to take a certain action within a specified time frame (or examination delay).

[1] The commencement date may be earlier than 30 months where (1) an applicant expressly requested early commencement, and completed all requirements under 35 U.S.C. 371(c), or (2) Demand was timely filed requesting a change in commencement from 20 to 30 months. Neither is applicable here.

The Office contends that the 194 days overlaps with the 329 days of examination delay. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 35 CFR 1.703(f) provides that:

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

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

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A),* 69 Fed. Reg. 34283 (June 21, 2004).

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[2]

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, August 14, 2005, and ending on the date that the patent issued, February 24, 2009. Prior to the issuance of the patent, 329 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 194 days for Office delay in issuing the patent overlap with the 329 days of Office delay pursuant to 37 CFR 1.702(a). During that time, the issuance of the patent was delayed by 329 days, not 329 days + 194 days. Nonetheless, given the initial 329

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[2] 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).

days of Office delay, and the time allowed within the time frames for processing and examination, the application issued three years and 194 days after the national stage commenced under 35 U.S.C. 371(b). The Office did not delay 329 days and then delay an additional 196 days. Accordingly, 329 days of patent term adjustment (not 329 and 194 days) was properly entered because the 194 days attributable to the delay in issuance of the patent overlap with the period of delay of 329 days attributable to grounds specified in § 1.702(a). 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 $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 Attorney Derek Woods at (571) 272-3232.

Alesia Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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FAIRFAX, VA 22030

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JAN 30 2009

OFFICE OF PETITIONS

In re Application of :
Xiao-Fang Yu, et al. :
Application No. 10/545,426 : DECISION ON PETITION
Filed: August 28, 2006 : TO WITHDRAW
Attorney Docket No. 70017.0015USWO : 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 20, 2008.

The request is **APPROVED**.

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

The request was signed by Steven B. Kelber on behalf of himself. Steven B. Kelber has been withdrawn as attorneys or agents of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There are no pending Office actions at the present time.

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

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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19 SEP 2006

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

In re Application of	:	
NISHIKAWA et al.	:	
Application No.: 10/545,429	:	DECISION
PCT No.: PCT/JP2004/001601	:	
Int. Filing Date: 13 February 2004	:	
Priority Date: 18 February 2003	:	
Attorney Docket No.: 0033-1015PUS1	:	
For: METHOD AND APPARATUS FOR DEACTIVATING ANTIGENIC SUBSTANCE THROUGH POSITIVE AND NEGATIVE IONS FUNCTIONS	:	

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 19 July 2006 in the United States Patent and Trademark Office (USPTO). The petition is **DISMISSED** without prejudice.

BACKGROUND

On 13 February 2004, applicants filed international application PCT/JP2004/001601, which designated the United States and claimed a priority date of 18 February 2003. A copy of the international application was communicated from the International Bureau to the USPTO on 02 September 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 18 August 2005.

On 12 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, 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, and an English translation of the international application.

On 19 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 19 July 2006, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, a declaration in support of the 37 CFR 1.47(a) petition by Nobuo Shimizu, copies of e-mails sent to non-signing inventor Hideo Nojima, a copy of a letter sent to Hideo Nojima, and a printout from the internet indicating an address for Hideo Nojima.

DISCUSSION

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

Items (1), (3), and (4) have been met.

Item (2) has not been met. As noted in MPEP § 409.03(d), the statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Here, it is not appear that Nobuo Shimizu has firsthand knowledge of the facts recited in the declaration by him. It appears that the e-mails referred to were sent by a Manuro Morikawa. It is not clear who the letter was sent by since no translation was provided. Statements based on hearsay will not normally be accepted. Additionally, it is not clear whether it is being alleged that Mr. Nojima refuses to execute the application or that he cannot be reached after diligent effort. The two are distinct. *See, e.g.,* MPEP 409.03(d), item I. "Inventor Cannot Be Reached" and item II. "Refusal to Join." E-mail communications were purportedly sent to Mr. Nojima on 01 August 2005, 31 August 2005, 16 September 2005, and 14 December 2005. A letter was also purportedly sent to him on 27 December 2005 at the address at Stanford University obtained from the internet. However, it is not clear if Mr. Nojima received these e-mails and/or letter and did not respond or if he did not receive any of the e-mails or the letter and his whereabouts are unknown. The letter does not appear to have been sent by any means which confirms delivery or obtains a signature for the package. If it is being alleged that Mr. Nojima refuses to sign, the inventor must be presented with a complete copy of the application papers (specification, including claims, drawing, and oath or declaration) for a refusal to be established. Thus, if Mr. Nojima resides at the last known address, a complete copy of the application papers would still need to be presented to him. If it is being alleged that the inventor cannot be reached or found, copies of documentary evidence such as *internet searches*, certified mail return receipts, cover letters of instructions, and telegrams, that support a finding that the non-signing inventor could not be found or reached should be made part of the affidavit or declaration. See MPEP § 409.03, item I. It is noted that the information from the internet regarding Stanford University includes a telephone number. It is suggested that applicants call this number to see if Mr. Nojima can still be found at that address. If he does not, an attempt must be made to find his new address.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

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

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

Daniel Stemmer
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1 0 MAY 2007
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In re Application of	:	
NISHIKAWA et al.	:	
Application No.: 10/545,429	:	DECISION
PCT No.: PCT/JP2004/001601	:	
Int. Filing Date: 13 February 2004	:	
Priority Date: 18 February 2003	:	
Attorney Docket No.: 0033-1015PUS1	:	
For: METHOD AND APPARATUS FOR DEACTIVATING ANTIGENIC SUBSTANCE THROUGH POSITIVE AND NEGATIVE IONS FUNCTIONS	:	

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed 19 March 2007 in the United States Patent and Trademark Office (USPTO). The petition is **DISMISSED** as **MOOT**.

BACKGROUND

On 13 February 2004, applicants filed international application PCT/JP2004/001601, which designated the United States and claimed a priority date of 18 February 2003. A copy of the international application was communicated from the International Bureau to the USPTO on 02 September 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 18 August 2005.

On 12 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, 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, and an English translation of the international application.

On 19 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 19 July 2006, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, a declaration in support of the 37 CFR 1.47(a) petition by Nobuo Shimizu, copies of e-mails sent to non-signing inventor Hideo Nojima, a copy of a letter sent to Hideo Nojima, and a printout from the internet indicating an address for Hideo Nojima.

On 19 September 2006, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a) without prejudice because factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort had not been provided.

On 19 March 2007, applicants filed the instant renewed petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a petition/fee for a four month extension of time and a declaration of inventors.

DISCUSSION

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

The declaration of inventors filed 19 March 2007 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

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

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

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

Mail Date: 08/02/2010

Applicant	: Roland Bachmann	: DECISION ON REQUEST FOR
Patent Number	: 7653467	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/545,433	: OF WYETH
Filed	: 04/18/2006	:
		:

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.

31 AUG 2005

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Nickolas E. Westman
Westman, Champlin & Kelly, P.A.
Suite 1400 · International Centre
900 Second Avenue South
Minneapolis, MN 55402-3319

In re Application of :
DRAENERT, Klaus :
Application No.: 10/545,442 : DECISION ON PETITION
PCT No.: PCT/DE03/01880 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 05 June 2003 :
Priority Date: 06 June 2002 :
Attorney Docket No.: D06.12-0011 :
For: IMPLANT AND ARRANGEMENT FOR ESPECIALLY REPLACING SURFACES THAT ARE SUBJECT TO STRESSES

The petition to revive under 37 CFR 1.137(b) filed 15 August 2005 in the above-captioned application is hereby **GRANTED** as follows:

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

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

Deposit Account No. 23-1123 has been charged a $130.00 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.

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

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CLARK & ELBING LLP
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OFFICE OF PETITIONS

In re Application of :
A Louis Southren :
Application No. 10/545,455 : DECISION ON PETITION
Filed: :
Attorney Docket No. 50342/002002 :

This is a decision on the petition, filed September 11, 2006, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of December 30, 2005, which set a two (2) month shortened statutory period for reply. A two-month extension of time under the provisions of 37 CFR 1.136(a) was obtained.

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 by the U.S. Patent and Trademark Office (USPTO) on April 28, 2006.

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 April 28, 2006 was 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 April 28, 2006.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210. This matter is being referred to the Initial Patent Examination Unit.

Irvin Dingle
Petition Examiner
Office of Petitions

13 NOV 2006

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SAN JOSE, CA 95164-0640

In re Application of HART	:	
U.S. Application No.: 10/545,468	:	
PCT Application No.: PCT/CA2003/000206	:	DECISION
Int. Filing Date: 12 February 2003	:	
Priority Date Claimed: (none)	:	
Attorney Docket No.: 031280-015	:	
For: A PARI-MUTUEL SYSTEM	:	

This is in response to applicant's "Petition to Withdraw Holding of Abandonment Under 37 C.F.R. 1.181(a)" filed 19 October 2006, which is also being treated as a request for status under 37 CFR 1.42. No petition fee is due.

BACKGROUND

On 12 February 2003, applicant filed international application PCT/CA2003/000206. 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 12 August 2005.

On 12 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 16 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 19 April 2006, applicant filed an executed declaration.

On 15 September 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 19 October 2006, applicant filed the present petition under 37 CFR 1.181 and request for status under 37 CFR 1.42.

DISCUSSION

I. Petition Under 37 CFR 1.181

A review of the application file reveals that the declaration filed 19 April 2006 is present. Therefore, the Notification of Abandonment was sent in error.

II. Request for Status Under 37 CFR 1.42

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

The declaration filed 19 April 2006 is in compliance with 37 CFR 1.497(b)(2). However, the declaration does not state the citizenship of the inventor as required by 37 CFR 1.497(a)(3).

CONCLUSION

For the reasons set forth in §I above, the petition under 37 CFR 1.181 is GRANTED.

For the reasons set forth in §II above, the request for status under 37 CFR 1.42 is DISMISSED without prejudice.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 15 September 2006 is hereby VACATED.

If reconsideration on the merits of this decision 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". No additional petition fee is required.

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 (From PCT/DO/EO/916), which should indicate that the declaration filed 19 April 2006 fails to state the citizenship of the inventor.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO, CA 94105-2482

Mail Date: 04/21/2010

Applicant	: Alexandra Treschow	: DECISION ON REQUEST FOR
Patent Number	: 7645603	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/545,491	: 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 **811** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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14 JUL 2006

FISH & NEAVE IP GROUP
ROPES & GRAY LLP
1251 AVENUE OF THE AMERICAS FL C3
NEW YORK, NY 10020-1105

In re Application of	:	
WESTPHAL, Otto	:	
Application No.: 10/545,500	:	DECISION
PCT No.: PCT/EP04/01553	:	
Int. Filing Date: 18 February 2004	:	ON PETITION UNDER
Priority Date: 18 February 2003	:	
Docket No.: VOS-50	:	37 CFR 1.137(b)
For: COMPOSITIONS COMPRISING FETAL ...	:	
FETAL LIVER COMPONENTS	:	

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 10 January 2006 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 paid. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

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. 60-1075, 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
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UNITED STATES PATENT AND TRADEMARK OFFICE

31 OCT 2006

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NEW YORK, NY 10020-1105

In re Application of	:	
WESTPHAL, Otto et al.	:	
Application No.: 10/545,500	:	DECISION
PCT No.: PCT/EP04/01553	:	
Int. Filing Date: 18 February 2004	:	ON REQUEST UNDER
Priority Date: 18 February 2003	:	
Docket No.: VOS-50	:	37 CFR 1.42
For: COMPOSITIONS COMPRISING FETAL ...	:	
FETAL LIVER COMPONENTS	:	

This application is before the Office of PCT Legal Administration for matters arising under 35 USC 371. A review of the declaration reveals an indication that joint inventor Otto Westphal is deceased. Applicants' submission has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 18 February 2004, applicants filed international application PCT/EP04/01553, which claimed a priority date of 18 February 2003. A copy of the international application was transmitted to the Office by the International Bureau on 02 September 2004. The deadline for entry into the national stage in the United States was 18 August 2005.

On 10 January 2006, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a petition to revive under 37 CFR 1.137(b).

On 14 July 2006, the Office mailed Decision On Petition Under 37 CFR 1.137(b) granting applicants' petition to revive and indicating that a declaration in compliance with 37 CFR 1.497(a)-(b) was required.

On 26 July 2006, applicants submitted a declaration of the inventors that has been treated as a request for status under 37 CFR 1.42.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42.

The declaration is signed by legal representatives of deceased inventor Westphal. The declaration must list the inventors and their citizenships and the legal representative and the legal

representative's citizenship, residence and postal address. See 37 CFR 1.497. The declaration lists the inventors and their citizenships and lists the legal representatives, but the declaration does not list the addresses or citizenships of the legal representatives. Applicants have also provided a letter of the legal representatives listing their addresses and citizenships, but it was executed separately from the declaration and does not have the required language for a declaration. The letter is not adequate as a supplemental declaration.

Additionally, the declaration executed by Reginald Gorczynski appears to have been modified with additional text pasted into the declaration. It is improper for anyone to alter a declaration after it is executed by an inventor and non-dated, non-initialed alterations are not acceptable. MPEP 605.04(a).

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

Applicant is required to submit a declaration in compliance with 37 CFR 1.497 and 1.42 within a time period of **TWO (2) MONTHS** from the mail date of this Decision. THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT. Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

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

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18 MAY 2007

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In re Application of	:	
WESTPHAL, Otto et al.	:	
Application No.: 10/545,500	:	DECISION
PCT No.: PCT/EP04/01553	:	
Int. Filing Date: 18 February 2004	:	ON REQUEST UNDER
Priority Date: 18 February 2003	:	
Docket No.: VOS-50	:	37 CFR 1.42
For: COMPOSITIONS COMPRISING FETAL ... FETAL LIVER COMPONENTS	:	

This is a decision on applicants renewed request under 37 CFR 1.42, filed in the United States Patent and Trademark Office on 30 January 2007.

BACKGROUND

On 31 October 2006, the Office mailed Decision On Request Under 37 CFR 1.42, refusing applicants' request.

On 30 January 2007, applicants submitted this renewed request accompanied by the fee for a one month extension of time.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42.

The declaration is signed by legal representatives of deceased inventor Westphal. The declaration lists the inventors and their citizenships and the legal representatives and the legal representatives' citizenships, residences and postal addresses, as required by 37 CFR 1.497(a)-(b) and 37 CFR 1.42. However, there is a discrepancy in the spelling of the name of the sixth named inventor. He is listed as "Alfred Hartmann" on the published international application, but is listed as "Alfred Hartman" on the declaration of the inventors. If this discrepancy is the result of

a typographical error, it can be corrected by a statement from counsel indicating that the discrepancy is a typographical error and indicating which spelling is correct.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **DISMISSED** without prejudice.

Applicant is required to submit an oath or declaration in compliance with 37 CFR 1.497(a)-(b) or the statement under MPEP 201.03 within **TWO (2) MONTHS** from the mail date of this decision. Failure to timely reply will result in the abandonment of this application. Extensions of time under 37 CFR 1.136(a) are available.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

23 AUG 2007

FISH & NEAVE IP GROUP
ROPES & GRAY LLP
1211 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8704

In re Application of	:	
WESTPHAL, Otto et al.	:	
Application No.: 10/545,500	:	DECISION
PCT No.: PCT/EP04/01553	:	
Int. Filing Date: 18 February 2004	:	ON REQUEST UNDER
Priority Date: 18 February 2003	:	
Docket No.: VOS-50	:	37 CFR 1.42
For: COMPOSITIONS COMPRISING FETAL ... FETAL LIVER COMPONENTS	:	

This is a decision on applicants renewed request under 37 CFR 1.42, filed in the United States Patent and Trademark Office on 12 June 2007.

BACKGROUND

On 18 May 2007, the Office mailed Decision On Request Under 37 CFR 1.42, refusing applicants' request.

On 12 June 2007, applicants submitted this renewed request.

DISCUSSION

Applicants indicate that the sixth named inventor is "Alfred Hartmann" as listed on the published international application. Further, applicants note that his listing as "Alfred Hartman" on the declaration of the inventors was the result of a typographical error. The declaration is accepted as in compliance with 37 CFR 1.497(a)-(b) and 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **GRANTED**.

This application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing consistent with this decision. The application has a 35 USC 371 (c)(1), (c)(2), and (c)(4) of 30 January 2007.

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: (571)272-3292
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06 DEC 2006

MCDONNELL, BOEHNEN, HULBERT & BERGHOFF LLP
300 S. Wacker Drive
32nd Floor
Chicago, IL 60606

In re Application of :
SHIN, Seoung Chul :
U.S. Application No.: 10/545,505 :
PCT No.: PCT/KR2004/000655 : **DECISION**
Int. Filing Date: 24 March 2004 :
Priority Date: 25 March 2003 :
Attorney Docket No.: 05-390-B :
For: METHOD FOR OPTIMIZING A DSP :
INPUT CLOCK USING A :
COMPARING/ANALYZING CIRCUIT :

This decision is in response to the petition under 37 CFR 1.47(b) filed with the United States Designated/Elected Office (DO/EO/US) on 30 October 2006.

BACKGROUND

On 26 May 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 30 October 2006, applicants filed the subject petition which was accompanied by, inter alia, a three-month extension and $1,020.00 fee; the $200.00 petition fee; a declaration signed by the 37 CFR 1.47(b) applicant for the nonsigning inventor; a "Statement Establishing Proprietary Interest by Person Signing on Behalf of Nonsigning Inventor and Statement Under 37 C.F.R. § 3.73(b)"; a declaration by Jiwon Lim ("Decl."); and several exhibits.

DISCUSSION

The 37 CFR 1.47(b) applicant claims that the sole inventor in the above-captioned application refuses to cooperate. The petitioner filed the subject petition pursuant to 37 CFR 1.47(b) as a response to the Form PCT/DO/EO/905 mailed 07 April 2006.

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the required petition fee; (2) factual proof that the missing joint inventor 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 37 CFR 1.47(b) applicant on behalf of the nonsigning joint inventor (5) evidence showing sufficient proprietary interest in the application; and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Concerning item (1), the petition fee of $200.00 has been paid.

With regards to item (3), the last known address of the nonsigning joint inventor, Seoung Chul Shin is given as:

RM 201, 463-27 Amsa 1-dong
Gangdong-gu, Seoul 134-051
Republic of Korea

Concerning item (4), the 37 CFR 1.47(b) applicant submitted a declaration signed by Robert J. Irvine III on behalf of Mr. Jung. Mr. Irvine states that he has the authority to sign for the assignee, UTStarcom Korea Ltd. This satisfies section 324 of the MPEP.

A review of the declaration shows that it is in compliance with 37 CFR 1.497(a) and (b) as the residence, address and citizenship of the sole inventor are recorded on the declaration. Item (4) is satisfied.

Regarding item (6), the 37 CFR 1.47(b) applicant states that the filing of this application "is necessary to preserve the rights of Applicant UTStarcom, Inc." This statement satisfies item (6).

Hence, items (1), (3), (4) and (6) of 37 CFR 1.47(b) are complete.

Concerning item (2), the 37 CFR 1.47(b) applicant claims that the sole inventor refuses to sign relevant documents for the above-captioned application. Section 409.03(d) of the MPEP discusses the requirements needed to show that an inventor refuses to join in an application and states, in part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney . . .

> Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When 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.

Here, the 37 CFR 1.47(b) applicant submitted a declaration by Jiwon Lim who states that he contacted the nonsigning inventor on 08 September 2005 and was told that the inventor "would not consider cooperating with the new assignee." Decl. at ¶ 6. Mr. Lim then states that he sent a copy of the specification to the inventor's last known address along with assignment documents, but received "no response to this letter. Id. at ¶ 7. Then, Mr. Lim states that he contacted the nonsigning inventor on 15 November 2005 "and the inventor confirmed his refusal to cooperate." Id. at ¶ 9.

The declaration by Jiwon Lim indicates that only an assignment and specification were provided to the nonsigning inventor. A review of the cover letter dated 02 November 2005 does not corroborate that a copy of the specification was mailed to Mr. Shin. Regardless, petitioner must demonstrate that a complete copy of the application, including specification, **claims and drawings** were sent to Mr. Shin. Accordingly, Mr. Jung's subsequent oral refusal to cooperate cannot be accepted at this time. *See* § 409.03(d) MPEP.

For these reasons item (2) of 37 CFR 1.47(b) is not yet satisfied.

With regards to item (5), petitioner claims the required propriety interest in the subject application through an assignment. UTStarcom Korea Ltd. acquired the intellectual property portfolio of Hyundai Syscomm, Inc. This portfolio included the right to the above-captioned national stage application.

Section 409.03(f) of the MPEP discusses proof of proprietary interest and 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).

Petitioner has provided an English translation of an assignment by Hyundai Syscomm, Inc. to UTStarcom Korea Ltd. The assignment included rights in Korean national application No. 2003-0018553 (pg. 43/46 in exhibit B). A copy of an Employee's Declaration of Invention executed by Mr. Jung and an English translation of this document was provided in Exhibit A. A statement under 37 CFR 3.73(b) signed by Robert J. Irvine III for the assignee was also submitted. Mr. Irvine states that he has the authority to sign for the assignee. This statement satisfies section 324 of the MPEP.

A review of the evidence provided has raised several issues. The Employee's Declaration of Invention does not appear to be an assignment, but rather a statement of invention. If that is indeed the case, petitioner may have to show proprietary interest in the subject application using an agreement to assign such as an employment contract. Moreover, the 37 CFR 1.47(b) applicant must show that the inventor assigned his rights (or agreed to assign his rights) in the international application, not the Korean patent application.

For these reasons, item (5) of is not yet satisfied.

CONCLUSION

For the reasons discussed above, 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. No additional petition fee is required.

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

Legal Administration.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

01 MAY 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

MCDONNELL, BOEHNEN, HULBERT & BERGHOFF LLP
300 S. Wacker Drive
32nd Floor
Chicago, IL 60606

In re Application of :
SHIN, Seoung Chul :
U.S. Application No.: 10/545,505 :
PCT No.: PCT/KR2004/000655 :
Int. Filing Date: 24 March 2004 :
Priority Date: 25 March 2003 : **DECISION**
Attorney Docket No.: 05-390-B :
For: METHOD FOR OPTIMIZING A DSP :
INPUT CLOCK USING A :
COMPARING/ANALYZING CIRCUIT :

This is a decision on the papers filed 05 February 2007.

BACKGROUND

On 06 December 2006, a decision dismissing applicant's petition under 37.CR 1.47(b) was mailed. Applicant was given two months to respond.

On 05 February 2007, applicant submitted a renewed petition along with an executed declaration and assignment.

On 26 March 2007, the DO/EO/US mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 and 1.495 (Form PCT/DO/EO/903) and filing receipt indicating a date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements of 05 February 2007.

DISCUSSION

In response to the decision mailed 06 December 2006, petitioner included a declaration signed by the sole inventor.

This declaration complies with 37 CFR 1.497(a) and (b).

No further action on the petition under 37 CFR 1.47(b) is required.

It is noted that the Form PCT/DO/EO/903 and filing receipt mailed 26 March 2007 should not have been processed until this decision was mailed. Nonetheless, both forms will remain effective as the information contained therein is still correct.

CONCLUSION

Accordingly, the petition under 37 CFR 1.47(b) is **DISMISSED** as **MOOT**.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 24 March 2004, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 05 February 2007.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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TIAJOLOFF & KELLY
CHRYSLER BUILDING, 37TH FLOOR
405 LEXINGTON AVENUE
NEW YORK NY 10174

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DEC 19 2007

OFFICE OF PETITIONS

In re Application of :
Tsumuraya et al. :
Application No. 10/545512 :
Filing or 371(c) Date: 08/12/2005 :
Patent No.: 7238089 :
Issue Date: 07/03/2007 :
Attorney Docket No. :
52201-0641 :

This is a decision on the "Request for Certificate of Correction," filed July 30, 2007, requesting a change in the name of the assignee after payment of the issue fee. The request is properly treated as a petition under 37 CFR 3.81(b) [1]. The delay in treating this petition is regretted.

The Petition is **granted**.

The petition was accompanied by a certificate of correction as required by 3.81(b), and the fee submitted with the present petition. Further, Office assignment records reflect Shin-Etsu Quartz Products Co., Ltd., is also an assignee of record. As the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

Derek L. Woods
Attorney
Office of Petitions

[1] See, 1283 OG 148 22 June 2004, 69 Fed. Reg. 29865 26 May 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ZARLEY LAW FIRM P.L.C.
CAPITAL SQUARE
400 LOCUST, SUITE 200
DES MOINES, IA 50309-2350

Mail Date: 04/21/2010

Applicant	: Jan Nyquist	: DECISION ON REQUEST FOR
Patent Number	: 7601931	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/545,521	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **729** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

09 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PHILLIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. Box 3001
Briarcliff Manor, NY 10510

In re Application of :
BRUNING, Gert W. :
U.S. Application No.: 10/545,545 :
PCT No.: PCT/IB2003/005908 :
Int. Filing Date: 11 December 2003 :
Priority Date: 18 December 2002 :
Attorney Docket No.: US 020530 :
For: SCROLLING BACKLIGHT DEVICE :

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

Applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed on 12 August 2005 is hereby **GRANTED** as follows:

The basic national fee, surcharge fee and petition fee have charged to Deposit Account No. 14-1270 as authorized. Applicant's statement is sufficient to meet the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a) and (b) was submitted with the national stage papers.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 11 December 2003, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 12 August 2005.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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www.uspto.gov

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Uwe Neibig	: DECISION ON REQUEST FOR
Patent Number	: 7643308	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/545,548	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/25/2006	: 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.

401/1/001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: Jean-Louis ASSIE et al

SERIAL NO.: 10/545,553

FILED : JUNE 15, 2006

FOR : USE OF A VOLATILE LIQUID AT ATMOSPHERIC PRESSURE AND AMBIENT TEMPERATURE FOR THE PRODUCTION OF PHARMACEUTICAL OR BIOLOGICAL COMPOSITIONS

EXAMINER : UNKNOWN

ART UNIT : 1614

Certificate of Facsimile Transmission

I hereby certify that this correspondence is being facsimile transmitted to Office of Initial Patent Examination, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, fax number (703) 305 9822, on JULY 26, 2006.

Richard M. Goldberg
(Name of Registered Representative)

Richard M Goldberg July 26, 2006
(Signature and Date)

TOTAL PAGES: 9

REQUEST FOR CORRECTED FILING RECEIPT

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

Attention: Office of Initial Patent Examination
Filing Receipt Corrections

Dear Sir:

It is requested that a corrected filing receipt be sent to the undersigned. The error in the original filing receipt (copy enclosed) is in the category "Applicant(s)."

The name of the second inventor is not listed on the filing receipt. The name of the second inventor is Jean-Pascal Zambaux of Riom, France. As evidence thereof, enclosed are copies of the following:

(1) Application Data Sheet submitted at filing; and

(2) Declaration and Power of Attorney submitted on June 15, 2006 in response to the Notification of Missing Requirements.

It is requested that the records of the Patent and Trademark Office be corrected and that a corrected filing receipt be sent to the undersigned.

Respectfully submitted,

Richard M. Goldberg
Attorney for Applicants
Registration No. 28,215

25 East Salem Street
Suite 419
Hackensack, New Jersey 07601
TEL (201) 343-7775
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e-mail: goldbergpat@earthlink.net

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
10/545,553	06/15/2006	1614	1030	401/1/011		18	2

CONFIRMATION NO. 5170

00170
RICHARD M. GOLDBERG
25 EAST SALEM STREET
SUITE 419
HACKENSACK, NJ 07601

FILING RECEIPT

"OC000000019581023"

Date Mailed: 07/14/2006

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)

Jean-Louis Assie, Bergerac, FRANCE;
Jean-Jacques Huart, Lille, FRANCE;

Power of Attorney:

Richard Goldberg--28215

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/FR04/50055 02/13/2004

Foreign Applications

FRANCE 0301761 02/13/2003

If Required, Foreign Filing License Granted: 07/11/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/545,553

Projected Publication Date: 10/19/2006

Non-Publication Request: No

Early Publication Request: No

UTILITY PATENT
OR DESIGN

DECLARATION AND POWER OF ATTORNEY
(Sole or Joint)

ATTORNEYS DOCKET NO. 401/1/011

As a below named inventor, I declare that I believe I am the original, first and sole inventor if only one name is listed at Item 201 below, or a joint inventor if plural names are listed below at Items 201 et seq., of the subject matter which is claimed and for which a patent is sought on the invention entitled:

USE OF A VOLATILE LIQUID AT ATMOSPHERIC PRESSURE AND AMBIENT TEMPERATURE FOR THE PRODUCTION OF PHARMACEUTICAL OR BIOLOGICAL COMPOSITIONS

which is described and claimed in

____ the attached specification

_X_ the specification in application Serial No. 10/545,553 filed August 12, 2005
(for declaration not accompanying application papers)

and (if applicable) amended on _____

_X_ international (PCT) application No. PCT/FR2004/050055 filed February 13, 2004 and as amended on _____ (if any).

I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information of which I am aware which is material to patentability as defined in Title 37, Code of Federal Regulations, ' 1.56.

I hereby claim the benefit of priority, under Title 35, United States Code, ' 119, of any foreign application(s) for patent or inventor's certificate listed in Item 103 below and have also identified in Item 103 below any foreign application(s) for patent or inventor's certificate having a filing date before that of the application for which priority is claimed.

I hereby claim the benefit, under Title 35, United States Code, ' 120, of any U.S. application(s) listed in Item 105 below. If this application is a continuation-in-part, insofar as the subject matter of any of the claims thereof is not disclosed in the prior U.S. application(s) identified in Item 105 below in the manner provided by the first paragraph of Title 35, United States Code, ' 112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, ' 1.56 which became available between the filing date of the prior U.S. application(s) identified in Item 105 below and the national or PCT international filing date of this application.

FOREIGN APPLICATION(S), IF ANY, FILED WITHIN 12 (6 if a Design) MONTHS PRIOR TO THE FILING DATE OF THIS APPLICATION:

COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)	PRIORITY CLAIMED UNDER 35 U.S.C. ' 119
FRANCE	03/01761	13-02-2003	YES _X_ NO ___
			YES ___ NO ___

ALL FOREIGN APPLICATIONS, IF ANY, FILED MORE THAN 12 (6 if a Design) MONTHS PRIOR TO THE FILING DATE OF THIS APPLICATION

COUNTRY	APPLICATION NUMBER	DATE OF FILING (day, month, year)

THIS APPLICATION IS A :

___ CONTINUATION ___ CONTINUATION-IN-PART ___ DIVISION
OF PRIOR U.S. APPLICATION SERIAL NO. FILED

WHICH IS NOW ___ ABANDONED ___ PENDING ___ PATENTED

POWER OF ATTORNEY: As a named inventor, I hereby appoint RICHARD M. GOLDBERG, ESQ., Registration Number 28,215 and ARTHUR JACOB, ESQ., Registration Number 19,702, to prosecute this application and transact all business in the Patent and Trademark Office connected therewith, and request that all correspondence and telephone inquiries be sent to Richard M. Goldberg, Esq., 25 East Salem Street, Suite 418, Hackensack, New Jersey 07601, (201) 343-7775.

FIRST INVENTOR
LAST NAME: ASSIE
FIRST NAME: Jean-Louis
MIDDLE NAME:

RESIDENCE & CITIZENSHIP:
CITY OR OTHER LOCATION: Bergerac
STATE OR FOREIGN COUNTRY: France
COUNTRY OF CITIZENSHIP: France

POST OFFICE ADDRESS:
POST OFFICE ADDRESS: Pont Robert
CITY: Bergerac
STATE OR COUNTRY: France
ZIP CODE: F-24100

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

SIGNATURE OF FIRST INVENTOR: _____

DATE: 15 June 2006

SECOND INVENTOR
LAST NAME: ZAMBAUX
FIRST NAME: Jean-Pascal
MIDDLE NAME:

RESIDENCE & CITIZENSHIP:
CITY OR OTHER LOCATION: Riom
STATE OR FOREIGN COUNTRY: France
COUNTRY OF CITIZENSHIP: France

POST OFFICE ADDRESS:
POST OFFICE ADDRESS: 15, boulevard de la République
CITY: Riom
STATE OR COUNTRY: France
ZIP CODE: F-63200

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

SIGNATURE OF SECOND INVENTOR: _____

DATE: 15 Juin 2006

THIRD INVENTOR
LAST NAME: HUART
FIRST NAME: Jean-Jacques
MIDDLE NAME:

RESIDENCE & CITIZENSHIP:
CITY OR OTHER LOCATION: Lille
STATE OR FOREIGN COUNTRY: France
COUNTRY OF CITIZENSHIP: France

POST OFFICE ADDRESS:
POST OFFICE ADDRESS: 8, rue F. Mollet
CITY: Lille
STATE OR COUNTRY: France
ZIP CODE: F-59000

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

SIGNATURE OF THIRD INVENTOR: _____ Dr Jean-Jacques HUART

DATE: 15 VI 2006

APPLICATION DATA SHEET

APPLICATION INFORMATION

Application Type	:	Regular
Subject Matter	:	Utility
Title	:	Use of a Volatile Liquid at Atmospheric Pressure and Ambient Temperature for the Production of Pharmaceutical or Biological Compositions
Attorney Docket Number	:	401/1/011
Request for Non-publication	:	No
Suggested Drawing Figure	:	1
Small Entity	:	No
Petition Included	:	No

APPLICANT INFORMATION

Applicant Authority Type	:	Inventor
Primary Citizenship Country	:	France
Status	:	Full Capacity
Given Name	:	Jean-Louis
Family Name	:	Assie
City of Residence	:	Bergerac
Country of Residence	:	France
Street of Mailing Address	:	Pont Robert
City of Mailing Address	:	Bergerac
Country of Mailing Address	:	France
Zip Code	:	F-24100

Applicant Authority Type	:	Inventor
Primary Citizenship Country	:	France
Status	:	Full Capacity
Given Name	:	Jean-Pascal
Family Name	:	Zambaux
City of Residence	:	Riom
Country of Residence	:	France
Street of Mailing Address	:	15, boulevard de la République
City of Mailing Address	:	Riom
Country of Mailing Address	:	France
Zip Code	:	F-63200

Applicant Authority Type	:	Inventor
Primary Citizenship Country	:	France
Status	:	Full Capacity
Given Name	:	Jean-Jacques
Family Name	:	Huart
City of Residence	:	Lille
Country of Residence	:	France
Street of Mailing Address	:	6, rue F. Mottez
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CORRESPONDENCE INFORMATION

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City of Mailing Address	:	Hackensack
State of Mailing Address	:	New Jersey
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CORRESPONDENCE INFORMATION

Correspondence Customer Number: 00170

REPRESENTATIVE INFORMATION

Representative Designation	Registration Number	Name
Primary	28,215	Richard M. Goldberg
Associate	19,702	Arthur Jacob

FOREIGN PRIORITY INFORMATION

Country	Application No.	Filing Date	Priority Claimed
PCT	PCT/FR2004/050055	02/13/2004	Yes
France	03/01761	02/13/2003	Yes

ASSIGNMENT INFORMATION

Assignee Name : Taiki Corporation, Ltd.
Street of Mailing Address : 6-3-41 Nishi-Awaji
Higashi-Yodogawa-Ku
City of Mailing Address : Osaka
Country of Mailing Address : Japan
Zip Code of Mailing Address : 533-0031

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United States Patent and Trademark Office
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NUTTER MCCLENNEN & FISH LLP
SEAPORT WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210-2604

Mail Date: 04/20/2010

Applicant	: Gerhard Bauch	: DECISION ON REQUEST FOR
Patent Number	: 7616703	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/545,568	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/20/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **933** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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15 NOV 2006

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

In re Application of JANG	:	
U.S. Application No.: 10/545,578	:	
PCT Application No.: PCT/KR2004/000658	:	DECISION
Int. Filing Date: 24 March 2004	:	
Priority Date Claimed: 25 March 2003	:	
Attorney Docket No.: 05-438-B	:	
For: ATM SWITCH FOR USE IN W-CDMA	:	

This is in response to applicant's "Petition Under 35 C.F.R. § 1.47(b) by Person Having Proprietary Interest to File Application on Behalf of Inventor Who Refuses to Sign" filed 30 October 2006.

BACKGROUND

On 24 March 2004, applicant filed international application PCT/KR2004/000658, which claimed priority of an earlier Korea application filed 25 March 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 07 October 2004. The thirty-month period for paying the basic national fee in the United States expired on 25 September 2005.

On 16 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 24 May 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 30 October 2006, 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 inventor Cheol Jang cannot be located. The petition includes an affidavit from Jiwon Lim, the person with apparent firsthand knowledge of efforts to reach Jang. Petitioner unsuccessfully tried to contact Jang through postal mail, electronic mail, and by searching telephone and Internet directories (see Lim affidavit, ¶¶6-9). Thus, it can be concluded with reasonable certainty that Jang cannot be reached after diligent effort.

With regard to item (3) above, the petition states the last known address of the nonsigning inventor.

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 inventor has been provided. However, as discussed in (5) below, ownership of the application has not been sufficiently established.

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).

Under 37 CFR 3.73(b)(1), ownership of the application may be established by: (i) submitting documentary evidence of a chain of title from the original owner to the assignee; or (ii) specifying by reel and frame number where such evidence is recorded in the USPTO.

The present petition states that the inventor Jang assigned the invention to Hyundai Syscomm, Inc. ("Hyundai") and that Hyundai subsequently assigned the invention to UTStarcomm Korea Limited ("UTStarcomm"). Petitioner has adequately demonstrated a transfer of title from Hyundai to UTStarcomm (see affidavit of Robert Irvine, Exhibit B, page 43/46). However, additional evidence concerning the purported assignment from Jang to Hyundai is required. Specifically, the "Employee's Declaration of Invention" (see Irvine affidavit, Exhibit A) does not list any of the U.S. application number, the PCT application number, or the priority application number. Although the document lists Hyundai reference number HJ2002-12-0112 and the title of invention, this information by itself does not adequately demonstrate that the present invention was the subject of the assignment.

With regard to item (6) above, the petition makes a sufficient showing regarding the preservation of rights and/or the prevention of irreparable damage.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(b) is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in abandonment of the application. 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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26 JAN 2007

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CHICAGO, IL 60606

In re Application of JANG	:	
U.S. Application No.: 10/545,578	:	
PCT Application No.: PCT/KR2004/000658	:	DECISION
Int. Filing Date: 24 March 2004	:	
Priority Date Claimed: 25 March 2003	:	
Attorney Docket No.: 05-438-B	:	
For: ATM SWITCH FOR USE IN W-CDMA	:	

This is in response to applicant's "Renewed Petition Under 35 C.F.R. § 1.47(b)" filed 16 January 2007.

BACKGROUND

On 24 March 2004, applicant filed international application PCT/KR2004/000658, which claimed priority of an earlier Korea application filed 25 March 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 07 October 2004. The thirty-month period for paying the basic national fee in the United States expired on 25 September 2005.

On 16 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 24 May 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 30 October 2006, applicant filed a petition under 37 CFR 1.47(b).

On 15 November 2006, this Office mailed a decision dismissing the 30 October 2006 petition.

On 16 January 2007, applicant filed the present renewed petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(i), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. See 37 CFR 1.47(b).

Petitioner has previously satisfied items (1), (2), (3), (4), and (6).

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).

Under 37 CFR 3.73(b)(1), ownership of the application may be established by: (i) submitting documentary evidence of a chain of title from the original owner to the assignee; or (ii) specifying by reel and frame number where such evidence is recorded in the USPTO.

The present petition states that the inventor Cheol Jang assigned the invention to Hyundai Syscomm, Inc. ("Hyundai") and that Hyundai subsequently assigned the invention to UTStarcomm Korea Limited ("UTStarcomm"). Petitioner has previously demonstrated a transfer of title from Hyundai to UTStarcomm (see affidavit of Robert Irvine, Exhibit B, page 43/46). Furthermore, the renewed petition includes an appropriate legal memorandum from attorney Joo-Young Kim which states that Hyundai would have title to the present invention instead of the inventor Jang. Therefore, a chain of title from Jang to UTStarcomm has been sufficiently established.

CONCLUSION

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

This application has an international filing date of 24 March 2004 and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 30 October 2006.

As set forth in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the nonsigning inventor at the last known address of record and will be published in the *Official Gazette.*

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

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
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12 MAY 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

In re Application of	:	
NEUDECK et al.	:	
Application No.: 10/545,579	:	DECISION
PCT No.: PCT/EP2004/001429	:	
Int. Filing Date: 16 February 2004	:	
Priority Date: 18 February 2003	:	
Attorney Docket No.: 13027.0067USWO	:	
For: TEXTILE SURFACE STRUCTURE . . .	:	
FOR THE PRODUCTION THEREOF	:	

This decision is in response to applicants' "PETITION TO WITHDRAW NOTICE OF ABANDONMNET" filed in the United States Patent and Trademark Office (USPTO) on 04 February 2008, which has properly been treated as a petition under 37 CFR 1.181. No petition fee is required. The petition fee of $130 paid by applicants has been credited to Deposit Account 132725.

BACKGROUND

On 16 February 2004, applicants filed international application PCT/EP2004/001429, which designated the United States and claimed a priority date of 18 February 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 02 September 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 18 August 2005.

On 16 August 2005, applicants filed, *inter alia*, a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 28 September 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) was required.

On 04 December 2007, 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 the NOTIFICATION OF MISSING REQUIREMENTS mailed 28 September 2006.

On 04 February 2008, applicants filed the instant submission, which has properly been treated as a petition under 37 CFR 1.181. The petition was accompanied by, *inter alia*, a copy of a declaration of inventors and a USPTO date-stamped postcard receipt.

DISCUSSION

Applicants have provided sufficient evidence to establish that on 15 November 2006 applicants filed a declaration of 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 15 November 2006 and which itemizes a "Signed Combined Declaration and Power of Attorney" and identifies the above-captioned application number and attorney docket number. Further, practitioner states that the copy of the declaration filed 04 February 2008 is a copy of the declaration originally filed 15 November 2006. Therefore, in view of the date-stamped receipt and practitioner's statement, the declaration received on 04 February 2008 may properly be accepted as originally received in the USPTO on 15 November 2006. The NOTIFICATION OF ABANDONMENT mailed 04 December 2007 is hereby vacated.

The declaration filed 15 November 2006 is 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.

The NOTIFICATION OF ABANDONMENT mailed 04 December 2007 is **VACATED**.

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

/Daniel Stemmer/

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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OFFICE OF PETITIONS

SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO IL 60606-1080

In re Application of :
KAHN, Jonathan :
Application No. 10/545,584 : DECISION ON PETITION
Filed: April 5, 2006 : TO WITHDRAW
Attorney Docket No. **09761730-0040** : 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 21, 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 David R. Metzger 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: JONATHAN KAHN
1108 CHEYENNE DRIVE
CROWN POINT, IN 46307

cc: JORDAN A. SIGALE
LOEB & LOEB LLP
321 NRTH CLARK, SUITE 2300
CHICAGO, IL 60610

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NUTTER MCCLENNEN & FISH LLP
SEAPORT WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210-2604

Mail Date: 04/20/2010

Applicant	: Gerhard Bauch	: DECISION ON REQUEST FOR
Patent Number	: 7649953	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/545,588	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/12/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **922** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

29 JUN 2009

United States Patent and Trademark Office

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DARBY & DARBY P.C.
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Church Street Station
New York NY 10008-0770

In re Application of	:	
Baum et al.	:	
Application No. 10/545,596	:	
PCT No.: PCT/DE2004/000299	:	
Int. Filing Date: 12 February 2004	:	DECISION
Priority Date: 16 February 2003	:	
Att. Docket No.: 050698-US	:	
For: Visco-Elastic Coating Paste For Protection Against Macro-Fouling And Method Of...	:	

The petition to revive under 37 CFR 1.137(b) filed on 20 March 2009 in the above-captioned application is hereby **GRANTED** as follows:

Petitioner 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." Said statement is accepted in satisfaction of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicants have paid the petition fee. The required reply (in the form of the amendment accompanying the petition) has been filed. No terminal disclaimer is required. 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 Office of Patent Application Processing for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **15 August 2005**.

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

29 JUN 2009

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New York NY 10008-0770

In re Application of :
Baum et al. :
Application No. 10/545,596 :
PCT No.: PCT/DE2004/000299 :
Int. Filing Date: 12 February 2004 : DECISION
Priority Date: 16 February 2003 :
Att. Docket No.: 050698-US :
For: Visco-Elastic Coating Paste For Protection :
Against Macro-Fouling And Method Of... :

This is in response to the power of attorney filed on 20 March 2009.

DISCUSSION

37 CFR 1.36(a) states that a power of attorney may be revoked at any stage in the proceedings of a case by an applicant or assignee. Here, assignees have provided Power of Attorney forms in favor of the practitioners associated with Customer Number 07278. The Power of Attorney states (in part) that "I hereby revoke all previous powers of attorney..." The requests for revocation of all previous powers of attorney and grants of power of attorney to the attorneys and/or patent agents associated with customer number 07278 were signed on behalf of the assignees of the subject application. Statements under 37 CFR 3.73(b) were also filed, which identify the assignees, indicate their percentage ownership, and are signed by an individual who states they he is "authorized to act on behalf of the assignee." The submission was accompanied by copies of the assignment documents, which were recorded in the records of the USPTO. As such, it would be appropriate to accept the power of attorney filed, and record the correspondence address as the address associated with Customer Number 07278.

DECISION

Applicants' request is **GRANTED**. This application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing. The electronic records to the USPTO have been updated to show the correspondence address and representative status corresponding to Customer Number 07278.

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

cc: Law Offices of Karl Hormann
86 Sparks Street
Cambridge, MA 02138

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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

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OFFICE OF PETITIONS

In re Application of :
David A. Offord, et al :
Application No. 10/545,598 : DECISION ON PETITION
Filed: October 31, 2005 : TO WITHDRAW
Attorney Docket No. 400752003400 : 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 11, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to Morrison & Foerster LLP has been revoked by the assignee of the patent application on July 12, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

There are pending Office actions at the present time.

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

April Wise
Petitions Examiner
Office of Petitions

cc: BILL WARE – SVP, RESEARCH AND
DEVELOPMENT
NANO-TEX, INC.
2220 LIVINGSTON STREET, SUITE 201
OAKLAND, CA 94606

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SMITH MOORE LEATHERWOOD LLP
P.O. BOX 21927
GREENSBORO, NC 27420

Mail Date: 04/20/2010

Applicant	: David A. Offord	: DECISION ON REQUEST FOR
Patent Number	: 7662873	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/545,598	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1143** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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NEIFELD IP LAW, PC
4813-B EISENHOWER AVENUE
ALEXANDRIA, VA 22304

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OFFICE OF PETITIONS

In re Application of :
Venkat Subramanian Iyer, et al. :
Application No. 10/545,601 : DECISION ON PETITION
Filed: August 16, 2007 : TO WITHDRAW
Attorney Docket No. LEXO0015U-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 July 6, 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 Richard Neifeld on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee

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

There are no pending Office actions at the present time.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: VENKAT SUBRAMANIAN IYER
STRIDES HOUSE
BILEKAHALLI, BANNERGHATTA ROAD
BANGALORE – 560 076, KAMATAKA
INDIA

cc: RAJ S. DAVE, PHD
DARBY & DARBY, PC
1500 K STREET
SUITE 250
WASHINGTON, DC 20005-1714

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/545,601	08/16/2005	Venkat Subramanian Iyer	LEXO0015U-US

CONFIRMATION NO. 5504

31518
NEIFELD IP LAW, PC
4813-B EISENHOWER AVENUE
ALEXANDRIA, VA 22304

POWER OF ATTORNEY NOTICE

OC00000026603946

Date Mailed: 11/05/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/06/2007.

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

/amwise/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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Daniel J. Piotrowski
P.O. Box 3001
Briarcliff Manor, New York 10510-8001

In re Application of	
NEWTON et al.	
Application No.: 10/545,645	
PCT No.: PCT/IB2003/005662	DECISION ON
Int. Filing Date: 04 December 2003	
Priority Date: 11 December 2002	PETITION FOR REVIVAL
Attorney Docket No.: NL021374US	
For: METHOD AND SYSTEM FOR UTILIZING VIDEO CONTENT TO OBTAIN TEXT KEYWORDS OR PHRASES FOR PROVIDING CONTENT RELATED LINKS TO NETWORK-BASED RESOURCES	UNDER 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 UNINTIONALLY – UNDER 37 CFR 1.137(b)" filed in the United States Patent and Trademark Office (USPTO) on 16 September 2008.

BACKGROUND

On 04 December 2003, applicants filed international application PCT/IB2003/005662, which designated the U.S. and claimed priority date of 11 December 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 11 June 2005. Accordingly, PCT/IB2003/005662 became abandoned as to the United States of America at midnight 11 June 2005 for failure to timely pay the Basic National Fee.

On 16 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 04 April 2006, a "Notification of Abandonment" was mailed by the DO/EO/US.

On 16 September 2008, applicants filed the present petition under 37 CFR 1.137(b).

DISCUSSION

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

Regarding item (1), applicants have provided the required reply.

Regarding item (2), the $1540 petition fee has been charged to the deposit account 141270 as authorized by applicants.

Regarding item (3), the petition includes a statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirement.

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

A review of the application file reveals that the declaration of the inventors is unacceptable. Specifically, the name of the first named inventor does not match that as listed on the International Publication.

CONCLUSION

For the reason detailed above, applicants' petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being referred to the National Stage Processing (DO/EO/US) for further processing in accordance with this decision, including the mailing of a Notification of Missing Requirements (PCT/DO/EO/905) indicating that the declaration of the inventors is unacceptable.

Shian Luong
Special Programs Examiner
Office of PCT Legal Administration
Tel: (571) 272-4557
Fax: (571) 273-0459

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

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OFFICE OF PETITIONS

In re Application of :
Mattheus Van Der Meer et al. :
Application No. 10/545,647 : DECISION ON PETITION
Filed: August 16, 2005 :
Attorney Docket No. NL03172 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 22, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment, mailed July 13, 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 14, 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 abstract, (2) the petition fee of $1540.00, and (3) a proper statement of unintentional delay.

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 3724 for appropriate action by the Examiner in the normal course of business on the reply received.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: THORN & HALAJIAN, LLP
111 West Main Street
Bay Shore, NY 11706

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OFFICE OF PETITIONS

In re Application of :
Roel Truyen et al :
Application No. 10/545,654 :
Filed: August 15, 2005 :
Attorney Docket No. NL 040191

ON PETITION

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed January 9, 2008, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on April 10, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee and Publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

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

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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24 MAR 2009

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In re Application of	:	
THIJSSEN	:	
Application No.: 10/545,657	:	
PCT No.: PCT/IB03/05723	:	DECISION ON PETITION
Int. Filing Date: 03 December 2003	:	
Priority Date: 20 December 2002	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: NL 021349	:	
For: RECORDING START AND STOP	:	

The petition to revive under 37 CFR 1.137(b) filed 15 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" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

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

The application has an international filing date of 03 December 2003 under 35 U.S.C. 363 and will be given a date of **15 August 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

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COMPUTER ANNUITIES INC.
901 N. WASHINGTON STREET
SUITE 305
ALEXANDRIA, VA 22314

Mail Date: 04/21/2010

Applicant	: Urs Welz-Biermann	: DECISION ON REQUEST FOR
Patent Number	: 7645434	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/545,690	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1126** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

01 OCT 2007

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P.O. BOX 770
Church Street Station
New York NY 10008-0770

In re Application of	:	
SCHMILOVITCH et al.	:	
Application No.: 10/545,709	:	DECISION
PCT No.: PCT/IL2004/000135	:	
Int. Filing Date: 11 February 2004	:	
Priority Date: 11 February 2003	:	
Attorney Docket No.: 06727/0203270-US0	:	
For: APPARATUS AND METHOD FOR EXTRACTING POMEGRANATE SEEDS FROM POMEGRANATES	:	

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 19 July 2007 in the United States Patent and Trademark Office (USPTO). The petition is **DISMISSED** without prejudice.

BACKGROUND

On 11 February 2004, applicants filed international application PCT/IL2004/000135, which designated the United States and claimed a priority date of 11 February 2003. 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 11 August 2005.

On 10 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 27 April 2007, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage were required.

On 19 July 2007, applicants filed a petition under 37 CFR 1.47(a) which was

accompanied by, *inter alia*, a petition/fee for a one month extension of time, a declaration of inventors, the surcharge under 37 CFR 1.492(h), and a statement of facts by Yaov Sarig.

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.

Item (1) has been met.

Item (2) has been met with regard to non-signing inventor Avraham Daskal. However, item (2) has not been met regarding non-signing inventor Eitan Weinberg. MPEP § 409.03(d), item I 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, a statement of facts has been provided by a person having firsthand knowledge but no documentary evidence been provided.

Item (3) has been met.

Item (4) has been met.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

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

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

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

19 FEB 2008

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Church Street Station
New York NY 10008-0770

In re Application of	:	
SCHMILOVITCH et al.	:	
Application No.: 10/545,709	:	DECISION
PCT No.: PCT/IL2004/000135	:	
Int. Filing Date: 11 February 2004	:	
Priority Date: 11 February 2003	:	
Attorney Docket No.: 06727/0203270-US0	:	
For: APPARATUS AND METHOD FOR EXTRACTING POMEGRANATE SEEDS FROM POMEGRANATES	:	

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed 30 January 2008 in the United States Patent and Trademark Office (USPTO). The petition is **GRANTED**.

BACKGROUND

On 11 February 2004, applicants filed international application PCT/IL2004/000135, which designated the United States and claimed a priority date of 11 February 2003. 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 11 August 2005.

On 10 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 27 April 2007, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage were required.

On 19 July 2007, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a petition/fee for a one month extension of time, a declaration of inventors, the surcharge under 37 CFR 1.492(h), and a statement of facts by Yaov Sarig.

On 01 October 2007, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a) without prejudice. Specifically, factual proof that the missing joint inventor Eitan Weinberg refuses to execute the application or cannot be reached after diligent effort had not been provided.

On 30 January 2008, applicants submitted the instant renewed petition under 37 CFR 1.47(b) which was accompanied by, *inter alia*, a declaration of facts by Jean Levy, a second declaration of facts by Yaov Sarig, copies of internet searches, copies of registered mail receipts and English translations thereof, and a copy of a letter from Jean Levy to Eitan Weinberg dated 04 November 2007 (in English).

DISCUSSION

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

As noted in the decision mailed 01 October 2007, items (1), (3), and (4) have been met for both non-signing inventors Avraham Daskal and Eitan Weinberg and item (2) has been met for non-signing inventor Avraham Daskal.

Item (2) has now been met for non-signing inventor Eitan Weinberg.

CONCLUSION

For the reasons set forth above, 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 **19 July 2007**.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner

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

19 FEB 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Abraham Daskal
23 Homa Umigdal Street
58333 Holon
Israel

In re Application of
SCHMILOVITCH et al.
Application No.: 10/545,709
PCT No.: PCT/IL2004/000135
Int. Filing Date: 11 February 2004
Priority Date: 11 February 2003
Attorney Docket No.: 06727/0203270-US0
For: APPARATUS AND METHOD FOR EXTRACTING POMEGRANATE SEEDS FROM POMEGRANATES

Dear Mr. Daskal:

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

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

/Daniel Stemmer/

Daniel Stemmer
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
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DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
New York NY 10008-0770

05 APR 2006

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

In re Application of:	:	
Anderson, Duncan	:	DECISION ON PETITION FOR
U.S. Application No.: 10/545,714	:	REVIVAL OF ABANDONED
PCT No.: PCT/IB2003/005738	:	APPLICATION UNDER
International Filing Date: 05 December 2003	:	37 CFR 1.137(b)
Priority Date: 13 December 2002	:	
Attorney's Docket No.: US 020552	:	
For: EFFICIENT COUPLING OF LIGHT INTO LIGHT GUIDES	:	

The petition for revival under 37 CFR 1.137(b) filed 12 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 submitted the basic national fee, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

It is noted that the petition was accompanied by an executed declaration in compliance with 37 CFR 1.497. Deposit Account No. 14-1270 will be charged the $130 surcharge for filing the declaration later than thirty months after the priority date.

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 12 August 2005.

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

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UNITED STATES DEPARTMENT OF COMMERCE
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

Mail Date: 04/20/2010

Applicant	: Jerome Emile Georges Guillemont	: DECISION ON REQUEST FOR
Patent Number	: 7585870	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/545,719	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **329** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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EXXONMOBIL UPSTREAM RESEARCH COMPANY
P.O. BOX 2189
(CORP-URC-SW 337)
HOUSTON, TX 77252-2189

COPY MAILED

APR 20 2007

OFFICE OF PETITIONS

In re Application of
Shan H. Yang et al
Application No. 10/545,730
Filed: August 15, 2005
Attorney Docket No. 2003UR012

DECISION DISMISSING PETITION
UNDER 37 CFR 1.313(a)

This is a decision on the petition filed April 12, 2007 and supplemented on April 18, 2007, which is being treaded as a petition under 37 CFR 1.313(a), requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on February 13, 2007, with the issue fee being due on or before May 13, 2007. The petition states that the issue fee in this case has not been paid.

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP §§ 706.07(h)(IX) and 1308.

Inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210.

The matter is being referred to Technology Center AU 2125 for appropriate processing of the RCE filed April 18, 2007, and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petition Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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FITCH EVEN TABIN & FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO, IL 60603-34-6

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JAN 25 2008

OFFICE OF PETITIONS

Applicant: Long et al.
Appl. No.: 10/545,752
International Filing Date: Febuary 16, 2004
Title: HANDLING OF DNA
Attorney Docket N85723
Pub. No.: US 2007/0003930-A1
Pub. Date: January 04, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on January 29, 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 "Improvements in and Relating to the Handling of DNA" is misprinted as "Handling of DNA" 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 "Improvements in and Relating to the Handling of DNA" is misprinted as "Handling of DNA" 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 "Improvements in and Relating to the" 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 January 29, 2007, a second request for corrected Filing Receipt was also submitted by the Applicant requesting correction of the title. This is the proper venue to pursue such corrections. The application was published, however, without the corrected filing receipt having been processed.

Applicant is reminded that separate matters must be contained in separate papers to avoid confusion and delay in answering papers dealing with different subjects. See 37 CFR 1.4(c).

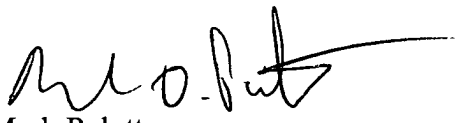
The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the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

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WILSON, SONSINI, GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

Mail Date: 04/21/2010

Applicant	: Toshikazu Oki	: DECISION ON REQUEST FOR
Patent Number	: 7638138	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/545,764	: 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 **608** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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01 NOV 2006

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

In re Application of	:	
SVENSSON et al.	:	
Application No.: 10/545,789	:	DECISION
PCT No.: PCT/SE2004/000228	:	
Int. Filing Date: 19 February 2004	:	
Priority Date: 21 February 2003	:	
Attorney Docket No.: 66352-038	:	
For: PASSIVELY MAGNETIC FOIL, NOTICE DEVICE AND USE OF THE NOTICE DEVICE	:	

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 05 September 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 19 February 2004, applicants filed international application PCT/SE2004/000228, which designated the United States and claimed a priority date of 21 February 2003. A copy of the international application was communicated from the International Bureau to the USPTO on 02 September 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 22 August 2005 (21 August 2005 being a Sunday).

On 17 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 and an assertion of small entity status.

On 06 July 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) were required.

On 05 September 2006, applicants filed the instant petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors signed by three of the four joint inventors, a statement of facts by Nils Ake Axelsson, a copy of a letter from Mr. Axelsson to non-signing inventor Lars Svensson, an English translation of this letter, a copy of an e-mail from Lars Svensson to Kjeil Bergman, and an English translation of this e-mail.

DISCUSSION

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

As to item (1), the petition fee of $200 has been charged to Deposit Account No. 04-2223.

Items (2)-(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 **05 September 2006**.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
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UNITED STATES PATENT AND TRADEMARK OFFICE

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24 MAY 2006

Burns, Doane, Swecker & Mathis, L.L.P.
P.O. Box 1404
Alexandria, VA 22313-1404

In re Application of
REUNAMKI et al.
Application No.: 10/545,792
PCT No.: PCT/FI04/50017
Int. Filing Date: 18 February 2004
Priority Date: 21 February 2003
Attorney Docket No.: 016050-075
For: METHODS AND APPARATUS FOR BENDING AND TEMPERING OR HEAT-STRENGTHENING A BIDIRECTIONALLY CURVED GLASS PANEL

DECISION

This decision is issued in response to applicants' declaration filed 17 August 2005, which is being treated a request under 37 CFR 1.42.

BACKGROUND

On 18 February 2004, applicants filed international application PCT/FI04/50017 which claimed a priority date of 21 February 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 02 September 2004. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, or at midnight on 21 August 2005.

On 17 August 2005, applicants filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and an application data sheet.

On 17 February 2006, applicants filed an executed declaration. The declaration is executed by Pete Harjunen and a representative of Tamglass Ltd. on behalf of the deceased inventor, Pauli Reunamki.

On 26 April 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) which set forth a 35 U.S.C. 371 completion date of 17 February 2006.

DISCUSSION

35 U.S.C. 117 states:

> Legal representatives of deceased inventors and of those under legal incapacity may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor.

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

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

The declaration filed 17 February 2006 is executed by Pete Harjunen and a representative of Tamglass Ltd. on behalf of the deceased inventor, Pauli Reunamki. The declaration fails to identify the person signing the declaration for Pauli Reunamki. Further, the declaration does not satisfy the requirements under 37 CFR 1.497(b)(2).

In addition, it is noted that revised 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(b)(2), the declaration must also provide residence, citizenship, and post office address for the administrator. The declaration filed on 17 February 2006 provides the residence, citizenship, and post office address for only one individual and it is unclear whether this information is for the legal representative or the deceased inventor. Accordingly, the declaration is not in compliance with 37 CFR 1.497(b)(2).

It appears that the declaration has been executed, on behalf of the deceased inventor, by a representative of Tamglass Ltd. If this is the case, a legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved, which indicates that a corporation may be appointed the "legal representative" of a deceased inventor/individual. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly)

relied on should be made of record.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is REFUSED.

The Notification of Acceptance of Application mailed 26 April 2006 is hereby **VACATED**.

Applicants are required to provide an oath/declaration in compliance with 37 CFR 1.497(a)-(b) within **TWO (2) MONTH** from the mail date of this Decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42" and must include an acceptable declaration under 37 CFR 1.497 which has been executed by the either the legal representative of the deceased inventor or, if no legal representative has been appointed, all of the heirs of the deceased inventor.

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/545,795	07/13/2006	Per-Ola Freskgard	FRESKGARD3A	6925

1444 7590 12/02/2009

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

EXAMINER	
SISSON, BRADLEY L	

ART UNIT	PAPER NUMBER
1634	

MAIL DATE	DELIVERY MODE
12/02/2009	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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BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

DEC 0 2 2009

In re Application of:
Freskgard et al.
Serial No.: 10/545,795
Filed: July 13, 2006
Attorney Docket No **FRESKGARD3A**

DECISION ON PETITION TO VACATE OFFICE ACTION DUE TO SUSPENSION AFTER RCE

This is in response to applicant's petition under 37 CFR. § 1.181(a), filed on November 25, 2009, to vacate the Office action of November 16, 2009 because of a requested 3-month suspension after RCE.

A review of the file history shows that the examiner mailed an Office action of November 16, 2009, setting three-month shortened statutory time period for reply after applicants filed an RCE.

Applicants states that the action was premature and should be vacated because applicants filed an RCE wherein a 3-month suspension was requested. Based on the evidence presented, it is concluded that the Office action of November 16, 2009 was premature.

Applicants' petition is **GRANTED**.

The Office action mailed November 16, 2009 is hereby vacated. The application is being returned to the examiner who will wait until January 28, 2010 to issue an Office action.

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

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NEXSEN PRUETT JACOBS & POLLARD
201 W. MCBEE AVENUE, SUITE 400
GREENVILLE, SC 29601

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APR 19 2006
OFFICE OF PETITIONS

In re Application of :
Gordhanbhai N. Patel :
Application No. 10/545,796 : DECISION ON PETITION
Filed: August 16, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. PATL3.0014PCT/US : 37 CFR 1.102(c)(2)
:

This is a decision on the petition under 37 CFR 1.102(c)(2)(iii), filed March 7, 2006, to make the above-identified application special based on the invention materially contributing to countering terrorism as set forth in M.P.E.P. § 708.02, Section XI.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(iii) and MPEP § 708.02, Section XI: Inventions for Countering Terrorism, should state that special status is sought because the invention materially contributes to countering terrorism. International terrorism as defined in 18 U.S.C. 2331 includes:

> activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping...

If the disclosure it not clear on its face that the claimed invention is materially directed to countering terrorism, the petition must be accompanied by a statement by the applicant, assignee or a registered attorney/agent explaining how the materiality standard is met. The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. No fee is required.

The USPTO's final rule amending 37 CFR 1.102(c)(2) states:

> The materially standard does not permit an applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that could counter terrorism. Nor does such

> standard permit an applicant to enjoy the benefit of advance examination merely because some minor aspect of the claimed invention may be directed to countering terrorism...[Response to Comment 65] applicants should not expect to have their petitions granted without a clear demonstration that the claimed invention is materially related to countering terrorism. 69 Fed. Reg. 56511 (Sept. 21, 2004)

The instant petition fails to meet the criteria of "materially" contributing to countering terrorism as set forth above. While the invention may be beneficial in detecting potential weapons utilized by terrorist, there is no "material" evidence that the invention actually "counters" terrorism as defined in 18 U.S.C. 2331 (repeated above). The petition to make special does not show that the invention materially contributes to countering terrorism. Therefore the petition does not rise to the level intended by the Rule.

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

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

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

By FAX: (571) 273-8300

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

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

The application is being forwarded to the Technology Center Art Unit 2884 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NEXSEN PRUETT JACOBS & POLLARD
201 W MCBEE AVENUE
SUITE 400
GREENVILLE, SC 29601

COPY MAILED
DEC 22 2006
OFFICE OF PETITIONS

In re Application of :
Gordhanbhai N. Patel :
Application No. 10/545,796 : DECISION ON PETITION
Filed: August 17, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. PATL3.0014PCT/US : 37 CFR 1.102(c)(2)
:

This is a decision on the petition under 37 CFR 1.102(c)(2)(iii), filed June 12, 2006, to make the above-identified application special based on the invention materially contributing to countering terrorism as set forth in M.P.E.P. § 708.02, Section XI.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(iii) and MPEP § 708.02, Section XI: Inventions for Countering Terrorism, should state that special status is sought because the invention materially contributes to countering terrorism. International terrorism as defined in 18 U.S.C. 2331 includes:

> activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping...

If the disclosure it not clear on its face that the clamed invention is materially directed to countering terrorism, the petition must be accompanied by a statement by the applicant, assignee or a registered attorney/agent explaining how the materiality standard is met. The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. No fee is required.

The instant petition includes a satisfactory statement. Accordingly, the above-identified application has been accorded "special" status. Telephone inquiries concerning this decision should be directed to Petitions Examiner 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 2884 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NEXSEN PRUET, LLC
P.O. BOX 10648
GREENVILLE, SC 29603

COPY MAILED
MAY 22 2008

In re Application of	:	
Gordhanbhai N. Patel	:	
Application No. 10/545,796	:	DECISION GRANTING PETITION
Filed: August 17, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 27845-26	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 19, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 8, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2884 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

April M. Wise
Petitions Examiner
Office of Petitions

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

FEB 09 2006
PATENT & TRADEMARK OFFICE

DOCKET NO: 276703US6PCT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF	:
TOSHIO TAKESHITA, ET AL.	: EXAMINER: NOT ASSIGNED
SERIAL NO: 10/545,812	: Ruth Kosky, M
FILED: AUGUST 16, 2005	: GROUP ART UNIT: 1745
FOR: BATTERY DEVICE AND ELECTRONIC APPARATUS	:

PETITION TO MAKE SPECIAL UNDER MPEP §708.02(II)

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

I. Basis for the Petition

Pursuant to MPEP §708.02(II) (8th ed. Rev. 2005), Applicants hereby petition for a special status for this Application.

II. Requirements for Granting Special Status

MPEP §708.02(II) established five requirements for a grant of special status based on infringement. The following subsections show that each of these five requirements is satisfied in the above-identified case.

A. Submit Petition and Fee

This petition is accompanied by the fee set forth in 37 C.F.R. §1.17(h).

02/10/2006 SZEWDIE1 00000042 10545812
01 FC:1464 130.00 OP

PETITION GRANTED

William Krynski
Special Program Examiner
Technology Center 1700
FEB 27 2006

BEST AVAILABLE COPY

30 AUG 2005

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

In re Application of	
GREZ et al.	
Serial No.: 10/545,813	
PCT No.: PCT/IB03/05643	DECISION ON PETITION
Int. Filing Date: 03 December 2003	
Priority Date: 19 December 2002	UNDER 37 CFR 1.137(b)
Attorney's Docket No.: US020551	
For: DISCRETE-AMOUNT FLUID DISPENSING SYSTEM FOR A PERSONAL CARE DEVICE	

The petition to revive under 37 CFR 1.137(b) filed 22 July 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required US national phase application within thirty months of the first filing until the filing of a grantable petition pursuant to this paragraph was unintentional" has been interpreted as meaning that "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. If this is an incorrect interpretation in view of the rules, petitioner is required to promptly notify this office. 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 paid. The required petition fee of $1500 has also been paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

It is noted that the declaration submitted on 22 July 2005 is not in compliance with 37 CFR 1.497 and is unacceptable. The declaration contained duplicate page 2 signature pages. Each page is signed by different inventors and combined into one declaration. The declaration is not properly executed. It appears that either the attorney pieced together separate complete declarations into one composite declaration or the inventors were presented with an incomplete declaration. What is required is one declaration where all inventors have signed or separate complete declarations. Thus, the requirements of 37 CFR 1.497 (a) and (b) have not been met and the declaration is unacceptable as filed.

This application is being forwarded to the United States Designated/Elected Office for further processing including issuance of a Notification of Missing Requirements indicating that an oath or declaration, in compliance with 37 CFR 1.137(b) and executed by the inventors is required.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571) 272-3286

UNITED STATES PATENT AND TRADEMARK OFFICE

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

27 SEP 2006

NORA M. TOCUPS
P.O BOX 698
140 PINECREST AVE
DECATUR GA 30030

In re Application of	:	DECISION ON
SANDERS	:	
Application No.: 10/545,819	:	PETITION UNDER
PCT No.: PCT/US2004/004489	:	
Int. Filing Date: 12 February 2004	:	37 CFR § 1.47(b)
Priority Date: 12 February 2003	:	
Attorney Docket No.: 2001-0100PCT	:	
For: STACKABLE CARRYING CASE AND STORAGE DEVICE AND METHODS FOR USING SAME	:	

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 30 June 2006.

BACKGROUND

On 12 February 2004, applicant filed international application PCT/US2004/004489, which designated the US and claimed a priority date of 12 February 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (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 12 August 2005.

On 12 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, the surcharge under 37 CFR 1.492(h), and an assertion of small entity status.

On 16 March 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) was required. The NOTIFICATION set a two-month extendable period for reply.

On 30 June 2006, applicant submitted the instant petition under 37 CFR 1.47(b). The petition was accompanied by, *inter alia*, a petition/fee for a two month extension of time, a copy

of an assignment recorded for U.S. provisional application number 60/446,819, and a copy of an e-mail from non-signing inventor David Sanders to Nora Tocups.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Items (1), (3), and (6) have been met.

Item (2) has not been met. To establish a refusal to sign, it is required that the inventor be presented with the application papers (specification, including claims, drawings, and oath or declaration). See MPEP 409.03(d). It is not clear that a copy of the present application was sent to Mr. Sanders. "It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956)." MPEP 409.03(d).

Item (4) has not been met. The declaration fails to include the citizenship of David Sanders.

Item (5) has not been met. A copy of an assignment recorded for U.S. provisional application number 60/446,819 has been provided. However, it is not clear that the invention of that application and the invention of the present application are the same invention. *Cf. In Re Gray*, 115 USPQ 80 (Comm'r Pat. 1956) (An assignment of an application and any "reissue, division, or continuation of said application" does not itself establish an assignment of a continuation-in-part application.) See MPEP 409.03(f).

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

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

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

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

12 FEB 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

NORA M. TOCUPS
P.O BOX 698
140 PINECREST AVE
DECATUR GA 30030

In re Application of	:	DECISION ON
SANDERS	:	
Application No.: 10/545,819	:	PETITION UNDER
PCT No.: PCT/US2004/004489	:	
Int. Filing Date: 12 February 2004	:	37 CFR § 1.47(b)
Priority Date: 12 February 2003	:	
Attorney Docket No.: 2001-0100PCT	:	
For: STACKABLE CARRYING CASE AND	:	
STORAGE DEVICE AND METHODS FOR	:	
USING SAME	:	

This is a decision on applicant's renewed petition under 37 CFR 1.47(b) filed in the United States Patent and Trademark Office (USPTO) on 30 January 2007.

BACKGROUND

On 12 February 2004, applicant filed international application PCT/US2004/004489, which designated the US and claimed a priority date of 12 February 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (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 12 August 2005.

On 12 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, the surcharge under 37 CFR 1.492(h), and an assertion of small entity status.

On 16 March 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) was required. The NOTIFICATION set a two-month extendable period for reply.

On 30 June 2006, applicant submitted a petition under 37 CFR 1.47(b). The petition was accompanied by, *inter alia*, a petition/fee for a two month extension of time, a copy of an

assignment recorded for U.S. provisional application number 60/446,819, and a copy of an e-mail from non-signing inventor David Sanders to Nora Tocups.

On 27 September 2006, a decision was mailed dismissing applicant's petition under 37 CFR 1.47(b) for failure to provide factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, for failure to provide an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, and for failure to provide proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application.

On 30 January 2007, applicant submitted the instant renewed petition under 37 CFR 1.47(b) which was accompanied by, *inter alia*, a letter from Nora Tocups to non-signing inventor David Sanders dated 12 September 2005, a letter from Nora Tocups to David Sanders dated 25 August 2005, a declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, and a copy of an assignment recorded for the instant application.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

As noted in the decision mailed 27 September 2006, items (1), (3), and (6) have been met.

Item (4) has now been met as well.

Item (2) has now been met. The letter dated 25 August 2005 from Nora Tocups to David Sanders indicates that a copy of the application papers was sent to Mr. Sanders.

Item (5) still has not been met. A copy of an assignment recorded for U.S. provisional application number 60/446,819 was provided. The decision mailed 27 September 2006 indicated that it was not clear that the invention of that application and the invention of the present application are the same invention. *Cf. In Re Gray*, 115 USPQ 80 (Comm'r Pat. 1956) (An assignment of an application and any "reissue, division, or continuation of said application" does not itself establish an assignment of a continuation-in-part application.) See MPEP 409.03(f). The renewed petition states that a "copy of the assignment related to the instant appliction was submitted with the original petition, but it was found deficient. A copy of the assignment recorded against the instant application and related recording information is attached as Exhibit F." However, the assignment in Exhibit F appears to be the same assignment document

presented in the earlier petition for the provisional application. Thus, for the same reasons as before, the assignment document is not sufficient. See MPEP § 409.03(f) for providing proof of proprietary interest.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

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

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

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

DATE 9/17/07 APPLICATION NUMBER 10/545,819

DOC CODE Pet. Dec. D/ED DOC DATE 9-17-07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN 8 WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN 16 WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

UNITED STATES PATENT AND TRADEMARK OFFICE

17 SEP 2007

Commissioner for Patents
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P.O. Box 1450
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NORA M. TOCUPS
P.O BOX 698
140 PINECREST AVE
DECATUR GA 30030

In re Application of	:	DECISION ON
SANDERS	:	
Application No.: 10/545,819	:	PETITION UNDER
PCT No.: PCT/US2004/004489	:	
Int. Filing Date: 12 February 2004	:	37 CFR § 1.47(b)
Priority Date: 12 February 2003	:	
Attorney Docket No.: 2001-0100PCT	:	
For: STACKABLE CARRYING CASE AND STORAGE DEVICE AND METHODS FOR USING SAME	:	

This is a decision on applicant's renewed petition under 37 CFR 1.47(b) filed in the United States Patent and Trademark Office (USPTO) on 20 July 2007.

BACKGROUND

On 12 February 2004, applicant filed international application PCT/US2004/004489, which designated the US and claimed a priority date of 12 February 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (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 12 August 2005.

On 12 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, the surcharge under 37 CFR 1.492(h), and an assertion of small entity status.

On 16 March 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) was required. The NOTIFICATION set a two-month extendable period for reply.

On 30 June 2006, applicant submitted a petition under 37 CFR 1.47(b). The petition was accompanied by, *inter alia*, a petition/fee for a two month extension of time, a copy of an

assignment recorded for U.S. provisional application number 60/446,819, and a copy of an e-mail from non-signing inventor David Sanders to Nora Tocups.

On 27 September 2006, a decision was mailed dismissing applicant's petition under 37 CFR 1.47(b) for failure to provide factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, for failure to provide an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, and for failure to provide proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application.

On 30 January 2007, applicant submitted a renewed petition under 37 CFR 1.47(b) which was accompanied by, *inter alia*, a letter from Nora Tocups to non-signing inventor David Sanders dated 12 September 2005, a letter from Nora Tocups to David Sanders dated 25 August 2005, a declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, and a copy of an assignment recorded for the instant application.

On 12 February 2007, a decision was mailed dismissing applicant's petition under 37 CFR 1.47(b) for failure to provide proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application.

On 20 July 2007, applicant submitted the instant renewed petition under 37 CFR 1.47(b) which was accompanied by a petition/fee for a three-month extension of time, a copy of the first page of US provisional application 60/446,819, and a legal memorandum by Nora Tocups.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

As noted in the decision mailed 27 September 2006, items (1), (3), and (6) have been met.

As noted in the decision mailed 12 February 2007, items (2) and (4) have been met as well.

Item (5) has now been met. The legal memorandum of Nora Tocups has been considered. The statements regarding the title of the provisional, international, and national stage applications are not persuasive. Both the provisional application and the international application fail to include the word "CASE" in the title. However, this may simply be a typographical error. For

example, the cover page for the provisional application includes the word "CASE" (copy enclosed) in the title while the first page of the specification (as noted by petitioner) does not. Nevertheless, the assignment signed by David Sanders dated 11 February 2004 includes the docket number 2001-0100 which corresponds to the docket number of the PCT application rather than the provisional application (docket number 1600-0100).

CONCLUSION

For the above reasons, applicants' renewed 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 non-signing inventor at his last known address of record.

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

This application is being 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 **30 January 2007**.

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

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

Enc.: Copy of "PROVISIONAL APPLICATION FOR PATENT COVER SHEET" for provisional application number 60/446,819

02-13-03 A/PROV

PTO/SB/16 (10-01)
Approved for use through 10/31/2002. OMB 0651-0032
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.

02/12/03 jc498 U.S. PTO

JC971 U.S. PTO 60/446819 02/12/03

PROVISIONAL APPLICATION FOR PATENT COVER SHEET

This is a request for filing a PROVISIONAL APPLICATION FOR PATENT under 37 CFR 1.53 (c).

Express Mail Label No. EU690674720US

INVENTOR(S)

Given Name (first and middle [if any])	Family Name or Surname	Residence (City and either State or Foreign Country)
DAVID	SANDERS	ALPHARETTA, GEORGIA, USA

☐ *Additional inventors are being named on the _____ separately numbered sheets attached hereto*

TITLE OF THE INVENTION (500 characters max)

STACKABLE CARRYING CASE AND STORAGE DEVICE AND METHODS FOR USING SAME

CORRESPONDENCE ADDRESS

Direct all correspondence to:

☒ Customer Number 33939 → Place Customer Number Bar Code Label here 33939 PATENT TRADEMARK OFFICE

OR *Type Customer Number here*

☐ Firm *or* Individual Name	Law Firm of Nora M. Tocups				
Address	P.O. Box 698				
Address					
City	Decatur	State	GA	ZIP	30031-0698
Country	USA	Telephone	404.372.1430	Fax	404.378.3424

ENCLOSED APPLICATION PARTS *(check all that apply)*

☒ Specification *Number of Pages* 16 ☐ CD(s), Number

☒ Drawing(s) *Number of Sheets* 6 ☐ Other (specify)

☐ Application Data Sheet. See 37 CFR 1.76

METHOD OF PAYMENT OF FILING FEES FOR THIS PROVISIONAL APPLICATION FOR PATENT

☒ Applicant claims small entity status. See 37 CFR 1.27.

☐ A check or money order is enclosed to cover the filing fees

FILING FEE AMOUNT ($) $80

☐ The Commissioner is hereby authorized to charge filing fees or credit any overpayment to Deposit Account Number:

☒ Payment by credit card. Form PTO-2038 is attached.

The invention was made by an agency of the United States Government or under a contract with an agency of the United States Government.

☒ No.

☐ Yes, the name of the U.S. Government agency and the Government contract number are: _____.

Respectfully submitted,

SIGNATURE Nora M. Tocups Date 02.12.03

TYPED or PRINTED NAME Nora M. Tocups REGISTRATION NO. *(if appropriate)* 35,717

TELEPHONE 404.372.1430 Docket Number: 1601-0100

USE ONLY FOR FILING A PROVISIONAL APPLICATION FOR PATENT

This collection of information is required by 37 CFR 1.51. The information is used by the public to file (and by the PTO to process) a provisional application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the complete provisional application to the PTO. 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, Washington, D.C., 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Box Provisional Application, Assistant Commissioner for Patents, Washington, D.C. 20231.

15 MAY 2006

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P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

In re Application of	:	
ALI, Walid	:	
Application No.: 10/545,840	:	DECISION
PCT No.: PCT/IB03/05422	:	
Int. Filing Date: 25 November 2003	:	ON PETITION UNDER
Priority Date: 05 December 2002	:	
Docket No.: US020506	:	37 CFR 1.137(b)
For: A METHOD AND ... MINIMAL COMPUTATION REQUIREMENTS	:	

Applicants' "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 17 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 supplied a declaration in compliance with 37 CFR 1.497(a)-(b). The fee for filing the search fee, examination fee or oath or declaration after thirty months will be charged to deposit account no. 14-1270, as authorized.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a date of 17 August 2005 under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4).

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

23 JUN 2006

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BRIARCLIFF MANOR, NY 10510

In re Application of: BELLERS et al.	:	
Application No.: 10/545,841	:	
PCT Application No.: PCT/IB03/05991	:	DECISION ON
Int. Filing Date: 10 December 2003	:	PETITION UNDER
Priority Date Claimed: 18 December 2002	:	37 CFR 1.137(b)
Attorney Docket No.: US020580	:	
For: METHOD AND APPARATUS FOR GENERATING THIN LINES IN VIDEO IMAGES	:	

This is a decision on the "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally under 37 CFR 1.137(b)," filed 17 August 2005.

BACKGROUND

On 10 December 2003, applicant filed international application PCT/IB03/05991. The international application claims a priority date of 18 December 2002 and designates the United States. Accordingly, the thirty-month period for commencement of the national stage in the United States and paying the basic national fee expired at midnight on 18 June 2005.

On 17 August 2005, applicant filed the instant petition for revival accompanied by, *inter alia*, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), a copy of the international application as required by 35 U.S.C. 371(c)(2), an executed declaration, and the petition fee of $1500.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) the required reply, (2) the petition as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Petitioner'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). The submission of the national fee and the copy of the international application satisfies 37 CFR 1.137(b)(1). The payment of the petition fee satisfies the requirement under 37 CFR 1.137(b)(2). A terminal disclaimer is not required because the application was filed on or after 08 June 1995. Therefore, the requirements for a grantable petition under 37 CFR 1.137(b) have been satisfied.

Deposit Account No. 14-1270 will be charged the $130 surcharge for filing the declaration later than thirty months from the priority date.

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 10 December 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) of 17 August 2005.

The application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing in accordance with this decision.

John Chapman
PCT Legal Administration Detailee
Telephone: 571-272-6095
Facsimile: 571-273-0459

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

28 NOV 2005

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Russell Gross
Corporate Patent Counsel
Philips Electronics North America Corporation
P.O. Bx 3001
Briarcliff Manor, NY 10510-8001

In re Application of
HERMAN, et al.
Application No.: 10/545,842
PCT No.: PCT/IB03/05794
Int. Filing Date: 05 December 2003
Priority Date: 13 December 2002
Atty. Docket No.: US020558
For: IMPROVED IMAGE SEGMENT BASED ON BLOCK AVERAGING

DECISION ON PETITION

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" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

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

The application has an international filing date of 05 December 2003 under 35 U.S.C. 363 and will be given a date of **17 August 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

01 DEC 2005

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510-8001,

In re Application of WITTING
Application No.: 10/545,843
PCT No.: PCT/IB03/05873
Int. Filing: 10 December 2003
Priority Date: 18 December 2002
Attorney Docket No.: US020579
For: METHOD OF COMPENSATING FOR THE EFFECT OF UNDERSIRABLE ATTRIBUTES ON THE MEASUREMENT OF DESIRABLE ATTRIBUTES FOR OBJECTIVE IMAGE QUALITY

DECISION ON

PETITION 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 including issuance of a Notification of Missing Requirements indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), and the surcharge for filing the oath or declaration after the thirty month period, is required.

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

Telephone: (571) 272-3286
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29 MAR 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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Corporate Patent Counsel
Philips Electronics North America Corporation
P.O. Box 3001
Briarcliff Manor, NY 10510-8001

In re Application of:	:	
GRIFFIN, John	:	DECISION ON PETITION FOR
U.S. Application No.: 10/545,844	:	REVIVAL OF ABANDONED
PCT No.: PCT/IB2003/006044	:	APPLICATION UNDER
International Filing Date: 12 December 2003	:	37 CFR 1.137(b)
Priority Date: 20 December 2002	:	
Attorney's Docket No.: US020620	:	
For: POWER FACTOR CONTROLLER UTILIZING DUEL-SWITCH CONFIGURATION	:	

The petition for revival 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" 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.

It is noted that the petition was accompanied by an executed declaration in compliance with 37 CFR 1.497. Deposit Account No. 14-1270 will be charged the $130 surcharge for filing the declaration later than thirty months after the priority date.

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 17 August 2005.

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

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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 :
BLATT, Lawrence M. :
Application No. 10/545,864 : DECISION ON PETITION
Filed: June 29, 2006 : TO WITHDRAW
Attorney Docket No. **6319-4505US** : 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

29 JAN 2007

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PHILIPS ELECTRONICS NORTH AMERICA CORP.
Intellectual Property & Standards
1109 McKay Drive, M/S-41SJ
San Jose, CA 95131

In re Application of :
REDMAN-WHITE, William :
U.S. Application No.: 10/545,865 :
PCT No.: PCT/IB2004/000808 :
Int. Filing Date: 19 March 2004 :
Priority Date: 19 March 2003 :
Attorney Docket No.: US030056US1 :
For: QUADRATURE CLOCK DIVIDER :

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

Applicant's petition to revive under 37 CFR 1.137(b) filed on 07 December 2006 with the national stage papers is hereby **GRANTED** as follows:

A declaration in compliance with 37 CFR 1.497(a) and (b) was provided which is considered an appropriate reply. The surcharge fee and the petition fee have been charged to Deposit Account No. 50-4019 as authorized. Applicant makes the required statement pursuant to 37 CFR 1.137(b)(3). A terminal disclaimer is not required.

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

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 19 March 2004 under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 07 December 2006.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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BOZICEVIC FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE, SUITE 200
EAST PALO ALTO, CA 94303

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OFFICE OF PETITIONS

In re Application of
Lawrence **BLATT, et al.**
Application No. 10/545,867
Filed: June 12, 2006
Attorney Docket No. INTM-019

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 6, 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 Paula A. Borden 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: **LAWRENCE M. BLATT**
10 SHOREVIEW
SAN FRANCISCO, CA 94121

cc: **MIN DING**
BROWN RAYSMAN MILLSTEIN
FELDER & STEINER LLP
900 THIRD AVENUE
NEW YORK, NY 10022

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OFFICE OF PETITIONS

THELEN REID BROWN RAYSMAN & STEINER LLP
PO BOX 1510
NEW YORK NY 10150-1510

In re Application of :
BLATT, Lawrence M. et al. :
Application No. 10/545,867 : DECISION ON PETITION
Filed: June 12, 2006 : TO WITHDRAW
Attorney Docket No. **6319-4509US** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 26, 2007.

The request is **NOT APPROVED**.

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).

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MCDERMOTT, WILL & EMERY**
4370 LA JOLLA VILLAGE DRIVE, SUITE 700
SAN DIEGO, CA 92122

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21 NOV 2006

MCDONNELL, BOEHNEN, HULBERT & BERGHOFF LLP
300 S. Wacker Drive
32nd Floor
Chicago, IL 60606

In re Application of :
JUNG, Yeong Weon :
U.S. Application No.: 10/545,895 :
PCT No.: PCT/KR2004/000654 : **DECISION**
Int. Filing Date: 24 March 2004 :
Priority Date: 25 March 2003 :
Attorney Docket No.: 05-392-B :
For: METHOD FOR TRUNK LINE DUPLEXING PROTECTION USING A HARDWARE WATCHDOG :

This decision is in response to the petition under 37 CFR 1.47(b) filed with the United States Designated/Elected Office (DO/EO/US) on 13 October 2006.

BACKGROUND

On 07 April 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 13 October 2006, applicants filed the subject petition which was accompanied by, inter alia, a five-month extension and $1,590.00 fee; the $200.00 petition fee; a declaration signed by the 37 CFR 1.47(b) applicant for the nonsigning inventor; a "Statement Establishing Proprietary Interest by Person Signing on Behalf of Nonsigning Inventor and Statement Under 37 C.F.R. § 3.73(b)"; a declaration by Jiwon Lim; and several exhibits (A-C, 1 - 6).

DISCUSSION

The 37 CFR 1.47(b) applicant claims that the sole inventor in the above-captioned application refuses to cooperate. The petitioner filed the subject petition pursuant to 37 CFR 1.47(b) as a response to the Form PCT/DO/EO/905 mailed 07 April 2006.

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the required petition fee; (2) factual proof that the missing joint inventor 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 37 CFR 1.47(b) applicant on behalf of the nonsigning joint inventor (5) evidence showing sufficient proprietary interest in the application; and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Concerning item (1), the petition fee of $200.00 has been paid.

With regards to item (3), the last known address of the nonsigning joint inventor, Yeong Weon Jung is given as:

Hyundai 5-cha Apt. 504-702,
Daewol-myeon, Icheon-si,
Gyeonggi-do 467-736
Republic of Korea

Concerning item (4), the 37 CFR 1.47(b) applicant submitted a declaration signed by Robert J. Irvine III on behalf of Mr. Jung. Mr. Irvine states that he has the authority to sign for the assignee, UTStarcom Korea Ltd. This satisfies section 324 of the MPEP.

A review of the declaration shows that it is in compliance with 37 CFR 1.497(a) and (b) as the residence, address and citizenship of the sole inventor are recorded on the declaration. Item (4) is satisfied.

Regarding item (6), the 37 CFR 1.47(b) applicant states that the filing of this application "is necessary to preserve the rights of Applicant UTStarcom, Inc." This statement satisfies item (6).

Hence, items (1), (3), (4) and (6) of 37 CFR 1.47(b) are complete.

Concerning item (2), the 37 CFR 1.47(b) applicant claims that the sole inventor refuses to sign relevant documents for the above-captioned application. Section 409.03(d) of the MPEP discusses the requirements needed to show that an inventor refuses to join in an application and states, in part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by

counsel, to the address of the nonsigning inventor's attorney . . .

Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When 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.

Here, the 37 CFR 1.47(b) applicant has not shown that a complete copy of the application, including specification, claims and drawings were sent to Mr. Jung. The declaration by Jiwon Lim indicates that only an assignment and declaration were provided to the nonsigning inventor. Accordingly, Mr. Jung's subsequent oral refusal to cooperate can not be accepted until petitioner shows that a complete copy of the subject application was sent to Mr. Jung. It is also noted that petitioner would meet this requirement if a copy of the subject application was forwarded to Mr. Jung but he refused to accept delivery. *See above.*

For these reasons item (2) of 37 CFR 1.47(b) is not yet satisfied.

With regards to item (5), petitioner claims the required propriety interest in the subject application through an assignment. UTStarcom Korea Ltd. acquired the intellectual property portfolio of Hyundai Syscomm, Inc. This portfolio included the right to the above-captioned national stage application.

Section 409.03(f) of the MPEP discusses proof of proprietary interest and 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).

Here, petitioner has provided an English translation of an assignment by Hyundai Syscomm, Inc. to UTStarcom Korea Ltd. The assignment included rights in Korean national application No. 2003-0018554 (pg. 43/46 in exhibit B). A copy of an Employee's Declaration of Invention executed by Mr. Jung and an English translation of this document was provided in Exhibit A. A statement under 37 CFR 3.73(b) signed by Robert J. Irvine III for the assignee was also submitted. Mr. Irvine states that he has the authority to sign for the assignee. This statement satisfies section 324 of the MPEP.

A review of the evidence provided has raised several issues. The Employee's Declaration of Invention does not appear to be an assignment, but rather a statement of invention. If that is indeed the case, petitioner may have to show proprietary interest in the subject application using an agreement to assign such as an employment contract. Moreover, the 37 CFR 1.47(b) applicant must show that the inventor assigned his rights (or agreed to assign his rights) in the international application, not the Korean patent application.

Petitioner may consider meeting this requirement using a legal memorandum as outlined in section 409.03(f) if needed. As discussed in the MPEP, the appropriate facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant and copies of any relevant statutes or court decisions in support of this conclusion should be provided.

For these reasons, item (5) of is not yet satisfied.

CONCLUSION

For the reason discussed above, 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. No additional petition fee is required.

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

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

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19 MAR 2007

MCDONNELL, BOEHNEN, HULBERT & BERGHOFF LLP
300 S. Wacker Drive
32nd Floor
Chicago, IL 60606

In re Application of :
JUNG, Yeong Weon :
U.S. Application No.: 10/545,895 :
PCT No.: PCT/KR2004/000654 :
Int. Filing Date: 24 March 2004 :
Priority Date: 25 March 2003 : **DECISION**
Attorney Docket No.: 05-392-B :
For: METHOD FOR TRUNK LINE DUPLEXING PROTECTION USING A HARDWARE WATCHDOG :

This is a decision on the papers filed 22 January 2007.

BACKGROUND

On 21 November 2006, a decision dismissing applicant's petition under 37 CR 1.47(b) was mailed. Applicant was given two months to respond.

On 22 January 2007, applicant submitted an executed declaration and assignment.

DISCUSSION

In response to the decision mailed 21 November 2006, petitioner included a declaration signed by the sole inventor. This declaration complies with 37 CFR 1.497(a) and (b).

No further action on the petition under 37 CFR 1.47(b) is required.

CONCLUSION

Accordingly, the petition under 37 CFR 1.47(b) is **DISMISSED** as **MOOT**.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 24 March 2004, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 22 January 2007.

10/545,895

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/19/07

Paper No.: —

TO SPE OF : ART UNIT 3748

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/545901 Patent No: 7246486B2

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

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

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

THOMAS DENION
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

Thomas Denion

SPE **Art Unit**

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,246,486

APPLICATION NO.: 10/545,901

ISSUE DATE : July 24, 2007

INVENTOR(S) : Shinji NAKAGAWA et al.

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

On the title page, column 1 should read:

(54) Internal Combustion Engine Control Device

(86) PCT No.: PCT/JP03/05529

§ 371(c)(1), (2), (4) Date: Aug. 17, 2005

(87) PCT Pub. No.: WO04/097200

PCT Pub. Date: Nov. 11, 2004

Please delete Item (30), Foreign Application Priority Data.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
James F. McKeown
Crowell & Moring LLP
Intellectual Property Group
P.O. Box 14300
Washington, DC 20044-4300

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

UNITED STATES 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: August 25, 2008
TO: Certificates of Correction Branch
FROM: THOMAS E. DENION
SPE, Art Unit 3748
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. *** as specified on the attached Certificate.

Thomas E Denion

THOMAS E. DENION
Supervisory Patent Examiner
Art Unit 3748

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. ~~***~~ 7,246,486 B2
Patented: *** 10/545901

The present reissue patent issued from an application that is one of a family of divisional reissue applications resulting from Patent No. ***. The present reissue patent has issued without the cross reference to the other reissue application(s) of the family which is required pursuant to 37 CFR 1.177(a). Accordingly, insert in the first sentence of the specification as follows:

Notice: More than one reissue application has been filed for the reissue of patent ***. The reissue applications are ***.

Thomas E Denion

THOMAS E. DENION
Supervisory Patent Examiner
Art Unit 3748

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ALEXANDRIA, VA 22313-1450
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10 JAN 2007

WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402-3319

In re Application of IBRAHIM et al :
U.S. Application No.: 10/545,918 :
PCT Application No.: PCT/FR2004/000344 :
Int. Filing Date: 13 February 2004 :
Priority Date Claimed: 17 February 2003 : DECISION
Attorney Docket No.: W51.12-0021 :
For: WIRELESS DATA TRANSMISSION :
METHOD, AND CORRESPONDING :
SIGNAL, SYSTEM, TRANSMITTER AND :
RECEIVER :

This is in response to applicant's petition under 37 CFR 1.47(a) filed 07 December 2006.

BACKGROUND

On 13 February 2004, applicant filed international application PCT/FR2004/000344, which claimed priority of an earlier France application filed 17 February 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 10 September 2004. The thirty-month period for paying the basic national fee in the United States expired on 17 August 2005.

On 17 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 07 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 07 December 2006, applicant filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, applicant has submitted a declaration signed by the available inventor on his own behalf and on behalf of the nonsigning inventor.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition states that joint inventor Nicolas Ibrahim refuses to sign the application papers. The petition adequately demonstrates that a bona fide attempt was made to present a copy of the application papers to Ibrahim for signature (see affidavit of Patrice Vidon, ¶5 and Annex 2). Furthermore, the petition sufficiently establishes that Ibrahim refuses to sign. In particular, Ibrahim's failure to respond to the letters dated 21 September 2005 and 17 July 2006 constitute a constructive refusal to cooperate. Thus, it can be concluded with reasonable certainty that Ibrahim refuses to join in the application.

With regard to item (3) above, applicant has provided the requisite petition fee.

With regard to item (4) above, the petition states the last known address of the nonsigning inventor.

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 13 February 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 07 December 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
PCT Legal Office

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

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Commissioner for Patents
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Alexandria, VA 22313-1450
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17 NOV 2006

McDonnell Boehnen Hulbert & Berghoff, LLP
300 South Wacker Drive
32nd Floor
Chicago, IL 60606

In re Application of
KIM, SE YEON
Application No.: 10/545,922
PCT No.: PCT/KR04/00645
Int. Filing Date: 24 March 2004
Priority Date: 25 March 2003
Attorney Docket No.: 05-386-B
For: METHOD FOR STABILIZING BTS BY USING E1 TRUNK BOARD DUPLEXING OF BSC

DECISION ON PETITION

This decision is in response to applicant's "Petition under 37 CFR 1.47(b) By Person Having Proprietary Interest to File Application on Behalf of Inventor Who Refuses to Sign" filed 30 October 2006. The petition fee has been submitted.

BACKGROUND

On 24 March 2004, applicant filed international application PCT/KR04/00645 which claimed a priority date of 25 March 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 07 October 2004. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire on 25 September 2005.

On 17 August 2005, applicant filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and a copy of the international search report.

On 25 April 2006, the United States Designated/Elected Office mailed "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) was required.

On 30 October 2006, 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 requisite petition fee under 37 CFR 1.17(i); (2) factual proof that the inventor refuses to execute the

application or cannot be reached after diligent effort; (3) a statement of the last known address of the nonsigning inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. Items (1), (3), (4) and (6) under 37 CFR 1.47(b) have been satisfied.

Regarding item (2) above, petitioner states that Se Yeon Kim has refused to execute the application. Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of 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.
>
> 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 the conclusion is based should be stated in an 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.

A review of the present petition reveals that applicant has not satisfied item (2) above, in that the applicants have not shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Se Yeon Kim. Petitioner has provided a copy of the postal letter, electronic mail, and a delivery certificate sent to Se Yeon Kim. However, petitioner fails to provide evidence that a complete copy of the application was mailed to the nonsigning inventor. Moreover, the electronic mail from Se Yeon Kim (to Ji-Won Lim) indicates that "he is unable to remember to invention clearly." The mailing of a Declaration, Power of Attorney, and Assignment are not considered a complete copy of the application papers. As stated above, in order to meet the requirements of 37 CFR 1.47(a) and Section 409.03(d) of the MPEP, a statement of facts is needed from a person having first hand knowledge of the facts that a complete copy of the application papers were sent to Se Yeon Kim and that Se Yeon Kim has subsequently

refused to execute the application.

Concerning Item (5), the 37 CFR 1.47(b) applicant must prove that, as of the date the application is deposited in the Patent and Trademark Office, (1) the invention has been assigned to the applicant, or (2) the inventor has agreed in writing to assign the invention to the applicant, or (3) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application. MPEP 409.03(f).

Under 37 CFR 3.73(b)(1), ownership of the application may be established by: (i) submitting documentary evidence of a chain of title from the original owner to the assignee; or (ii) specifying by reel and frame number where such evidence is recorded in the USPTO.

The present petition states that the inventor Se Yeon Kim assigned the invention to Hyundai Syscomm, Inc. ("Hyundai") and that Hyundai subsequently assigned the invention to UTStarcomm Korea Limited ("UTStarcomm"). Petitioner has adequately demonstrated a transfer of title from Hyundai to UTStarcomm, however, additional evidence concerning the purported assignment from Se Yeon Kim to Hyundai is required. Specifically, the "Employee's Declaration of Invention" does not list the U.S. application number, the PCT application number, or the priority application number. Although the document lists Hyundai reference number and the title of invention, this information by itself does not adequately demonstrate that the present invention was subject of the assignment.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Se Yeon Kim under 37 CFR 1.47(b) at this time.

CONCLUSION

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

31 JAN 2007

McDonnell Boehnen Hulbert & Berghoff, LLP
300 South Wacker Drive
32nd Floor
Chicago, IL 60606

In re Application of :
KIM, SE YEON :
Application No.: 10/545,922 :
PCT No.: PCT/KR04/00645 : DECISION ON PETITION
Int. Filing Date: 24 March 2004 :
Priority Date: 25 March 2003 :
Attorney Docket No.: 05-386-B :
For: METHOD FOR STABILIZING BTS BY USING E1 TRUNK BOARD DUPLEXING OF BSC

This decision is in response to applicant's "Renewed Petition under 37 CFR 1.47(b)" filed 17 January 2007. The petition fee has been submitted.

BACKGROUND

On 24 March 2004, applicant filed international application PCT/KR04/00645 which claimed a priority date of 25 March 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 07 October 2004. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire on 25 September 2005.

On 17 August 2005, applicant filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and a copy of the international search report.

On 25 April 2006, the United States Designated/Elected Office mailed "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) was required.

On 30 October 2006, applicant filed a petition under 37 CFR 1.47(b). In a decision date 17 November 2006, applicant's petition under 37 CFR 1.47(b) was dismissed without prejudice.

On 17 January 2007, applicant the present renewed petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(i); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the nonsigning inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. Items (1), (3), (4) and (6) under 37 CFR 1.47(b) have been satisfied.

A review of the present petition and the accompanying papers reveal that applicants have satisfied item (2), in that the applicants have shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Se Yeon Kim. The steps taken by Ji-Won Lim are sufficient to show that Se Yeon Kim has refused to execute the application.

Concerning Item (5), the 37 CFR 1.47(b) applicant must prove that, as of the date the application is deposited in the Patent and Trademark Office, (1) the invention has been assigned to the applicant, or (2) the inventor has agreed in writing to assign the invention to the applicant, or (3) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application. MPEP 409.03(f).

Under 37 CFR 3.73(b)(1), ownership of the application may be established by: (i) submitting documentary evidence of a chain of title from the original owner to the assignee; or (ii) specifying by reel and frame number where such evidence is recorded in the USPTO.

The present petition states that the inventor Se Yeon Kim assigned the invention to Hyundai Syscomm, Inc. ("Hyundai") and that Hyundai subsequently assigned the invention to UTStarcomm Korea Limited ("UTStarcomm"). Petitioner has previously demonstrated a transfer of title from Hyundai to UTStarcomm. Furthermore, the renewed petition includes an appropriate legal memorandum from attorney Joo-Young Kim which states that Hyundai would have title to the present invention instead of inventor Koo. Therefore, a chain of time from Se Yeon Kim to UTStarcomm has been sufficiently established.

CONCLUSION

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

The application will be given an international filing date of 24 March 2004 under 35 U.S.C. 363, and a date of 30 October 2006 under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record. A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

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

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

20 JUN 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WILLIAM J. SAPONE
COLEMAN SUDOL SAPONE P.C.
714 COLORADO AVENUE
BRIDGE PORT, CT 06605

In re Application of SHIFRIN et al :
U.S. Application No.: 10/545,938 :
PCT Application No.: PCT/US2003/006188 :
Int. Filing Date: 28 February 2003 :
Priority Date Claimed: none : DECISION
Attorney Docket No.: 885/9-1787 :
For: EXTRAVENOUS CORRECTOR FOR REPAIR OF INCOMPETENT VENOUS VALVES :

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" and "Petition Under 37CFR 1.47(b) to Proceed Without the Signature of a Joint Inventor" filed 14 June 2007.

BACKGROUND

On 28 February 2003, applicant filed international application PCT/US2003/006188. A copy of the international application was communicated to the USPTO from the International Bureau on 16 September 2004. The thirty-month period for paying the basic national fee in the United States expired on 28 August 2005.

On 17 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 20 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.

International application PCT/US2003/006188 became abandoned as to the United States for failure to timely respond to the Notification of Missing Requirements.

On 14 June 2007, applicant filed the present petitions under 37 CFR 1.137(b) and 37 CFR 1.47(a).

DISCUSSION

I. Petition Under 37 CFR 1.137(b)

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

With regard to item (1), although the filing of a grantable petition under 37 CFR 1.47(a) would be a proper reply to the Notification of Missing Requirements, the present petition under 37 CFR 1.47(a) is dismissed for the reasons set forth in §II below.

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.

II. Petition Under 37 CFR 1.47(a)

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 signed by the available inventors is improper. Specifically, it is not acceptable to combine pages of separately executed declarations into a composite document. Applicant must submit either: (1) a single complete declaration which is presented to and executed by each of the available inventors or (2) multiple complete declarations, wherein the signature of each available inventor appears on at least one of the multiple complete declarations.

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 Andrew Nicolaides refuses to sign the application papers. However, petitioner has not established that a bona fide attempt to present a complete copy of the application papers (including specification, claims, and drawings) to Nicolaides for signature. Furthermore, petitioner has not presented sufficient evidence of Nicolaides' purported refusal to sign. In particular, the affidavit of Edward Shifrin states that after an agreement with Nicolaides was believed to have been reached, "Efforts to convince Mr. Nicolaides to sign the papers to preserve the application failed." However, details concerning such efforts have not been provided. For example, if Nicolaides made an express oral refusal to cooperate, the time and place of the refusal should be indicated. If an express written refusal or constructive refusal was made, documentary evidence of such refusal should be furnished. Because adequate evidence is absent, it would not be reasonable to conclude at the present time that Nicolaides refuses to join in the application.

With regard to item (3) above, applicant is advised that effective 22 November 2004, the fee for a petition under 37 CFR 1.47 increased to $200.00. Any deficiency in the petition fee will be charged to Deposit Account No. 04-0838 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 set forth in §I above, the petition under 37 CFR 1.137(b) is DISMISSED without prejudice.

For the reasons set forth in §II above, the petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

If reconsideration on the merits of the petitions 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). 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
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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22 AUG 2007

WILLIAM J. SAPONE
COLEMAN SUDOL SAPONE P.C.
714 COLORADO AVENUE
BRIDGE PORT, CT 06605

In re Application of SHIFRIN et al	:	
U.S. Application No.: 10/545,938	:	
PCT Application No.: PCT/US2003/006188	:	
Int. Filing Date: 28 February 2003	:	
Priority Date Claimed: none	:	DECISION
Attorney Docket No.: 885/9-1787	:	
For: EXTRAVENOUS CORRECTOR FOR REPAIR OF INCOMPETENT VENOUS VALVES	:	

This is in response to applicant's "Request for Reconsideration of the Decision on the Petition Under 37CFR 1.137(b) and Withdrawal of the Petition to Proceed Without the Signature of a Joint Inventor" filed 09 August 2007.

BACKGROUND

On 28 February 2003, applicant filed international application PCT/US2003/006188. A copy of the international application was communicated to the USPTO from the International Bureau on 16 September 2004. The thirty-month period for paying the basic national fee in the United States expired on 28 August 2005.

On 17 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 20 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.

International application PCT/US2003/006188 became abandoned as to the United States for failure to timely respond to the Notification of Missing Requirements.

On 14 June 2007, applicant filed petitions under 37 CFR 1.137(b) and 37 CFR 1.47(a).

On 20 June 2007, this Office mailed a decision dismissing the 14 June 2007 petitions.

On 09 August 2007, applicant filed the present renewed petition under 37 CFR 1.137(b).

DISCUSSION

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

Petitioner has previously satisfied items (2), (3), and (4) above.

With regard to item (1), the required reply has been submitted.

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 28 February 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 09 August 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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17 AUG 2006

Technoprop Colton
P O Box 567685
Atlanta GA 31156-7685

In re Application of	:	
FOCKE (deceased) et al.	:	DECISION ON
Application No.: 10/545,939	:	
PCT No.: PCT/EP2004/002043	:	PAPERS
Int. Filing Date: 01 March 2004	:	
Priority Date: 07 March 2003	:	UNDER 37 CFR 1.42
Attorney's Docket No.: 20605.020US	:	
For: METHOD AND DEVICE FOR PRODUCING PACKS FROM AT LEAST TWO PARTIAL PACKS	:	

This is a decision on applicants' submission filed in the United States Patent and Trademark Office (USPTO) on 03 May 2006, which was accompanied by a declaration of inventors. The indication in this declaration that joint inventor Heinz Focke is deceased has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 01 March 2004, applicants filed international application PCT/EP2004/002043, which designated the United States and claimed a priority date of 07 March 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 16 September 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 07 September 2005.

On 17 August 2005, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee and an English translation of the international application.

On 03 May 2006, applicants filed the instant submission which was accompanied by, *inter alia*, a declaration of inventors and the surcharge under 37 CFR 1.492(h). The indication in the declaration that inventor Heinz Focke is deceased has been treated as a request for status under 37 CFR 1.42.

DISCUSSION

The submission filed 03 May 2006 has been reviewed and has been found in compliance with 37 CFR 1.42. The declaration filed 03 May 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 **ACCEPTED**.

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

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

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Alexandria, VA 22313-1450
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Todd Mattingly
Haynes and Boone, LLP
901 Main Street, Suite 3100
Dallas, TX 75202-3789

In re Application of :
Costa :
Application No.: 10/545,941 :
Filing Date: 17 August 2005 : DECISION
Attorney Docket No.: 25791.382 :
For: Protective Compression And Tension :
Sleeves For Threaded Connections For :
Radially Expandable Tubular Members :

This is in response to issues arising under 35 U.S.C. 371 related to the papers filed on 17 August 2005.

BACKGROUND

International Application No. PCT/US04/04740 was filed on 17 February 2004, claimed a priority date of 18 February 2003, and designated the United States. The 30 month period to pay the basic national fee in the United States expired at midnight on 18 August 2005.

On 17 August 2005, applicant filed the basic national fee in application number 10/545,936, which was processed as the U.S. national stage under 35 U.S.C. 371 of international application PCT/US04/04740. Also on 17 August 2005, applicant filed correspondence which was placed in the instant application file, and which also purported to be a "submission under 35 U.S.C. 371."

DISCUSSION

Applicant is advised that only one filing under 35 U.S.C. 371 is permitted for each international application. Applicant's attention is drawn to 35 U.S.C. 371(b), which refers to "the national stage;" to 35 U.S.C. 363, which refers to "An international application" and "a national stage;" and 35 U.S.C. 375, which refers to "A patent... on an international stage." The fact that only a single filing under 35 U.S.C. 371 is permitted is also reflected by the fact that only a single set of national stage papers are communicated to the USPTO from the International Bureau for each international application designating the United States.

Applicant may wish to consider filing a petition and fee under 37 CFR 1.182 to request that the papers placed in the instant application file wrapper be regarded as an application filed under 35 U.S.C. 111(a). In the absence of such a petition, the instant application will be merged into application no. 10/545,936, which is the national stage of international application PCT/US04/04740.

CONCLUSION

If treatment of the instant papers as an application filed under 35 U.S.C. 111(a) is desired, a proper petition under 37 CFR 1.182 must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are **NOT** available. Failure to timely file such a petition will result in merger of the instant application with application no. 10/545,936.

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

Boris Milef
PCT Legal Examiner
PCT Legal Office

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

#5

United States Patent and Trademark Office

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Alexandria, VA 22313-1450
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10 JAN 2006

Todd Mattingly
Haynes and Boone, LLP
901 Main Street, Suite 3100
Dallas, TX 75202-3789

In re Application of :
Costa :
Application No.: 10/545,941 :
Filing Date: 17 August 2005 : DECISION
Attorney Docket No.: 25791.382 :
For: Protective Compression And Tension :
Sleeves For Threaded Connections For :
Radially Expandable Tubular Members :

This is in response to the petition under 37 CFR 1.182 filed on 21 November 2005.

DISCUSSION

In a Decision mailed on 29 September 2005, Applicant was advised that

> only one filing under 35 U.S.C. 371 is permitted for each international application. Applicant's attention is drawn to 35 U.S.C. 371(b), which refers to "the national stage;" to 35 U.S.C. 363, which refers to "An international application" and "a national stage;" and 35 U.S.C. 375, which refers to "A patent... on an international stage." The fact that only a single filing under 35 U.S.C. 371 is permitted is also reflected by the fact that only a single set of national stage papers are communicated to the USPTO from the International Bureau for each international application designating the United States.
>
> Applicant may wish to consider filing a petition and fee under 37 CFR 1.182 to request that the papers placed in the instant application file wrapper be regarded as an application filed under 35 U.S.C. 111(a). In the absence of such a petition, the instant application will be merged into application no. 10/545,936, which is the national stage of international application PCT/US04/04740.

In response, applicant has filed the instant petition, which states in part that

> In an effort to avoid future restriction requirements in the filing of a single 35 U.S.C. 371 filing, Applicants proceeded with filing these 35 USC 371 applications claiming priority to international application number PCT/US04/004740. However, upon receipt of the Decision dated September 29, 2005, Applicants learned that multiple 35 USC 371 applications stemming from a single international application were considered improper filings. Therefore, Applicants are submitting this petition to amend the subject application to a continuation of the international application under 35 USC 111(a), as referenced above, claiming benefit of U.S. provisional application number 60/448,526.

It is noted that the first page of the petition refers to co-pending application number 10/546,084; in view of the totality of the circumstances, this is construed as a typographical error.

35 U.S.C. 111(a)(4) states in relevant part, "The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office." Review of the record reveals that all of the requirements of 35 U.S.C. 111(a), including a specification and drawing figures, were present in this application as of 17 August 2005. Accordingly, it would be appropriate to grant applicant's request to treat this application as having been filed under 35 U.S.C. 111(a). Counsel may wish to amend the first sentence of the specification to accurately reflect the status of this application.

Applicant is entitled, subject to 37 CFR 1.78(a)(2)(ii), to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter, since this application (Serial No.10/545,941) and the international application (PCT/US04/04740) designating the United States were copending on 17 August 2005. In order to obtain benefit of the earlier international application, applicant must amend the beginning of the specification of this application by inserting a proper reference to the parent international application. An appropriate passage would be, "This is an continuation of international application PCT/US04/04740, filed 17 February 2004, which designated the United States and is now abandoned." Alternatively, applicant may submit an application data sheet with the benefit claim included therein. Applicant may need to file a petition and fee under 37 CFR 1.78(a)(3) to be entitled to make the claim.

PATENT TERM ADJUSTMENT

Any period of adjustment to the term of a patent under 35 U.S.C. 154(b)(29 May 2000) in U.S. Application No. 10/545,941 may be reduced by the period of time beginning on the filing date accorded under 35 U.S.C. 111(a) and ending on the mailing date of this decision granting the 21 November 2005 petition. See 37 CFR 1.704(a).

CONCLUSION

The petition is **GRANTED** to the extent set forth above.

The $400.00 petition fee is being charged to counsel's Deposit Account No. 08-1394, as authorized by the petition.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for processing as an application filed under 35 U.S.C. 111(a) on **17 August 2005**.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

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

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

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JUL 27 2007

OFFICE OF PETITIONS

In re Application of :
Scott Costa :
Application No. 10/545,941 : DECISION ON PETITION
Filed: August 17, 2005 : TO WITHDRAW
Attorney Docket No. 25791.382 : 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 20, 2007.

The request is **NOT APPROVED**.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The power of attorney filed on May 30, 2006 does not include one of the above two options.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: TODD MATTINGLY
KING & SPALDING
1100 LOUISIANA STREET
SUITE 4000
HOUSTON, TX 77002

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

Mail Date: 06/18/2010

Applicant	: Zhi Li	: DECISION ON REQUEST FOR
Patent Number	: 7632880	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/545,963	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/02/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **897** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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STEVENS DAVIS MILLER & MOSHER, LLP
1615 L STREET, NW
SUITE 850
WASHINGTON DC 20036

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OFFICE OF PETITIONS

In re Application of
Rod Muir et al.
Application No. 10/545,967
Filed: July 20, 2006
Attorney Docket No. **APV31887**

ON PETITION

This is a decision on the petition filed July 18, 2007 under 37 CFR 1.137(b), [1] to revive the above-identified application.

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

This application became abandoned for failure to timely pay the issue fee on or before July 17, 2007. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The issue fee, publication fee and petition fee have all been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[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.

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

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

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

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

Mail Date: 04/20/2010

Applicant	: Johann F. Petersen	: DECISION ON REQUEST FOR
Patent Number	: 7658813	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/545,976	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **458** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

05 AUG 2008

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ARKEMA INC.
PATENT DEPARTMENT - 26TH FLOOR
2000 MARKET STREET
PHILADELPHIA PA 19103-3222

In re Application of :
LINEMANN, et al. :
U.S. Application No.: 10/545,977 :
PCT No.: PCT/FR04/00399 :
Int. Filing Date: 20 February 2004 : DECISION
Priority Date: 21 February 2003 :
Attorney Docket No.: FR-AM-1930-NP :
For: METHOD OF PREPARING DIMETHYLCETENE AND SUBSEQUENTLY, POLYDIMETHYLCETENE FROM ISOBUTYRIC ANHYDRIDE :

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

BACKGROUND

On 18 August 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by payment of the full, U.S. basic national fee; an English translation of the international application as filed and an unsigned declaration of the inventors.

On 25 April 2007, applicant was mailed a "Notification of Acceptance" (Form PCT/DO/EO/903) indicating a 35 U.S.C. 371 date of 18 August 2005. A subsequent review of the declaration filed in the international application found that it was executed after the international filing date and did not properly identify the application. As such, the declaration did not satisfy 35 U.S.C. (c)(4).

On 29 July 2008 and 30 July 2008, applicant filed executed declarations on the inventors.

DISCUSSION

Applicant has presently filed compliant, combined declarations and powers of attorney. This application will be accorded a 35 U.S.C. 371 date of 30 July 2008.

CONCLUSION

The Form PCT/DO/EO/903 mailed 25 April 2007 is hereby **VACATED**.

The application has an international filing date of 20 February 2004 under 35 U.S.C. 363 and will be given a date of **30 July 2008** 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, including the issuance of a new Form PCT/DO/EO/903.

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

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Bozicevic, Field & Francis LLP
1900 University Avenue
Suite 200
East Palo Alto, CA 94303

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JAN 05 2007

OFFICE OF PETITIONS

In re Application of :
Axel Haverich :
Application No. 10/545,993 :
Filed: May 31, 2006 :
Attorney Docket No. CRLF-001US2 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 15, 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 Karl Bozicevic on behalf of all attorneys of record who are associated with Customer No. 24353.

All attorneys/agents associated with the Customer No. 24353 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 Karl Bozicevic at the address indicated below.

There is no outstanding Office action at this time.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Dr. Hans-Werner Meyers**
Dompatent: von Kreisler, Selting & Werner
Deichmannhaus; Bahnhofsvorplatz 1
Köln, Germany D-50667

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/545,993	05/31/2006	Axel Haverich	CRLF-001US2

CONFIRMATION NO. 8557

OC000000021841570

OC000000021841570

24353
BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

Date Mailed: 01/04/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/15/2006.

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

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

SNELL & WILMER L.L.P. (Matsushita)
600 ANTON BOULEVARD
SUITE 1400
COSTA MESA CA 92626

In re Application of :
Tomoyuki Okada :
Application No. 10/545,996 : DECISION ON PETITION
Filed: August 18, 2005 : TO MAKE SPECIAL
For: **RECORDING MEDIUM, PLAYBACK APPARATUS, RECORDING METHOD, PROGRAM, AND PLAYBACK METHOD** :

This is a decision on the petition filed August 7, 2006 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination and supplemented on December 13, 2006.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DRIVE, 7TH FL.
SAN DIEGO, CA 92122

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NOV 10 2008

OFFICE OF PETITIONS

In re Application of :
Ahihiko TANIOKA, et al :
Application No. 10/546,008 : DECISION ON PETITION
Filed: June 26, 2006 : TO WITHDRAW
Attorney Docket No. 125080 FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 1, 2008.

The request is **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 the attorney of record was not appointed by Customer Number 25213, as indicated.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: GOODWIN PROCTER LLP
ATTN: PATENT ADMINISTRATOR
135 COMMONWEALTH DRIVE
MENLO PARK, CA 94025-1105

UNITED STATES PATENT AND TRADEMARK OFFICE

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William F Lawrence
Frommer Lawrence & Haug
745 Fifth Avenue
New York, NY 10151

Mail Date: 04/21/2010

Applicant	: Christian von Falkenhausen	: DECISION ON REQUEST FOR
Patent Number	: 7594908	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/546,013	: OF WYETH
Filed	: 08/18/2005	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

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CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

MAILED

OCT 0 1 2009

OFFICE OF PETITIONS

In re Application of	:	
John DAY	:	
Application No. 10/546,018	:	DECISION ON PETITION
Filed: June 22, 2006	:	
Docket No. NETN-110-US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 14, 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 14, 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 February 15, 2009.

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

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

The Revocation Power of Attorney filed with the petition on August 14, 2009, has been acknowledged and has been entered.

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) 272-6735.

This application is being referred to Technology Center AU 2443 for appropriate action by the Examiner in the normal course of business.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/546,018	06/22/2006	John Day	NETN-110-US

CONFIRMATION NO. 8660

POWER OF ATTORNEY NOTICE

24390
LUCASH, GESMER & UPDEGROVE, LLP
40 BROAD ST
SUITE 300
BOSTON, MA 02109

Date Mailed: 09/30/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/14/2009.

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

/dcgoodwyn/

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

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/546,018	06/22/2006	John Day	NETN-110-US

CONFIRMATION NO. 8660

24280
CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

POA ACCEPTANCE LETTER

OC000000038038364

Date Mailed: 09/30/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/14/2009.

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.

/dcgoodwyn/

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

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PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

Mail Date: 04/21/2010

Applicant	: Holger Wiederhoft	: DECISION ON REQUEST FOR
Patent Number	: 7586688	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/546,020	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/19/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **546** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

Mail Date: 05/18/2010

Applicant : Holger Wiederhoft
Patent Number : 7586688
Issue Date : 09/08/2009
Application No: 10/546,020
Filed : 10/19/2006

: 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 **623** 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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2/29/08

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

In re Application of: SHIN et al.	:
Appl. No.: 10/546050	: DECISION ON PETITION
Filed: October 20, 2005	:
For: ELECTRODE DEVICE FOR HIGH FREQUENCY THERMOTHERAPY	:

This is a decision on the petition filed on December 27, 2007 by which petitioners request withdrawal or waiver of the examiners requirement for a supplemental declaration. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is dismissed as moot.

Review of the application and of the claims shows that the examiner correctly noted use language which did not conform to the requirements of 37 CFR 1.63 in the declaration. However, on Feb. 14, 2008, the applicant has filed a substitute declaration with correct language in compliance with 37 CFR 1.63. Therefore, the requirement for a supplemental declaration as set forth in the Office action of Nov. 15, 2007 is now satisfied.

The application is being forwarded to the Office of Publications for further processing in preparation for issuance of a patent. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED AS MOOT.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

2 8 NOV 2008

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John Day
114 Cannon Forge Drive
Foxforo MA 02035

In re Application of	:	
Day	:	
Application No.: 10/546,066	:	DECISION
PCT No.: PCT/US2004/006955	:	
Int. Filing Date: 05 March 2004	:	ON
Earliest Priority Date: 07 March 2003	:	
Attorney Docket No.: NETN-111-US	:	PETITION
For: Multiplexing And Congestion Control	:	

This is in response to the petition to revive under 37 CFR 1.137(b) filed on 15 September 2008. The petition is hereby **GRANTED** as follows:

Petitioner 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." Said 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 the fees and declaration required by the Notification of Missing Requirements mailed on 05 December 2007, and has paid the petition 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.

The $65.00 surcharge under 37 CFR 1.492(h)(fee code 2617) is being charged to counsel's Deposit Account 12-2315, per the authorization included in the Transmittal Letter filed on 18 August 2005.

This application is being forwarded to the Office of Patent Application Processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **15 September 2008**.

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

#5

United States Patent and Trademark Office

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Todd Mattingly
Haynes and Boone, LLP
901 Main Street, Suite 3100
Dallas, TX 75202-3789

10 JAN 2006

In re Application of
Costa
Application No.: 10/546,076
Filing Date: 17 August 2005
Attorney Docket No.: 25791.379
For: Protective Compression And Tension Sleeves For Threaded Connections For Radially Expandable Tubular Members

DECISION

This is in response to the petition under 37 CFR 1.182 filed on 21 November 2005.

DISCUSSION

In a Decision mailed on 29 September 2005, Applicant was advised that

> only one filing under 35 U.S.C. 371 is permitted for each international application. Applicant's attention is drawn to 35 U.S.C. 371(b), which refers to "the national stage;" to 35 U.S.C. 363, which refers to "An international application" and "a national stage;" and 35 U.S.C. 375, which refers to "A patent... on an international stage." The fact that only a single filing under 35 U.S.C. 371 is permitted is also reflected by the fact that only a single set of national stage papers are communicated to the USPTO from the International Bureau for each international application designating the United States.
>
> Applicant may wish to consider filing a petition and fee under 37 CFR 1.182 to request that the papers placed in the instant application file wrapper be regarded as an application filed under 35 U.S.C. 111(a). In the absence of such a petition, the instant application will be merged into application no. 10/545,936, which is the national stage of international application PCT/US04/04740.

In response, applicant has filed the instant petition, which states in part that

> In an effort to avoid future restriction requirements in the filing of a single 35 U.S.C. 371 filing, Applicants proceeded with filing these 35 USC 371 applications claiming priority to international application number PCT/US04/004740. However, upon receipt of the Decision dated September 29, 2005, Applicants learned that multiple 35 USC 371 applications stemming from a single international application were considered improper filings. Therefore, Applicants are submitting this petition to amend the subject application to a continuation of the international application under 35 USC 111(a), as referenced above, claiming benefit of U.S. provisional application number 60/448,526.

It is noted that the first page of the petition refers to co-pending application number 10/546,084; in view of the totality of the circumstances, this is construed as a typographical error.

35 U.S.C. 111(a)(4) states in relevant part, "The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office." Review of the record reveals that all of the requirements of 35 U.S.C. 111(a), including a specification and drawing figures, were present in this application as of 17 August 2005. Accordingly, it would be appropriate to grant applicant's request to treat this application as having been filed under 35 U.S.C. 111(a). Counsel may wish to amend the first sentence of the specification to accurately reflect the status of this application.

Applicant is entitled, subject to 37 CFR 1.78(a)(2)(ii), to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter, since this application (Serial No.10/546,076) and the international application (PCT/US04/04740) designating the United States were copending on 17 August 2005. In order to obtain benefit of the earlier international application, applicant must amend the beginning of the specification of this application by inserting a proper reference to the parent international application. An appropriate passage would be, "This is an continuation of international application PCT/US04/04740, filed 17 February 2004, which designated the United States and is now abandoned." Alternatively, applicant may submit an application data sheet with the benefit claim included therein. Applicant may need to file a petition and fee under 37 CFR 1.78(a)(3) to be entitled to make the claim.

PATENT TERM ADJUSTMENT

Any period of adjustment to the term of a patent under 35 U.S.C. 154(b)(29 May 2000) in U.S. Application No. 10/546,076 may be reduced by the period of time beginning on the filing date accorded under 35 U.S.C. 111(a) and ending on the mailing date of this decision granting the 21 November 2005 petition. See 37 CFR 1.704(a).

CONCLUSION

The petition is **GRANTED** to the extent set forth above.

The $400.00 petition fee is being charged to counsel's Deposit Account No. 08-1394, as authorized by the petition.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for processing as an application filed under 35 U.S.C. 111(a) on **17 August 2005**.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

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

29 SEP 2005

United States Patent and Trademark Office

#3

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www.uspto.gov

Todd Mattingly
Haynes and Boone, LLP
901 Main Street, Suite 3100
Dallas, TX 75202-3789

081705

In re Application of :
Costa :
Application No.: 10/546,076 :
Filing Date: 17 August 2005 : DECISION
Attorney Docket No.: 25791.379 :
For: Protective Compression And Tension :
Sleeves For Threaded Connections For :
Radially Expandable Tubular Members :

This is in response to issues arising under 35 U.S.C. 371 related to the papers filed on 17 August 2005.

BACKGROUND

International Application No. PCT/US04/04740 was filed on 17 February 2004, claimed a priority date of 18 February 2003, and designated the United States. The 30 month period to pay the basic national fee in the United States expired at midnight on 18 August 2005.

On 17 August 2005, applicant filed the basic national fee in application number 10/545,936, which was processed as the U.S. national stage under 35 U.S.C. 371 of international application PCT/US04/04740. Also on 17 August 2005, applicant filed correspondence which was placed in the instant application file, and which also purported to be a "submission under 35 U.S.C. 371."

DISCUSSION

Applicant is advised that only one filing under 35 U.S.C. 371 is permitted for each international application. Applicant's attention is drawn to 35 U.S.C. 371(b), which refers to "the national stage;" to 35 U.S.C. 363, which refers to "An international application" and "a national stage;" and 35 U.S.C. 375, which refers to "A patent... on an international stage." The fact that only a single filing under 35 U.S.C. 371 is permitted is also reflected by the fact that only a single set of national stage papers are communicated to the USPTO from the International Bureau for each international application designating the United States.

Applicant may wish to consider filing a petition and fee under 37 CFR 1.182 to request that the papers placed in the instant application file wrapper be regarded as an application filed under 35 U.S.C. 111(a). In the absence of such a petition, the instant application will be merged into application no. 10/545,936, which is the national stage of international application PCT/US04/04740.

CONCLUSION

If treatment of the instant papers as an application filed under 35 U.S.C. 111(a) is desired, a proper petition under 37 CFR 1.182 must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are **NOT** available. Failure to timely file such a petition will result in merger of the instant application with application no. 10/545,936.

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

Boris Milef
PCT Legal Examiner
PCT Legal Office

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

United States Patent and Trademark Office

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Todd Mattingly
Haynes and Boone, LLP
901 Main Street, Suite 3100
Dallas, TX 75202-3789

In re Application of
Costa
Application No.: 10/546,076
Filing Date: 17 August 2005
Attorney Docket No.: 25791.379
For: Protective Compression And Tension Sleeves For Threaded Connections For Radially Expandable Tubular Members

DECISION

This is in response to the petition under 37 CFR 1.182 filed on 21 November 2005.

DISCUSSION

In a Decision mailed on 29 September 2005, Applicant was advised that

> only one filing under 35 U.S.C. 371 is permitted for each international application. Applicant's attention is drawn to 35 U.S.C. 371(b), which refers to "the national stage;" to 35 U.S.C. 363, which refers to "An international application" and "a national stage;" and 35 U.S.C. 375, which refers to "A patent... on an international stage." The fact that only a single filing under 35 U.S.C. 371 is permitted is also reflected by the fact that only a single set of national stage papers are communicated to the USPTO from the International Bureau for each international application designating the United States.
>
> Applicant may wish to consider filing a petition and fee under 37 CFR 1.182 to request that the papers placed in the instant application file wrapper be regarded as an application filed under 35 U.S.C. 111(a). In the absence of such a petition, the instant application will be merged into application no. 10/545,936, which is the national stage of international application PCT/US04/04740.

In response, applicant has filed the instant petition, which states in part that

> In an effort to avoid future restriction requirements in the filing of a single 35 U.S.C. 371 filing, Applicants proceeded with filing these 35 USC 371 applications claiming priority to international application number PCT/US04/004740. However, upon receipt of the Decision dated September 29, 2005, Applicants learned that multiple 35 USC 371 applications stemming from a single international application were considered improper filings. Therefore, Applicants are submitting this petition to amend the subject application to a continuation of the international application under 35 USC 111(a), as referenced above, claiming benefit of U.S. provisional application number 60/448,526.

It is noted that the first page of the petition refers to co-pending application number 10/546,084; in view of the totality of the circumstances, this is construed as a typographical error.

35 U.S.C. 111(a)(4) states in relevant part, "The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office." Review of the record reveals that all of the requirements of 35 U.S.C. 111(a), including a specification and drawing figures, were present in this application as of 17 August 2005. Accordingly, it would be appropriate to grant applicant's request to treat this application as having been filed under 35 U.S.C. 111(a). Counsel may wish to amend the first sentence of the specification to accurately reflect the status of this application.

Applicant is entitled, subject to 37 CFR 1.78(a)(2)(ii), to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter, since this application (Serial No.10/546,076) and the international application (PCT/US04/04740) designating the United States were copending on 17 August 2005. In order to obtain benefit of the earlier international application, applicant must amend the beginning of the specification of this application by inserting a proper reference to the parent international application. An appropriate passage would be, "This is an continuation of international application PCT/US04/04740, filed 17 February 2004, which designated the United States and is now abandoned." Alternatively, applicant may submit an application data sheet with the benefit claim included therein. Applicant may need to file a petition and fee under 37 CFR 1.78(a)(3) to be entitled to make the claim.

PATENT TERM ADJUSTMENT

Any period of adjustment to the term of a patent under 35 U.S.C. 154(b)(29 May 2000) in U.S. Application No. 10/546,076 may be reduced by the period of time beginning on the filing date accorded under 35 U.S.C. 111(a) and ending on the mailing date of this decision granting the 21 November 2005 petition. See 37 CFR 1.704(a).

CONCLUSION

The petition is **GRANTED** to the extent set forth above.

The $400.00 petition fee is being charged to counsel's Deposit Account No. 08-1394, as authorized by the petition.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for processing as an application filed under 35 U.S.C. 111(a) on **17 August 2005**.

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901 Main Street, Suite 3100
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In re Application of :
Costa :
Application No.: 10/546,078 :
Filing Date: 17 August 2005 : DECISION
Attorney Docket No.: 25791.383 :
For: Protective Compression And Tension :
Sleeves For Threaded Connections For :
Radially Expandable Tubular Members :

This is in response to issues arising under 35 U.S.C. 371 related to the papers filed on 17 August 2005.

BACKGROUND

International Application No. PCT/US04/04740 was filed on 17 February 2004, claimed a priority date of 18 February 2003, and designated the United States. The 30 month period to pay the basic national fee in the United States expired at midnight on 18 August 2005.

On 17 August 2005, applicant filed the basic national fee in application number 10/545,936, which was processed as the U.S. national stage under 35 U.S.C. 371 of international application PCT/US04/04740. Also on 17 August 2005, applicant filed correspondence which was placed in the instant application file, and which also purported to be a "submission under 35 U.S.C. 371."

DISCUSSION

Applicant is advised that only one filing under 35 U.S.C. 371 is permitted for each international application. Applicant's attention is drawn to 35 U.S.C. 371(b), which refers to "the national stage;" to 35 U.S.C. 363, which refers to "An international application" and "a national stage;" and 35 U.S.C. 375, which refers to "A patent... on an international stage." The fact that only a single filing under 35 U.S.C. 371 is permitted is also reflected by the fact that only a single set of national stage papers are communicated to the USPTO from the International Bureau for each international application designating the United States.

Applicant may wish to consider filing a petition and fee under 37 CFR 1.182 to request that the papers placed in the instant application file wrapper be regarded as an application filed under 35 U.S.C. 111(a). In the absence of such a petition, the instant application will be merged into application no. 10/545,936, which is the national stage of international application PCT/US04/04740.

CONCLUSION

If treatment of the instant papers as an application filed under 35 U.S.C. 111(a) is desired, a proper petition under 37 CFR 1.182 must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are **NOT** available. Failure to timely file such a petition will result in merger of the instant application with application no. 10/545,936.

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

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10 JAN 2006

In re Application of
Costa
Application No.: 10/546,078
Filing Date: 17 August 2005
Attorney Docket No.: 25791.383
For: Protective Compression And Tension Sleeves For Threaded Connections For Radially Expandable Tubular Members

DECISION

This is in response to the petition under 37 CFR 1.182 filed on 21 November 2005.

DISCUSSION

In a Decision mailed on 29 September 2005, Applicant was advised that

> only one filing under 35 U.S.C. 371 is permitted for each international application. Applicant's attention is drawn to 35 U.S.C. 371(b), which refers to "the national stage;" to 35 U.S.C. 363, which refers to "An international application" and "a national stage;" and 35 U.S.C. 375, which refers to "A patent... on an international stage." The fact that only a single filing under 35 U.S.C. 371 is permitted is also reflected by the fact that only a single set of national stage papers are communicated to the USPTO from the International Bureau for each international application designating the United States.
>
> Applicant may wish to consider filing a petition and fee under 37 CFR 1.182 to request that the papers placed in the instant application file wrapper be regarded as an application filed under 35 U.S.C. 111(a). In the absence of such a petition, the instant application will be merged into application no. 10/545,936, which is the national stage of international application PCT/US04/04740.

In response, applicant has filed the instant petition, which states in part that

> In an effort to avoid future restriction requirements in the filing of a single 35 U.S.C. 371 filing, Applicants proceeded with filing these 35 USC 371 applications claiming priority to international application number PCT/US04/004740. However, upon receipt of the Decision dated September 29, 2005, Applicants learned that multiple 35 USC 371 applications stemming from a single international application were considered improper filings. Therefore, Applicants are submitting this petition to amend the subject application to a continuation of the international application under 35 USC 111(a), as referenced above, claiming benefit of U.S. provisional application number 60/448,526.

It is noted that the first page of the petition refers to co-pending application number 10/546,084; in view of the totality of the circumstances, this is construed as a typographical error.

35 U.S.C. 111(a)(4) states in relevant part, "The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office." Review of the record reveals that all of the requirements of 35 U.S.C. 111(a), including a specification and drawing figures, were present in this application as of 17 August 2005. Accordingly, it would be appropriate to grant applicant's request to treat this application as having been filed under 35 U.S.C. 111(a). Counsel may wish to amend the first sentence of the specification to accurately reflect the status of this application.

Applicant is entitled, subject to 37 CFR 1.78(a)(2)(ii), to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter, since this application (Serial No.10/546,078) and the international application (PCT/US04/04740) designating the United States were copending on 17 August 2005. In order to obtain benefit of the earlier international application, applicant must amend the beginning of the specification of this application by inserting a proper reference to the parent international application. An appropriate passage would be, "This is an continuation of international application PCT/US04/04740, filed 17 February 2004, which designated the United States and is now abandoned." Alternatively, applicant may submit an application data sheet with the benefit claim included therein. Applicant may need to file a petition and fee under 37 CFR 1.78(a)(3) to be entitled to make the claim.

PATENT TERM ADJUSTMENT

Any period of adjustment to the term of a patent under 35 U.S.C. 154(b)(29 May 2000) in U.S. Application No. 10/546,078 may be reduced by the period of time beginning on the filing date accorded under 35 U.S.C. 111(a) and ending on the mailing date of this decision granting the 21 November 2005 petition. See 37 CFR 1.704(a).

CONCLUSION

The petition is **GRANTED** to the extent set forth above.

The $400.00 petition fee is being charged to counsel's Deposit Account No. 08-1394, as authorized by the petition.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for processing as an application filed under 35 U.S.C. 111(a) on **17 August 2005**.

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29 SEP 2005

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In re Application of :
Costa :
Application No.: 10/546,079 :
Filing Date: 17 August 2005 : DECISION
Attorney Docket No.: 25791.381 :
For: Protective Compression And Tension :
Sleeves For Threaded Connections For :
Radially Expandable Tubular Members :

This is in response to issues arising under 35 U.S.C. 371 related to the papers filed on 17 August 2005.

BACKGROUND

International Application No. PCT/US04/04740 was filed on 17 February 2004, claimed a priority date of 18 February 2003, and designated the United States. The 30 month period to pay the basic national fee in the United States expired at midnight on 18 August 2005.

On 17 August 2005, applicant filed the basic national fee in application number 10/545,936, which was processed as the U.S. national stage under 35 U.S.C. 371 of international application PCT/US04/04740. Also on 17 August 2005, applicant filed correspondence which was placed in the instant application file, and which also purported to be a "submission under 35 U.S.C. 371."

DISCUSSION

Applicant is advised that only one filing under 35 U.S.C. 371 is permitted for each international application. Applicant's attention is drawn to 35 U.S.C. 371(b), which refers to "the national stage;" to 35 U.S.C. 363, which refers to "An international application" and "a national stage;" and 35 U.S.C. 375, which refers to "A patent... on an international stage." The fact that only a single filing under 35 U.S.C. 371 is permitted is also reflected by the fact that only a single set of national stage papers are communicated to the USPTO from the International Bureau for each international application designating the United States.

Applicant may wish to consider filing a petition and fee under 37 CFR 1.182 to request that the papers placed in the instant application file wrapper be regarded as an application filed under 35 U.S.C. 111(a). In the absence of such a petition, the instant application will be merged into application no. 10/545,936, which is the national stage of international application PCT/US04/04740.

CONCLUSION

If treatment of the instant papers as an application filed under 35 U.S.C. 111(a) is desired, a proper petition under 37 CFR 1.182 must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are **NOT** available. Failure to timely file such a petition will result in merger of the instant application with application no. 10/545,936.

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

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10 JAN 2006

In re Application of :
Costa :
Application No.: 10/546,079 :
Filing Date: 17 August 2005 : DECISION
Attorney Docket No.: 25791.381 :
For: Protective Compression And Tension :
Sleeves For Threaded Connections For :
Radially Expandable Tubular Members :

This is in response to the petition under 37 CFR 1.182 filed on 21 November 2005.

DISCUSSION

In a Decision mailed on 29 September 2005, Applicant was advised that

> only one filing under 35 U.S.C. 371 is permitted for each international application. Applicant's attention is drawn to 35 U.S.C. 371(b), which refers to "the national stage;" to 35 U.S.C. 363, which refers to "An international application" and "a national stage;" and 35 U.S.C. 375, which refers to "A patent... on an international stage." The fact that only a single filing under 35 U.S.C. 371 is permitted is also reflected by the fact that only a single set of national stage papers are communicated to the USPTO from the International Bureau for each international application designating the United States.
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> Applicant may wish to consider filing a petition and fee under 37 CFR 1.182 to request that the papers placed in the instant application file wrapper be regarded as an application filed under 35 U.S.C. 111(a). In the absence of such a petition, the instant application will be merged into application no. 10/545,936, which is the national stage of international application PCT/US04/04740.

In response, applicant has filed the instant petition, which states in part that

> In an effort to avoid future restriction requirements in the filing of a single 35 U.S.C. 371 filing, Applicants proceeded with filing these 35 USC 371 applications claiming priority to international application number PCT/US04/004740. However, upon receipt of the Decision dated September 29, 2005, Applicants learned that multiple 35 USC 371 applications stemming from a single international application were considered improper filings. Therefore, Applicants are submitting this petition to amend the subject application to a continuation of the international application under 35 USC 111(a), as referenced above, claiming benefit of U.S. provisional application number 60/448,526.

It is noted that the first page of the petition refers to co-pending application number 10/546,084; in view of the totality of the circumstances, this is construed as a typographical error.

35 U.S.C. 111(a)(4) states in relevant part, "The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office." Review of the record reveals that all of the requirements of 35 U.S.C. 111(a), including a specification and drawing figures, were present in this application as of 17 August 2005. Accordingly, it would be appropriate to grant applicant's request to treat this application as having been filed under 35 U.S.C. 111(a). Counsel may wish to amend the first sentence of the specification to accurately reflect the status of this application.

Applicant is entitled, subject to 37 CFR 1.78(a)(2)(ii), to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter, since this application (Serial No.10/546,079) and the international application (PCT/US04/04740) designating the United States were copending on 17 August 2005. In order to obtain benefit of the earlier international application, applicant must amend the beginning of the specification of this application by inserting a proper reference to the parent international application. An appropriate passage would be, "This is an continuation of international application PCT/US04/04740, filed 17 February 2004, which designated the United States and is now abandoned." Alternatively, applicant may submit an application data sheet with the benefit claim included therein. Applicant may need to file a petition and fee under 37 CFR 1.78(a)(3) to be entitled to make the claim.

PATENT TERM ADJUSTMENT

Any period of adjustment to the term of a patent under 35 U.S.C. 154(b)(29 May 2000) in U.S. Application No. 10/546,079 may be reduced by the period of time beginning on the filing date accorded under 35 U.S.C. 111(a) and ending on the mailing date of this decision granting the 21 November 2005 petition. See 37 CFR 1.704(a).

CONCLUSION

The petition is **GRANTED** to the extent set forth above.

The $400.00 petition fee is being charged to counsel's Deposit Account No. 08-1394, as authorized by the petition.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for processing as an application filed under 35 U.S.C. 111(a) on **17 August 2005**.

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Dallas, TX 75202-3789

In re Application of :
Costa :
Application No.: 10/546,082 :
Filing Date: 17 August 2005 : DECISION
Attorney Docket No.: 25791.378 :
For: Protective Compression And Tension :
Sleeves For Threaded Connections For :
Radially Expandable Tubular Members :

This is in response to issues arising under 35 U.S.C. 371 related to the papers filed on 17 August 2005.

BACKGROUND

International Application No. PCT/US04/04740 was filed on 17 February 2004, claimed a priority date of 18 February 2003, and designated the United States. The 30 month period to pay the basic national fee in the United States expired at midnight on 18 August 2005.

On 17 August 2005, applicant filed the basic national fee in application number 10/545,936, which was processed as the U.S. national stage under 35 U.S.C. 371 of international application PCT/US04/04740. Also on 17 August 2005, applicant filed correspondence which was placed in the instant application file, and which also purported to be a "submission under 35 U.S.C. 371."

DISCUSSION

Applicant is advised that only one filing under 35 U.S.C. 371 is permitted for each international application. Applicant's attention is drawn to 35 U.S.C. 371(b), which refers to "the national stage;" to 35 U.S.C. 363, which refers to "An international application" and "a national stage;" and 35 U.S.C. 375, which refers to "A patent... on an international stage." The fact that only a single filing under 35 U.S.C. 371 is permitted is also reflected by the fact that only a single set of national stage papers are communicated to the USPTO from the International Bureau for each international application designating the United States.

Applicant may wish to consider filing a petition and fee under 37 CFR 1.182 to request that the papers placed in the instant application file wrapper be regarded as an application filed under 35 U.S.C. 111(a). In the absence of such a petition, the instant application will be merged into application no. 10/545,936, which is the national stage of international application PCT/US04/04740.

CONCLUSION

If treatment of the instant papers as an application filed under 35 U.S.C. 111(a) is desired, a proper petition under 37 CFR 1.182 must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are **NOT** available. Failure to timely file such a petition will result in merger of the instant application with application no. 10/545,936.

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

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10 JAN 2006

In re Application of :
Costa :
Application No.: 10/546,082 :
Filing Date: 17 August 2005 : DECISION
Attorney Docket No.: 25791.378 :
For: Protective Compression And Tension :
Sleeves For Threaded Connections For :
Radially Expandable Tubular Members :

This is in response to the petition under 37 CFR 1.182 filed on 21 November 2005.

DISCUSSION

In a Decision mailed on 29 September 2005, Applicant was advised that

> only one filing under 35 U.S.C. 371 is permitted for each international application. Applicant's attention is drawn to 35 U.S.C. 371(b), which refers to "the national stage;" to 35 U.S.C. 363, which refers to "An international application" and "a national stage;" and 35 U.S.C. 375, which refers to "A patent... on an international stage." The fact that only a single filing under 35 U.S.C. 371 is permitted is also reflected by the fact that only a single set of national stage papers are communicated to the USPTO from the International Bureau for each international application designating the United States.
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> Applicant may wish to consider filing a petition and fee under 37 CFR 1.182 to request that the papers placed in the instant application file wrapper be regarded as an application filed under 35 U.S.C. 111(a). In the absence of such a petition, the instant application will be merged into application no. 10/545,936, which is the national stage of international application PCT/US04/04740.

In response, applicant has filed the instant petition, which states in part that

> In an effort to avoid future restriction requirements in the filing of a single 35 U.S.C. 371 filing, Applicants proceeded with filing these 35 USC 371 applications claiming priority to international application number PCT/US04/004740. However, upon receipt of the Decision dated September 29, 2005, Applicants learned that multiple 35 USC 371 applications stemming from a single international application were considered improper filings. Therefore, Applicants are submitting this petition to amend the subject application to a continuation of the international application under 35 USC 111(a), as referenced above, claiming benefit of U.S. provisional application number 60/448,526.

It is noted that the first page of the petition refers to co-pending application number 10/546,084; in view of the totality of the circumstances, this is construed as a typographical error.

35 U.S.C. 111(a)(4) states in relevant part, "The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office." Review of the record reveals that all of the requirements of 35 U.S.C. 111(a), including a specification and drawing figures, were present in this application as of 17 August 2005. Accordingly, it would be appropriate to grant applicant's request to treat this application as having been filed under 35 U.S.C. 111(a). Counsel may wish to amend the first sentence of the specification to accurately reflect the status of this application.

Applicant is entitled, subject to 37 CFR 1.78(a)(2)(ii), to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter, since this application (Serial No.10/546,082) and the international application (PCT/US04/04740) designating the United States were copending on 17 August 2005. In order to obtain benefit of the earlier international application, applicant must amend the beginning of the specification of this application by inserting a proper reference to the parent international application. An appropriate passage would be, "This is an continuation of international application PCT/US04/04740, filed 17 February 2004, which designated the United States and is now abandoned." Alternatively, applicant may submit an application data sheet with the benefit claim included therein. Applicant may need to file a petition and fee under 37 CFR 1.78(a)(3) to be entitled to make the claim.

PATENT TERM ADJUSTMENT

Any period of adjustment to the term of a patent under 35 U.S.C. 154(b)(29 May 2000) in U.S. Application No. 10/546,082 may be reduced by the period of time beginning on the filing date accorded under 35 U.S.C. 111(a) and ending on the mailing date of this decision granting the 21 November 2005 petition. See 37 CFR 1.704(a).

CONCLUSION

The petition is **GRANTED** to the extent set forth above.

The $400.00 petition fee is being charged to counsel's Deposit Account No. 08-1394, as authorized by the petition.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for processing as an application filed under 35 U.S.C. 111(a) on **17 August 2005**.

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Todd Mattingly
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Dallas, TX 75202-3789

In re Application of :
Costa :
Application No.: 10/546,084 :
Filing Date: 17 August 2005 : DECISION
Attorney Docket No.: 25791.185.05 :
For: Protective Compression And Tension :
Sleeves For Threaded Connections For :
Radially Expandable Tubular Members :

This is in response to issues arising under 35 U.S.C. 371 related to the papers filed on 17 August 2005.

BACKGROUND

International Application No. PCT/US04/04740 was filed on 17 February 2004, claimed a priority date of 18 February 2003, and designated the United States. The 30 month period to pay the basic national fee in the United States expired at midnight on 18 August 2005.

On 17 August 2005, applicant filed the basic national fee in application number 10/545,936, which was processed as the U.S. national stage under 35 U.S.C. 371 of international application PCT/US04/04740. Also on 17 August 2005, applicant filed correspondence which was placed in the instant application file, and which also purported to be a "submission under 35 U.S.C. 371."

DISCUSSION

Applicant is advised that only one filing under 35 U.S.C. 371 is permitted for each international application. Applicant's attention is drawn to 35 U.S.C. 371(b), which refers to "the national stage;" to 35 U.S.C. 363, which refers to "An international application" and "a national stage;" and 35 U.S.C. 375, which refers to "A patent... on an international stage." The fact that only a single filing under 35 U.S.C. 371 is permitted is also reflected by the fact that only a single set of national stage papers are communicated to the USPTO from the International Bureau for each international application designating the United States.

Applicant may wish to consider filing a petition and fee under 37 CFR 1.182 to request that the papers placed in the instant application file wrapper be regarded as an application filed under 35 U.S.C. 111(a). In the absence of such a petition, the instant application will be merged into application no. 10/545,936, which is the national stage of international application PCT/US04/04740.

CONCLUSION

If treatment of the instant papers as an application filed under 35 U.S.C. 111(a) is desired, a proper petition under 37 CFR 1.182 must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are **NOT** available. Failure to timely file such a petition will result in merger of the instant application with application no. 10/545,936.

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

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10 JAN 2006

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In re Application of :
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Application No.: 10/546,084 :
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Attorney Docket No.: 25791.185.05 :
For: Protective Compression And Tension :
Sleeves For Threaded Connections For :
Radially Expandable Tubular Members :

This is in response to the petition under 37 CFR 1.182 filed on 21 November 2005.

DISCUSSION

In a Decision mailed on 29 September 2005, Applicant was advised that

> only one filing under 35 U.S.C. 371 is permitted for each international application. Applicant's attention is drawn to 35 U.S.C. 371(b), which refers to "the national stage;" to 35 U.S.C. 363, which refers to "An international application" and "a national stage;" and 35 U.S.C. 375, which refers to "A patent... on an international stage." The fact that only a single filing under 35 U.S.C. 371 is permitted is also reflected by the fact that only a single set of national stage papers are communicated to the USPTO from the International Bureau for each international application designating the United States.
>
> Applicant may wish to consider filing a petition and fee under 37 CFR 1.182 to request that the papers placed in the instant application file wrapper be regarded as an application filed under 35 U.S.C. 111(a). In the absence of such a petition, the instant application will be merged into application no. 10/545,936, which is the national stage of international application PCT/US04/04740.

In response, applicant has filed the instant petition, which states in part that

> In an effort to avoid future restriction requirements in the filing of a single 35 U.S.C. 371 filing, Applicants proceeded with filing these 35 USC 371 applications claiming priority to international application number PCT/US04/004740. However, upon receipt of the Decision dated September 29, 2005, Applicants learned that multiple 35 USC 371 applications stemming from a single international application were considered improper filings. Therefore, Applicants are submitting this petition to amend the subject application to a continuation of the international application under 35 USC 111(a), as referenced above, claiming benefit of U.S. provisional application number 60/448,526.

35 U.S.C. 111(a)(4) states in relevant part, "The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office." Review of the record reveals that all of the requirements of 35 U.S.C. 111(a), including a specification and drawing figures, were present in this application as of 17 August 2005. Accordingly, it would be appropriate to grant applicant's request to treat this application as having been filed under 35 U.S.C. 111(a). Counsel may wish to amend the first sentence of the specification to accurately reflect the status of this application.

Applicant is entitled, subject to 37 CFR 1.78(a)(2)(ii), to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter, since this application (Serial No.10/546,084) and the international application (PCT/US04/04740) designating the United States were copending on 17 August 2005. In order to obtain benefit of the earlier international application, applicant must amend the beginning of the specification of this application by inserting a proper reference to the parent international application. An appropriate passage would be, "This is an continuation of international application PCT/US04/04740, filed 17 February 2004, which designated the United States and is now abandoned." Alternatively, applicant may submit an application data sheet with the benefit claim included therein. Applicant may need to file a petition and fee under 37 CFR 1.78(a)(3) to be entitled to make the claim.

PATENT TERM ADJUSTMENT

Any period of adjustment to the term of a patent under 35 U.S.C. 154(b)(29 May 2000) in U.S. Application No. 10/546,084 may be reduced by the period of time beginning on the filing date accorded under 35 U.S.C. 111(a) and ending on the mailing date of this decision granting the 21 November 2005 petition. See 37 CFR 1.704(a).

CONCLUSION

The petition is **GRANTED** to the extent set forth above.

The $400.00 petition fee is being charged to counsel's Deposit Account No. 08-1394, as authorized by the petition.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for processing as an application filed under 35 U.S.C. 111(a) on **17 August 2005**.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

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

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GIFFORD, KRASS, SPRINKLE,ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY MI 48007-7021

MAIL

MAY 29 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Brian Scott MILLER, et al.
Application No. 10/546,090
Filed: January 5, 2006
For: **BIOMETRIC CONTROL OF EQUIPMENT**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Petition To Make Special under MPEP 708.02, XI: Invention for Countering Terrorism, filed February 24, 2006.

A grantable petition to make an application special under 37 C.F.R. § 1.102(d), and in accordance with MPEP 708.02, XI, for an invention which contributes to the countering of terrorism must be accompanied by a statement explaining how the invention contributes to countering terrorism. Examples of the types of technology for countering terrorism are set forth in MPEP 708.02, XI as including, but not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

The statements made in the petition show how the technology of the instant application directly contributes to the countering of terrorism.

Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the examiner for expedited action in its turn.

Krista Zele
Quality Assurance Specialist
Technology Center 2600
Communications

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

Patrea L. Pabst
Pabst Patent Group LLP
400 Colony Square, Suite 1200
1201 Peachtree Street
Atlanta, GA 30361

COPY MAILED

AUG 13 2007

OFFICE OF PETITIONS

In re Application of :

Andreas Lendlein et al. :
Application No. 10/546,092 : DECISION ON PETITION
Filed: December 16, 2005 : TO WITHDRAW
Attorney Docket No. MNE 106 : 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 11, 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 Rivka D. Monheit on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is no outstanding Office action at this time.

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

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Andreas Lendlein**
Sundgauerstr. 142
Berlin, 14167
Germany

cc: **Celine Crowson, Esq.**
Hogan & Hartson LLP
Columbia Square
555 13th Street
Washington DC 20004

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/546,092	12/16/2005	Andreas Lendlein	MNE 106

CONFIRMATION NO. 7035

OC000000025333142

23579
PATREA L. PABST
PABST PATENT GROUP LLP
400 COLONY SQUARE, SUITE 1200
1201 PEACHTREE STREET
ATLANTA, GA 30361

Date Mailed: 08/13/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/11/2007.

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

Yuri Williams

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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DAVIS WRIGHT TREMAINE
1501 FOURTH AVENUE
2600 CENTURY SQUARE
SEATTLE WA 98101-1688

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JAN 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Kabzinski, et al.	:	DECISION ACCORDING STATUS
Application No. 10/546,129	:	UNDER 37 CFR 1.47(a)
Filed: February 20, 2004	:	
Attorney Docket No. 69366-1	:	

This is in response to the petition under 37 CFR 1.47(a), filed October 20, 2006.

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

Petitioner has shown that non-signing inventor Powers has refused to sign the declaration after having been presented with the application papers.

The above-identified application and papers have been reviewed and found to be in compliance with 37 CFR 1.47(a). Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status. As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the last known address provided on the declaration. Notice of the filing of this application will also be published in the Official Gazette.

The $200 petition fee has been charged to Deposit Account No. 04-0258, as authorized.

The matter is being forwarded to Group Art Unit 2111 for docketing and examination in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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RUSSELL E POWERS
67 LEICESTER SQUARE
ALEXANDER HEIGHTS
6064 AUSTRALIA

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JAN 16 2007

OFFICE OF PETITIONS

In re Application of :
Richard Kabzinski, Michael Alfred :
Hearn, Russell E. Powers :
Application No. 10/546,129 :
Filed: February 20, 2004 : LETTER
Title: Bus Bridge Security System and :
Method for Computers :

Dear Mr. Powers:

You are named as a joint inventor in the above-identified United States patent reissue application filed under the provisions of 35 USC 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, agent 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 Petitions Attorney Cliff Congo at (571)272-3207. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-16-09

TO SPE OF : ART UNIT 1795

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/546146 Patent No.: 7442475

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

Angela Green 703-756-1541
Certificates of Correction Branch
703-756-1814

Thank You For Your Assistance

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

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

Comments: _____

SPE Art Unit 1795

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NIXON & VANDERHYE
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808

In re Application of	:	DECISION ON REQUEST TO
Hiroshi SANUI et al.	:	PARTICIPATE IN PATENT
Application No. 10/546147	:	PROSECUTION HIGHWAY
Filed: August 22, 2005	:	PILOT PROGRAM AND PETITION
Attorney Docket No. 427-100	:	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 February 12, 2008, to make the above-identified application special.

The request and petition are **DISMISSED**.

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 fails to include:

The request filed fails to include copies of the allowable/patentable claims from the JPO applications i.e., the Japanese language copy of the claims have not been submitted.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Response must be faxed to Kathryn Gorgos at 571 273-1012.

Telephone inquiries concerning this decision should be directed to Kathryn Gorgos at 571 272-1012.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

Kathryn Gorgos
TC 1700 TQAS

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/546,158	08/22/2005	Kengo Akimoto	47237-0564-00-US (216944)	1355

55694 7590 08/17/2009

DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON, DC 20005-1209

EXAMINER	
CLAYTOR, DEIRDRE RENEE	

ART UNIT	PAPER NUMBER
1617	

MAIL DATE	DELIVERY MODE
08/17/2009	PAPER

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

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

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AUG 1 7 2009

Brian K. Lathrop
DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON DC 20005-1209

In re Application of	:
Akimoto et al.	:
Serial No.: 10/546,158	:DECISION ON PETITION
Filed: 22 August 2005	:
Attorney Docket No.: 47237-0564-00-US	:

This letter is in response to the Petition filed under 37 C.F.R. 1.144 filed on 14 July 2009 requesting review and withdrawal of the notices of non-compliant amendment mailed on 24 September 2008 and 14 April 2009.

BACKGROUND

This application was filed as a national stage application in compliance with under 35 U.S.C. 371 and as such is subject to PCT unity of invention practice.

On 29 May 2008, the examiner mailed a restriction requirement in which the original claims 1-28 were divided into 2 groups, consisting of product and process of making the product.

On 29 July 2008, Applicants filed an amendment to amend all of the claims of Group I to recite a method of using the product. In response to the restriction requirement, Applicant elected group I with traverse.

On 24 September 2008, the examiner mailed a notice of non-compliant amendment which refused entry of the amendment filed 29 July 2008 and required applicant to reply to the restriction requirement by electing either the product or the process of making claims.

On 22 December 2008, applicants filed a request for reconsideration.

On 14 April 2009, upon reconsideration, the examiner mailed a second notice of non-compliant amendment which refused entry of the amendment filed 29 July 2008 and required applicant to reply to the restriction requirement by electing either the product or the process of making claims. The examiner stated that the amendment was not properly added and entered before an action was given.

On 14 July 2009, applicants filed this petition under consideration.

DISCUSSION

The petition and file history have been carefully considered.

First, applicants request that the amendment filed 22 August 2008 be entered. MPEP 818.02(a) sets forth guidance concerning addition of claims prior to a first office action on the merits.

> "Where claims to another invention are properly added and entered in the application before an action is given, they are treated as original claims for purposes of restriction only."

Because no Office action on the merits has been mailed in this application, the amendment filed 22 August 2008 will be entered.

Second, applicants request that the restriction requirement between Group I and II be withdrawn. It is noted that the original restriction requirement was set forth between the Product and process of making. Because the product claims have been removed and replaced by process of using claim, any request to reconsider the original restriction requirement is considered moot.

In view of the claims filed on 22 August 2008, a new lack of unity determination is set forth below:

REQUIREMENT FOR UNITY OF INVENTION

As provided in 37 CFR 1.475(a), a national stage application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept ("requirement of unity of invention"). Where a group of inventions is claimed in a national stage application, the requirement of unity of invention shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

The determination whether a group of inventions is so linked as to form a single general inventive concept shall be made without regard to whether the inventions are claimed in separate claims or as alternatives within a single claim. See 37 CFR 1.475(e).

When Claims Are Directed to Multiple Categories of Inventions:

As provided in 37 CFR 1.475(b), a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combinations of categories:

(1)A product and a process specially adapted for the manufacture of said product; or

(2)A product and process of use of said product; or

(3)A product, a process specially adapted for the manufacture of the said product, and a use of the said product; or

(4)A process and an apparatus or means specifically designed for carrying out the said process; or

(5)A product, a process specially adapted for the manufacture of the said product, and an apparatus or means specifically designed for carrying out the said process.

Otherwise, unity of invention might not be present. See 37 CFR 1.475(c).

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claims 1-27 directed to a method using the product
Group II, claim 28, directed to the method of making the product.

The groups of inventions listed above 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: In this instance, the product which is made by the method of Group II or used by the method of Group I does not make a contribution over the prior art in view of prior art (EP 1419768) which teaches the composition comprising arachiconic acid. Moreover, because there is no claim remaining to the product invention, unity is lacking between the method of making the product and the method of using the product.

Applicants have elected the invention of Claims 1-27 and this invention will now be examined.

DECISION

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

The amendment filed on 29 July 2008 will be entered.

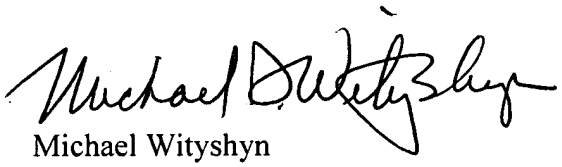
The two Notices of Non-Compliant Amendments mailed on 24 September 2008 and 14 April 2009 are hereby vacated.

The lack of unity determination between Groups I and II set forth on 29 May 2008 has been withdrawn and replaced with the lack of unity determination set forth herein. Applicants have elected the invention of Claims 1-27 and this invention, as claimed by the amendment filed on 29 July 2008, will now be examined.

The application will be forwarded to the examiner for preparation of an Office action on claims 1-27, as amended on 29 July 2008, consistent with this decision.

Any request for reconsideration must be filed within 2 (TWO) months of the mail 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 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.



Michael Wityshyn
Acting Director, Technology Center 1600

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20 JUL 2006

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

In re Application of	
SPRINZAK, David et al.	
Application No.: 10/546,170	DECISION
PCT No.: PCT/IL03/01054	
Int. Filing Date: 10 December 2003	ON REQUEST UNDER
Priority Date: 20 February 2003	
Attorney's Docket No.: P-8106-US	37 CFR 1.497(d)
For: A SAMPLE ENCLOSURE ... OF USE THEREOF	

This decision is in response to "Petition To Add Inventor(s) Under MPEP 1893.01(e) and 37 CFR 1.497(d)," filed on 18 August 2005.

BACKGROUND

On 10 December 2003, applicants filed international application PCT/IL03/01054, which claimed a priority date of 20 February 2003. A copy of the international application was transmitted on 02 September 2004. The deadline for entry into the national stage in the United States was midnight on 20 August 2005.

On 18 August 2005, applicants filed a submission for entry into the national stage in the United States, accompanied by, *inter alia*, the U.S. Basic National Fee, a declaration of the inventors and a request under 37 CFR 1.497(d).

DISCUSSION

Applicants file this request to add Yiftah Karni as an inventor.

A request under 37 CFR 1.497(d) requires: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in §1.17(i); (3) the written consent of the assignee, if an original named inventor has executed an assignment and (4) any new oath or declaration required by paragraph (f).

Items (1), (2) and (3) have been satisfied. Applicants provided a statement by Yiftah Karni, the processing fee and the consent of the assignee. Item (4) is not applicable.

The request under 37 CFR 1.497(d) will be granted when applicants supply a declaration in compliance with 37 CFR 1.497(a)-(b). The present declaration is defective.

Applicants have supplied one page 1, one page 2, two pages 3 and one page 4. The pages 3 list the same inventors, but were separately executed. While it is acceptable for inventors to execute different copies of the declaration, applicants must supply the full copy of the declaration executed by each inventor. Applicants may not piece together pages from different declarations to create a composite declaration. It appears there were at least two copies of the declaration executed. Applicants must supply complete declarations in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.497(d) is **DISMISSED** without prejudice pending the submission of a declaration in compliance with 37 CFR 1.497(a)-(b).

A proper response including a 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 must be filed within TWO (2) MONTHS from the mail date of this decision. The submission should be entitled "Renewed Submission Under 37 CFR 1.497(d)."

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

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

2 0 NOV 2006

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

In re Application of	:	
SPRINZAK, David et al.	:	
Application No.: 10/546,170	:	DECISION
PCT No.: PCT/IL03/01054	:	
Int. Filing Date: 10 December 2003	:	ON REQUEST UNDER
Priority Date: 20 February 2003	:	
Attorney's Docket No.: P-8106-US	:	37 CFR 1.497(d)
For: A SAMPLE ENCLOSURE ... OF USE THEREOF	:	

This decision is in response to "Renewed Submission Under 37 CFR 1.497(d)," filed on 05 September 2006.

BACKGROUND

On 20 July 2006, the Office mailed Decision On Request Under 37 CFR 1.497(d), dismissing applicants' request pending submission of a declaration in compliance with 37 CFR 1.497(a)-(b)

DISCUSSION

Applicants filed this request to add Yiftah Karni as an inventor.

A request under 37 CFR 1.497(d) requires: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in §1.17(i); (3) the written consent of the assignee, if an original named inventor has executed an assignment and (4) any new oath or declaration required by paragraph (f).

Items (1), (2) and (3) were previously satisfied. Applicants provided a statement by Yiftah Karni, the processing fee and the consent of the assignee. Item (4) is not applicable.

The request under 37 CFR 1.497(d) will be granted when applicants supply a declaration in compliance with 37 CFR 1.497(a)-(b). The present declaration is defective.

Applicants previously supplied one page 1, one page 2, two pages 3 and one page 4. The pages 3 list the same inventors, but were separately executed. While it is acceptable for

inventors to execute different copies of the declaration, applicants must supply the full copy of the declaration executed by each inventor. Applicants may not piece together pages from different declarations to create a composite declaration.

Applicants have now submitted two complete copies of the declaration, but it is clear from the facsimile markings that they are not presented in the way they were transmitted. Applicants have supplied two copies of the page "p.2," one page each marked "p.3," through "p.6," and printouts of page 2 and 4 of the declaration. As indicated, the declaration submitted must be the declaration as it was executed by the inventors. It is improper to modify the declaration after execution by the inventors. Oaths or declarations of the inventors in compliance with 37 CFR 1.497(a)-(b) are required.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.497(d) is **DISMISSED** without prejudice pending the submission of a declaration in compliance with 37 CFR 1.497(a)-(b).

A proper response including a 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 must be filed within TWO (2) MONTHS from the mail date of this decision. The submission should be entitled "Renewed Submission Under 37 CFR 1.497(d)."

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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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20 FEB 2007

Pearl Cohen Zedek, Latzer, LLP
1500 Broadway, 12th Floor
New York, NY 10036

In re Application of	:	
SPRINZAK, et al.	:	
Application No.: 10/546,170	:	DECISION ON RENEWED
PCT No.: PCT/IL03/01054	:	
Int. Filing Date: 10 December 2003	:	PETITION UNDER
Priority Date: 20 February 2003	:	
Atty. Docket No.: P-8106-US	:	37 CFR 1.497(d)
For: A SAMPLE ENCLOSURE FOR A SCANNING ELECTRON MICROSCOPE AND METHODS OF USE THEREOF	:	

This decision is in response to applicant's "RENEWED PETITION UNDER 37 C.F.R. 1.497(d)" filed 21 January 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 20 November 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 21 January 2007, applicant filed the present renewed petition. 20 January 2007 being a Saturday, the present renewed petition is considered timely filed.

On 26 January 2007, applicant was mailed a "Notification of Abandonment" (Form PCT/DO/EO/909).

DISCUSSION

As detailed in the decision mailed 20 November 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(i); and

(3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b); and

(4) any new oath or declaration required by paragraph (f) of this section.

Applicant previously satisfied items (1) - (3).

Regarding item (4), applicant has presently filed a compliant oath or declaration pursuant to 37 CFR 1.497(a) which identifies, and is executed by, all five inventors.

As such, applicant has satisfied the remaining concern from the decision mailed 20 November 2006.

CONCLUSION

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

The Form PCT/DO/EO/909 mailed 26 January 2007 is hereby **VACATED**.

A review of the application papers reveals that applicant has now completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application has an international application filing date of 10 December 2003 and will be given a date of **21 January 2007** 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
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
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CONLEY ROSE, P.C.
5601 GRANITE PARKWAY, SUITE 750
PLANO, TX 75024

Mail Date: 05/12/2010

Applicant	: Rajendra Narayanrao Kankan	: DECISION ON REQUEST FOR
Patent Number	: 7638627	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/546,193	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **924** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 SEP 2006

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

In re Application of	:	
FRIZ et al.	:	DECISION ON
Application No.: 10/546,199	:	
PCT No.: PCT/EP2004/000554	:	PAPERS
Int. Filing Date: 23 January 2004	:	
Priority Date: 19 February 2003	:	UNDER 37 CFR 1.42
Attorney's Docket No.: MERCK-3056	:	
For: VAPOUR-DEPOSITION MATERIAL	:	
FOR THE PRODUCTION OF OPTICAL LAYERS OF	:	
HIGH REFRACTIVE INDEX	:	

This is a decision on the submission filed by applicants on 18 August 2005, which was accompanied by, *inter alia*, a declaration of the inventors. The indication in this declaration that inventor Reiner Dombrowski is deceased has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 23 January 2004, applicants filed international application PCT/EP2004/000554 which claimed a priority date of 19 February 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 02 September 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 19 August 2005.

On 18 August 2005, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee, an English translation of the international application, and a declaration of inventors. The indication in this declaration that inventor Reiner Dombrowski is deceased has been treated as a request for status under 37 CFR 1.42.

DISCUSSION

The declaration filed 18 August 2005 fails to comply with 37 CFR 1.497(a)-(b). The declaration is not signed by and does not even indicate a legal representative for the deceased inventor. A new declaration in compliance with 37 CFR 1.497(a)-(b) is required. Among other

things, the new declaration should list all of the inventors, including the deceased, and the legal representative of the deceased inventor and should include the residence, mailing address and citizenship of the of the legal representative (37 CFR 1.497(b)(2)) as well the full name *and citizenship* of the deceased inventor (37 CFR 1.497(a)(3)). The declaration must also be signed by the legal representative.

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

0 8 JAN 2007

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

In re Application of	:	
FRIZ et al.	:	DECISION ON
Application No.: 10/546,199	:	
PCT No.: PCT/EP2004/000554	:	PAPERS
Int. Filing Date: 23 January 2004	:	
Priority Date: 19 February 2003	:	UNDER 37 CFR 1.42
Attorney's Docket No.: MERCK-3056	:	
For: VAPOUR-DEPOSITION MATERIAL	:	
FOR THE PRODUCTION OF OPTICAL LAYERS OF	:	
HIGH REFRACTIVE INDEX	:	

This is a decision on applicants' "RENEWED SUBMISSION UNDER 37 CFR 1.42" filed on 13 December 2006, which was accompanied by, *inter alia*, a declaration of the inventors.

BACKGROUND

On 23 January 2004, applicants filed international application PCT/EP2004/000554 which claimed a priority date of 19 February 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 02 September 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 19 August 2005.

On 18 August 2005, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee, an English translation of the international application, and a declaration of inventors. The indication in this declaration that inventor Reiner Dombrowski is deceased was treated as a request for status under 37 CFR 1.42.

On 13 September 2006, a decision was mailed refusing applicants' request for status under 37 CFR 1.182. Specifically, it was noted that the declaration was not signed by and did not even indicate a legal representative for the deceased inventor.

On 13 December 2006, applicants filed the instant "RENEWED SUBMISSION UNDER 37 CFR 1.42" which was accompanied by, *inter alia*, a declaration of the inventors.

DISCUSSION

The submission filed 13 December 2006 has been reviewed and has been found in compliance with 37 CFR 1.42. The declaration filed 13 December 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
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

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Sale Ref: 00000003 DA#: 133402 10546199
01 FC:1251 120.00 DA

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25 JAN 2006

Edward A. Meilman
DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
1177 Avenue of the Americas, 41st Floor
New York, NY 10036-2714

In re Application of :
KAWANAMI, Takashi :
U.S. Application No.: 10/546,205 :
PCT No.: PCT/JP2004/001436 :
Int. Filing Date: 10 February 2004 :
Priority Date: 18 March 2003 : **DECISION**
Attorney Docket No.: M1071.1938 :
For: THREE-PORT NONRECIPROCAL :
CIRCUIT DEVICE, COMPOSITE :
ELECTRONIC COMPONENT, AND :
COMMUNICATION APPARATUS :

This decision is in response to the "Petition for Revival . . . Under 37 CFR 1.137(b)" filed via facsimile on 12 January 2006 which is treated as a petition under 37 CFR 1.182.

BACKGROUND

On 18 August 2005, applicant filed papers to enter the national stage application for PCT/US2004/004949.

On 27 December 2005, counsel filed an "Express Abandonment Under 37 CFR 1.138" in the above-captioned application.

On 12 January 2006, applicant filed a petition to revive pursuant to 37 CFR 1.137(b) which was accompanied by, *inter alia*, copies of several emails and letters and authorization to charge the petition fee to a credit card.

DISCUSSION

Section 711.01 of the MPEP discusses an Express of Formal Abandonment and states, in part:

> The applicant (acquiesced in by an assignee of record), or the attorney/agent of record, if any, can sign an express abandonment. It is imperative that the attorney or agent of record exercise every precaution in ascertaining that the abandonment of the application is in accordance

with the desires and best interests of the applicant prior to signing a letter of express abandonment of a patent application. Moreover, special care should be taken to ensure that the appropriate application is correctly identified in the letter of abandonment. A letter of abandonment properly signed becomes effective when an appropriate official of the Office takes action thereon.

In this case, the express abandonment request was not yet effective as an appropriate official of the Office has not yet taken any action. Accordingly, applicant's petition has been treated under 37 CFR 1.182 to remove the express abandonment request from the above-captioned application.

The $400.00 fee has been charged to the credit card provided as authorized.

CONCLUSION

The petition under 37 CFR 1.182 to remove the "Express Abandonment Under 37 CFR 1.138" request filed 27 December 2005 is **GRANTED**.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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JUN 29 2010

OFFICE OF PETITIONS

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

Applicant: Xing, et al.	:	DECISION ON REQUEST FOR
Patent Number: Not Yet Available	:	RECALCULATION of PATENT
Issue Date: Not Yet Available	:	TERM ADJUSTMENT IN VIEW OF
Application No. 10/546,226	:	WYETH
Filed: March 3, 2006	:	

The Applicant's Request for Recalculation is **DISMISSED AS PREMATURE**. Applicant has filed the request based upon the USPTO determination that is provided to applicant in the notice of allowance.

The USPTO does not calculate and inform the applicant of the patent term adjustment based upon the three-year pendency provision of 35 U.S.C. § 154(b)(1)(B) or the overlapping provision in 35 USC § 154(b)(2)(A) in the notice of allowance because the USPTO must know the date the patent will issue to be able to calculate the patent term adjustment based upon these provisions. Accordingly, the USPTO does not determine the amount of "B" delay or the amount of overlap as required by Wyeth until the USPTO establishes a grant date.

Thus, reconsideration of the patent term adjustment indicated in the patent as it relates to the three-year pendency provision of 35 U.S.C. § 154(b)(1)(B) and any overlap pursuant to 35 USC § 154(b)(2)(A) are not considered matters that could have been raised in an application for patent term adjustment under 37 CFR 1.705(b)(provides for reconsideration of the patent term adjustment indicated in the notice of allowance). Therefore, a request for reconsideration of the patent term adjustment calculation based on the three-year pendency provision of 35 U.S.C. § 154(b)(1)(B) and the overlapping provision of 35 USC § 154(b)(2)(A) will be considered timely filed if filed within two months of the issue date of the patent.

Applicant may file a reply to this decision dismissing the Request for Recalculation. Applicant 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.

Applicant 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.

Applicant should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent 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.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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KEVIN W. GRIERSON
WILLCOX & SAVAGE, P.C.
ONE COMMERCIAL PLACE
SUITE 1800
NORFOLK VA 23510

COPY MAILED

JUN 0 2 2008

OFFICE OF PETITIONS

In re Application of :
Costandy K. Khury :
Application No. 10/546,235 : DECISION ON PETITION
Filed: May 5, 2006 : TO MAKE SPECIAL UNDER
Attorney Docket No. 20169.002 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 14, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement by the applicant, Costandy Khury, that indicates he is older than 65 years. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Carl Friedman at 571-272-6842.

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 Technology Center Art Unit 3626 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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SUITE 1800
NORFOLK VA 23510

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JUN 0 4 2008

OFFICE OF PETITIONS

In re Application of
Costandy K. Khury
Application No. 10/546,235
Filed: May 5, 2006
Attorney Docket No. 20169.002

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 14, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement by the applicant, Costandy Khury, that indicates he is older than 65 years. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Carl Friedman at 571-272-6842.

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 Technology Center Art Unit 3626 for action on the merits commensurate with this decision.

Carl Friedman
Petitions Examiner
Office of Petitions

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OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, VA 22320

JAN - 7 2008

In re Application of:
KASBARIAN et al.
Serial No.: 10/546,250
Filed: November 8, 2005
Attorney Docket No.: **124983**

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition filed on June 5, 2007, to withdraw the holding of abandonment under 37 C.F.R. § 1.181. No fee is required.

The petition is **GRANTED**.

The application was held abandoned for failure to timely file a response to the Office action mailed on October 26, 2006. A Notice of Abandonment was mailed on April 27, 2007.

Petitioner asserts that on March 26, 2007, a response was filed.

A review of the application file record reveals that the above-identified response is of record in the file. Since the response was timely filed, the application was erroneously held abandoned.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the examiner of record for consideration of the response and prompt appropriate action.

Inquiries regarding this decision should be directed to Lincoln Donovan, Supervisory Patent Examiner, at (571) 272-1988.

Janice Falcone

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

16 MAR 2006

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NIXON & VANDERHYE
901 North Glebe Road, 11th Floor
Arlington, VA 22203

In re Application of:	:	
MANSOUR, David, et al.	:	DECISION ON PETITION UNDER
U.S. Application No.: 10/546,264	:	37 CFR 1.47(a)
PCT No.: PCT/IL2004/000149	:	
International Filing Date: 18 February 2004	:	
Priority Date: 18 February 2003	:	
Attorney's Docket No.: 4809-3	:	
For: LOW PROFILE ANTENNA FOR SATELLITE COMMUNICATION	:	

This decision is issued in response to applicants' petition under 37 CFR 1.47(a) filed 30 January 2006, and the supplemental "Third Submission To PCT Branch; Voluntary Joinder Of Inventor Erlich" filed 03 March 2006. Applicants have submitted $130 as the petition fee; however, the applicable petition fee is $200. Accordingly, Deposit Account No. 14-1140 will be charged the additional $70 required to complete the petition fee.

BACKGROUND

On 18 February 2004, applicants filed international application PCT/IL2004/000149. The international application claimed a priority date of 18 February 2003 and designated the United States. On 02 September 2004, the International Bureau (IB) communicated a copy of the international application was communicated 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 August 2005.

On 18 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 30 January 2006, applicants filed a second submission which included, among other materials, a declaration executed by two of the three inventors and the petition under 37 CFR 1.47(a) considered herein. The petition seeks acceptance of the application without the signature of the remaining inventor, Simha ERLICH.

On 03 March 2006, applicants filed the "Third Submission To PCT Branch; Voluntary Joinder Of Inventor Erlich" considered herein as a supplement to the petition under 37 CFR 1.47(a). The 03 March 2006 submission includes a declaration executed by the previously non-signing inventor, Simha ERLICH.

DISCUSSION

Applicants have now submitted acceptable declarations from each of the applicants herein, including Simha ERLICH. The petition under 37 CFR 1.47(a) filed 30 January 2006, based as it was on the purported refusal of inventor Simha ERLICH to execute the declaration, is therefore moot.

CONCLUSION

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 03 March 2006.

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

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OFFICE OF PETITIONS

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

In re Application of	:	
Fukuda et al.	:	
Patent Number: 7,595,400	:	DECISION ON
Issue Date: 09/29/2009	:	APPLICATION FOR
Application No. 10/546287	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 03/20/2006	:	and
Attorney Docket No.	:	NOTICE OF INTENT TO ISSUE
14875-149US1	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 24, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred sixty-three (863) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by eight hundred sixty-three (863) 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 **eight hundred sixty-three (863) 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 : 7,595,400 B2

DATED : **September 29, 2009**

INVENTOR(S) : Fukuda 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 655 days.

Delete the phrase "by 655 days" and insert – by 863 days--

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111

Mail Date: 04/21/2010

Applicant	: Che-Leung Law	: DECISION ON REQUEST FOR
Patent Number	: 7662387	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/546,304	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111

Mail Date: 05/18/2010

Applicant : Che-Leung Law
Patent Number : 7662387
Issue Date : 02/16/2010
Application No: 10/546,304
Filed : 08/19/2005

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **48** 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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OCT 17 2007

OFFICE OF PETITIONS

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

In re Application of	:	
Sipke Wadman	:	
Application No. 10/546,314	:	DECISION GRANTING PETITION
Filed: August 19, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. NL 030225	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 15, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 26, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

While it is true that Part B of the Issue Fee Transmittal Letter was never submitted, the issue and publication fees were submitted on June 26, 2007. A copy of the Electronic Acknowledgement Receipt and Patent Application Fee Transmittal is enclosed for your convenience.

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

This application is being referred to Technology Center AU 2877 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the IDS filed June 26, 2007.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

Enclosure: Copy of Electronic Acknowledgement Receipt and Electronic Patent Application Fee Transmittal

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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.*

Electronic Acknowledgement Receipt

EFS ID:	1909579
Application Number:	10546314
International Application Number:	
Confirmation Number:	3121
Title of Invention:	SCATTEROMETER AND A METHOD FOR OBSERVING A SURFACE
First Named Inventor/Applicant Name:	Sipke Wadman
Customer Number:	24737
Filer:	Frank Keegan/Elissa DeLuccy
Filer Authorized By:	Frank Keegan
Attorney Docket Number:	NL 030225
Receipt Date:	26-JUN-2007
Filing Date:	19-AUG-2005
Time Stamp:	10:54:16
Application Type:	U.S. National Stage under 35 USC 371

Payment information:

Submitted with Payment	yes
Payment was successfully received in RAM	$1880
RAM confirmation Number	9948
Deposit Account	141270
The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows: Charge any Additional Fees required under 37 C.F.R. Section 1.16 and 1.17	

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)	Multi Part /.zip	Pages (if appl.)
1	Request for Continued Examination (RCE)	NL030225_RCE_FORM.pdf	666479	no	3
Warnings:					
Information:					
2	Information Disclosure Statement (IDS) Filed	NL030225_IDS_FORM_SB08.pdf	753939	no	5
Warnings:					
Information:					
3	Foreign Reference	DE19920184A1.pdf	433571	no	6
Warnings:					
Information:					
4	Foreign Reference	EP964244A1.pdf	1656057	no	26
Warnings:					
Information:					
5	Foreign Reference	EP964244B1.pdf	211780	no	17
Warnings:					
Information:					
6	Foreign Reference	GB470755.pdf	218128	no	4
Warnings:					
Information:					
7	Foreign Reference	DE19920184C2.pdf	440960	no	6
Warnings:					
Information:					
8	Foreign Reference	SU1117496.pdf	263750	no	5
Warnings:					
Information:					
9	Fee Worksheet (PTO-06)	fee-info.pdf	8471	no	2
Warnings:					

Information:	
Total Files Size (in bytes):	4653135

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

Electronic Patent Application Fee Transmittal

Application Number:	10546314
Filing Date:	19-Aug-2005
Title of Invention:	SCATTEROMETER AND A METHOD FOR OBSERVING A SURFACE
First Named Inventor/Applicant Name:	Sipke Wadman
Filer:	Frank Keegan/Elissa DeLuccy
Attorney Docket Number:	NL 030225
Filed as Large Entity	

U.S. National Stage under 35 USC 371 Filing Fees

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				
Utility Appl issue fee	1501	1	1400	1400
Publ. Fee- early, voluntary, or normal	1504	1	300	300

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Extension-of-Time:				
Miscellaneous:				
Submission- Information Disclosure Stmt	1806	1	180	180
		Total in USD ($)		**1880**

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Paper No.

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MAY 04 2009

OFFICE OF PETITIONS

In re Application of	:	
Bartel Marinus Van De Sluis	:	
et al.	:	
Application No. 10/546,320	:	DECISION ON PETITION
Filed: August 19, 2005	:	PURSUANT TO
Attorney Docket No.:	:	37 C.F.R. § 1.137(B)
US030032	:	
Title: SYSTEM FOR AD HOC	:	
SHARING OF CONTENT ITEMS	:	
BETWEEN PORTABLE DEVICES AND	:	
INTERACTION METHODS THEREFOR	:	

This is a decision on the petition filed March 4, 2009, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

The petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed May 27, 2008, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no response was received. Accordingly, the above-identified application became abandoned on August 28, 2008. A notice of abandonment was mailed on December 10, 2008.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, unless previously filed;
> (2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 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 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee, a Request for Continued Examination (RCE) along with the associated fee, an amendment, and the proper statement of unintentional delay.

The first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment received on March 4, 2009 - can be processed.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries

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1 See Rule 1.137(d).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded

concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO CA 94304-1018

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OCT 0 1 2007

OFFICE OF PETITIONS

In re Application of :
Watt, et al. :
Application No. 10/546,333 : DECISION ON PETITIONS
Filed: February 20, 2004 :
Attorney Docket No. 273402005821 :

This is a decision on the "PETITION TO "EXPUNGE" ASSIGNMENT", filed January 3, 2007, which is being treated as a petition under 37 CFR 1.182.

The petition to expunge is **GRANTED**.

As set forth in MPEP 323.01(d), a petitioner seeking to expunge assignment records must establish:

> (A) the normal corrective procedures outlined in MPEP § 323.01(a) through § 323.01(c) will not provide the petitioner with adequate relief; and
>
> (B) the integrity of the assignment records will not be affected by granting the petition.

Petitioner has satisfied the two requirements above.

The image of the recorded document will remain in the records of the Assignment Services Division at the same reel and frame number, and the image will appear when someone views that reel and frame number. The Office will, however, delete the links to 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 that application or patent number in the Assignment Historical Database. MPEP 323.01(d).

The petition fee of $400 has been charged to Deposit Account No. 03-1952, as authorized.

The matter is being forwarded to the Assignment Branch to delete the reference to Reel 017477, Frame 0258 for the instant application.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

12 SEP 2006

James C. Eaves, Jr.
Greenebaum, Doll & McDonald, PLLC
3500 National City Tower
101 S. Fifth Street
Louisville, KY 40202

In re Application of	:	
SAMMARTIN	:	
Serial No.: 10/546,341	:	
PCT No.: PCT/IT03/00133	:	DECISION ON PETITION
Int. Filing Date: 05 March 2003	:	
Priority Date: None	:	UNDER 37 CFR 1.181
Atty Docket No.: 110636PO2	:	
For: METHOD OF MACHINING A BRAKE DISC	:	

This decision is in response to applicant's correspondence and request for refund filed 08 September 2006 in the United States Patent and Trademark Office (USPTO). The request is being treated under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 10 July 2006, $360.00 was charged to deposit account number 50-0976 for a multiple dependent claim.

On 08 September 2006, applicant filed the present request for refund arguing that a preliminary amendment had been filed with the U.S. National stage entry eliminating all multiple dependencies.

DISCUSSION

A careful review of the preliminary amendment finds that not all of the multiple dependencies were eliminated. Claim 8, which was not amended, ends by stating "...the loading and clamping of the workpiece for subsequent machining being carried out in accordance with the steps of the method of **one or more of the preceding claims**." (Boldness added).

As such, it is not possible to grant applicant's petition as the $360.00 fee was properly charged.

CONCLUSION

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/546,353	None	Fabienne Brule	CHEP:014US

FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN TX 78701

DATE MAILED: June 9, 2006

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)
The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d) filed on June 7, 2006, 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 application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.

~ 3. The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

Any inquiries concerning this decision should be directed to the Pre-Grant Publication Division at (703) 605-4283.

Barbara J. Debnam
Pre-Grant Publication Division

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: Wolfgang Thomar	: DECISION ON REQUEST FOR
Patent Number	: 7644483	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/546,360	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1151** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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DTW Apr-08

ELLIOTT N KRAMSKY
5850 CANOGA AVENUE
SUITE 400
WOODLAND HILLS CA 91367

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APR 0 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Spahlinger et al.	:	DECISION ON PETITION TO
Application Number: 10/546377	:	WITHDRAW HOLDING OF
Filing Date: 08/19/2005	:	ABANDONMENT
Attorney Docket Number: L-404	:	
	:	

This is a decision on the petition filed on February 20, 2008, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed on October 12, 2007, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on February 5, 2008.

Petitioner's counsel asserts that the Notice of Allowance and Fee(s) Due mailed on October 12, 2007 was never received.

In the absence of any irregularity in the mailing of the Notice of Allowance and Fee(s) Due mailed on October 12, 2007, there is a strong presumption that the Notice of Allowance and Fee(s) Due mailed on October 12, 2007 was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Notice of Allowance and Fee(s) Due mailed on October 12, 2007 was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are

Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Notice of Allowance and Fee(s) Due mailed on October 12, 2007 may have been lost after receipt rather than a conclusion that the Notice of Allowance and Fee(s) Due mailed on October 12, 2007 was lost in the mail.

A review of the record indicates that the Notice of Allowance and Fee(s) Due mailed on October 12, 2007 was properly mailed to the petitioners at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Office action on the part of the United States Patent and Trademark Office.

In support of the petition, petitioners' registered patent practitioner, Elliot N. Kramsky, states that he has searched the file jacket of this case and did not find the Notice of Allowance and Fee(s) Due mailed on October 12, 2007. Petitioners have also provided a copy of counsel's docket sheet, referenced in the practitioner's statement, showing where the Notice of Allowance and Fee(s) Due mailed on October 12, 2007 would have been entered had it been received and docketed.

The petitioners have made a sufficient showing of nonreceipt of the Notice of Allowance and Fee(s) Due mailed on October 12, 2007. Therefore, there is no abandonment in fact.

The Notice of Abandonment is hereby **vacated**, and the holding of abandonment **withdrawn**.

The petition is **GRANTED.**

The application file is being referred to Technology Center Art Unit 2873 technical support staff for remailing of the Notice of Allowance and Fee(s) Due mailed on October 12, 2007. 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.

/D Wood/

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

21 NOV 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON VA 22202

In re Application of
LAMOULINE
Serial No.: 10/546,383
PCT App. No.: PCT/FR04/00411
Int'l Filing Date: 24 February 2004
Priority Date: 27 February 2003
Attorney Docket No.: 0507-1087
For: SYSTEM AND METHOD FOR ACCESSING COMPUTER FILES...

DECISION ON

PETITION UNDER

37 CFR 1.181

This is a decision on applicant's Petition to Withdraw the Holding of Abandonment treated as a petition under 37 CFR 1.181, filed in the US Patent and Trademark Office on 11 August 2006. No petition fee is required.

BACKGROUND

On 29 August 2005, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee.

On 11 April 2006, the Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that oath or declaration, in compliance with 37 CFR 497(a) and (b) and executed by the inventor, was required . The notification set a TWO (2) MONTH period for response.

On 14 July 2006, the Office mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating, that the application went abandoned for failure to respond to the Notification of Missing Requirements mailed 11 April 2006.

On 11 August 2006, applicant filed the present petition requesting that the Office withdraw the holding of abandonment as the applicant had timely replied to the Notification of Missing Requirements with the accompanying cover letter and declaration.

DISCUSSION

The 11 April 2006 Notification of Missing Requirements set a two month time period within which to respond or by 11 June 2006. It also indicated that extensions of time were available under 37 CFR 1.136(a) for up to five months or by 11 November 2006. The Notification of Abandonment erroneously indicated that applicant had failed to respond to the 905 within the time period set forth therein. For the reasons stated, the 14 July 2006 Notification of Abandonment is hereby VACATED.

The $130 surcharge filing the oath or declaration after the thirty month period was paid on 29 August 2005.

A review of the declaration reveals that the declaration identifies the inventors, and states the citizenship and mailing address of the inventors. 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 declaration submitted on 11 August 2006 is acceptable and meets the requirements of 37 CFR 1.497(a) & (b).

The 14 July 2006 Notification of Abandonment (Form PCT/DO/EO/909) is hereby **VACATED**.

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 11 August 2006.

Cynthia M. Kratz
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OFFICE OF PETITIONS

NAVAL RESEARCH LABORATORY
ASSOCIATE COUNSEL (PATENTS)
CODE 1008.2
4555 OVERLOOK AVENUE SW
WASHINGTON DC 20375-5320

In re Application of :
Phillippe Gentrix :
Application No. 10/546,393 : ON PETITION
Filed: August 18, 2005 :
Attorney Docket No. FR 030018 :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed October 12, 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 non-final Office action, mailed January 15, 2009. This Office action set a shortened statutory period for reply of three months. No reply having been received, the application became abandoned on April 16, 2009. The Office mailed a Notice of Abandonment on August 11, 2009.

With the instant petition, applicant made the proper statement of unintentional delay, paid the petition fee, and filed the required reply in the form of an Amendment.

The application is being forwarded to Group Art Unit 2427 for consideration of the Amendment, filed October 12, 2009.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

12 APR 2007

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Beck & Tysver, P.L.L.C.
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In re Application of :
COLLETTE et al. :
Application No.: 10/546,411 : DECISION ON REQUEST
PCT No.: PCT/US04/04959 :
Int. Filing Date: 19 February 2004 :
Priority Date: 19 February 2003 :
Attorney Docket No.: 3413 :
For: BATCHING AND COMPRESSION FOR IP TRANSMISSION

This decision is issued in response to the "Request to Correct Inventorship" filed 12 January 2007, which is being treated as a request under 37 CFR 1.497(d) to correct the inventorship of the present national stage application. The petition fee has been submitted.

BACKGROUND

On 19 February 2004, applicants filed international application PCT/US04/04959 which claimed a priority date of 19 February 2003. The published international application identified four applicant/inventors for the United States: William C. Collette; Mark Moran; Robert Engebretson; and Mike Morandi. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 19 August 2005.

On 19 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; a preliminary amendment; and a copy of the international application.

On 21 July 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 12 January 2007, applicants filed the present request under 37 CFR 1.497(d) to add Brian Johnson as an inventor. It is noted that a three month extension of time has been charged to Deposit Account no. 50-0246.

DISCUSSION

The present submission seeks to correct the inventorship so as to add inventor Brian Johnson to the application. Where, as here, the inventorship in the national stage declaration is not consistent with the inventorship in the international application, applicants must correct the inventorship pursuant to 37 CFR 1.497(d), which states the following:

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

With respect to the adding Brian Johnson to the application, applicants' 12 January 2007 submission satisfies requirements (1)and (2).

Regarding item (3), applicants have submitted a document entitled "Consent of Assignee to Add Inventor." This document states that the assignee consents to the addition of Brian Johnson as an inventor herein. However, pursuant to 37 CFR 1.497(d)(3), the consent of the assignee must be submitted in compliance with 37 CFR 3.73(b) (see MPEP 201.03(II)(D)). Here, the statement executed by the assignee does not comply with the requirements of 37 CFR 3.73(b)(1). Specifically, the assignee does expressly state that "the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation" or that "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)." Further, the person signing "Consent of Assignee to Add Inventor" does not have apparent authority to act on behalf of the assignee or states

that he is authorized to act on behalf of the assignee. Because the assignee has not properly established ownership pursuant to 37 CFR 3.73(b), the statement of consent submitted here cannot, on the present record, be accepted in satisfaction of this requirement. Item (3) is therefore not satisfied.

Regarding item (4), the 12 January 2007 submission included an executed declaration. However, this declaration is not in compliance with 37 CFR 1.497. Specifically, the eleven page document submitted by applicants appears to be a compilation of multiple copies of a three-page declaration (the filed materials include two copies of "Page 2 of 2" and three copies of the "Additional Inventor(s) Supplement Sheet"). Such compilation is impermissible; see MPEP § 201.03: "Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration." Copies of the complete declaration executed by each of the inventors is required before the declarations can be accepted under 37 CFR 1.497. Accordingly, a declaration in compliance with 37 CFR 1.497 is still required.

For the reasons discussed above, it is inappropriate, at this time, to grant applicants request for correction of inventorship.

CONCLUSION

Applicants' request to add inventor Brian Johnson under 37 CFR 1.497(d) is **DISMISSED** without prejudice. The inventors of record remain the inventors named on the international application.

Applicants must file a proper response to this decision within **TWO (2) MONTHS** from the mail date indicated above. A proper response must include a declaration in compliance with 37 CFR 1.497(a)-(b) and a written consent of assignee in compliance with 37 CFR 3.73(b).

Failure to file a timely and proper response will result in abandonment of the application. Extensions of time may be obtained under 37 CFR 1.136(a).

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

Anthony Smith

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04/12/2007 SBASHEIR 00000001 500246 10546411
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02 FC:1253 1020.00 DA

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29 AUG 2007

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In re Application of :
COLLETTE et al. :
Application No.: 10/546,411 : DECISION ON REQUEST
PCT No.: PCT/US04/04959 :
Int. Filing Date: 19 February 2004 :
Priority Date: 19 February 2003 :
Attorney Docket No.: 3413 :
For: BATCHING AND COMPRESSION FOR IP TRANSMISSION

This decision is issued in response to applicants' "Response to Decision on Request" filed 14 June 2007, which is being treated as a renewed request under 37 CFR 1.497(d) to correct the inventorship of the present national stage application. The petition fee has been submitted.

BACKGROUND

On 19 February 2004, applicants filed international application PCT/US04/04959 which claimed a priority date of 19 February 2003. The published international application identified four applicant/inventors for the United States: William C. Collette; Mark Moran; Robert Engebretson; and Mike Morandi. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 19 August 2005.

On 19 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; a preliminary amendment; and a copy of the international application.

On 21 July 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 12 January 2007, applicants filed the present request under 37 CFR 1.497(d) to add Brian Johnson as an inventor. In a decision dated 12 April 2007, applicants' petition under 37 CFR 1.497(d) was dismissed without prejudice.

On 14 June 2007, applicants submitted the present renewed request under 37 CFR 1.497(d).

DISCUSSION

The present submission seeks to correct the inventorship so as to add inventor Brian Johnson to the application. Where, as here, the inventorship in the national stage declaration is not consistent with the inventorship in the international application, applicants must correct the inventorship pursuant to 37 CFR 1.497(d), which states the following:

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

Applicants have satisfied items (1), (2), (3) and (4).

CONCLUSION

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

Brian Johnson is added as an inventor herein.

A review of the application papers reveals that applicants have completed all the requirements of 35 U.S.C. 371 for entry into the national stage. The 35 U.S.C. 371(c) date is 14 June 2007.

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. contents of the letter marked to the attention of the Office of PCT Legal Administration.

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12 APR 2006

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Howard & Howard Attorneys, PC
39400 Woodward Avenue, Suite 101
Bloomfield Hills, Michigan 48304-5151

In re Application of :
LADOUCEUR et al. :
Application No.: 10/546,412 : DECISION ON PETITION
PCT No.: PCT/US03/37525 : UNDER 37 CFR 1.137(b)
Int. Filing Date: 24 November 2003 :
Priority Date: 27 November 2002 :
Attorney Docket No.: 60152-1174 :
For: SELF-ATTACHING FEMALE FASTENER ELEMENTS AND METHOD FORMING SAME

The petition to revive under 37 CFR 1.137(b) filed 19 August 2005 in the above-captioned application is hereby **GRANTED** as follows:

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

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

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

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0 6 DEC 2006

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NEW YORK NY 10112

In re Application of	:	
YOSHII et al	:	
Application No.: 10/546,429	:	
PCT No.: PCT/JP2004/006214	:	
Int. Filing Date: 28 April 2004	:	DECISION
Priority Date: 28 April 2003	:	
Attorney Docket No.: 03500.018095	:	
For: PROCESS FOR ASSAY OF NUCLEIC ACID BY COMPETITIVE HYBRIDIZATION USING A DNA MICROARRAY	:	

The decision is in response to applicants' submission filed via facsimile transmission in the USPTO on 05 July 2006, which has properly been treated as a petition under 37 CFR 1.181, and to applicants' submission filed in the USPTO on 21 September 2005, which has properly been treated as a petition under 37 CFR 1.182.

BACKGROUND

On 28 April 2004, applicants filed international application PCT/JP2004/006214 which designated the United States and claimed a priority date of 28 April 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 11 November 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 28 October 2005.

On 19 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.

On 21 September 2005, applicants filed a "TRANSMITTAL LETTER FOR DECLARATION" stating that in the papers filed 19 August 2005, it was explained that inventor Keiko Kimura had married and changed her name to Keiko Yonezawa. The submission was accompanied by a declaration from her signed with both names. This submission has properly been treated as a petition under 37 CFR 1.182.

On 09 June 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) were required.

On 05 July 2006, a copy of a postcard receipt date-stamped 19 August 2005 by the USPTO and a copy of a declaration of inventors were submitted via facsimile transmission. The submission has properly been treated as a petition under 37 CFR 1.181.

On 08 November 2006, the DO/EO/US mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) indicating, *inter alia*, that applicant's response filed 19 August 2005 is acknowledged but that it did not satisfy the requirements set forth in the NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 mailed 09 June 2006 because the third named inventor listed in the declaration does not match the third named inventor in the published international application and the surcharge under 37 CFR 1.492(h) was not paid.

DISCUSSION

The transmittal letter filed 19 August 2005 indicates that a declaration of inventors was included. However, the file does not contain a declaration of inventors filed on that date.

Petition Under 37 CFR 1.181

The submission filed via facsimile transmission on 05 July 2006 has properly been treated as a petition under 37 CFR 1.181 to accept the copy of the declaration of inventors filed 05 July 2006 as having been originally received in the USPTO on 19 August 2005. However, the petition is not signed by a registered practitioner nor does it contain a statement that the copy of the declaration filed 05 July 2006 is a true copy of the declaration originally filed 19 August 2005.

Petition Under 37 CFR 1.182

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

Item (1) has not been met. The petition fee has not been paid.

Item (2) has been met. The declaration of Keiko Yonezawa filed 21 September 2005 is an affidavit setting forth that the change of name was effected by marriage and is signed with both Keiko Kimura and Keiko Yonezawa.

CONCLUSION

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

For the reasons set forth above, the petition under 37 CFR 1.182 is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS form the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181 [and/or 1.182, as appropriate]." Extensions of time may be obtained under 37 CFR 1.136(a).

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

Daniel Stemmer
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NEW YORK NY 10112

In re Application of	:	
YOSHII et al	:	
Application No.: 10/546,429	:	
PCT No.: PCT/JP2004/006214	:	
Int. Filing Date: 28 April 2004	:	DECISION
Priority Date: 28 April 2003	:	
Attorney Docket No.: 03500.018095	:	
For: PROCESS FOR ASSAY OF NUCLEIC ACID BY COMPETITIVE HYBRIDIZATION USING A DNA MICROARRAY	:	

The decision is in response to applicants' "RENEWED PETITION UNDER 37 CFR 1.182" filed in the USPTO on 14 December 2006.

BACKGROUND

On 28 April 2004, applicants filed international application PCT/JP2004/006214 which designated the United States and claimed a priority date of 28 April 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 11 November 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 28 October 2005.

On 19 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.

On 21 September 2005, applicants filed a "TRANSMITTAL LETTER FOR DECLARATION" stating that in the papers filed 19 August 2005, it was explained that inventor Keiko Kimura had married and changed her name to Keiko Yonezawa. The submission was accompanied by a declaration from her signed with both names. This submission has properly been treated as a petition under 37 CFR 1.182.

On 09 June 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) were required.

On 05 July 2006, a copy of a postcard receipt date-stamped 19 August 2005 by the USPTO and a copy of a declaration of inventors were submitted via facsimile transmission. The submission has properly been treated as a petition under 37 CFR 1.181.

On 08 November 2006, the DO/EO/US mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) indicating, *inter alia*, that applicant's response filed 19 August 2005 is acknowledged but that it did not satisfy the requirements set forth in the NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 mailed 09 June 2006 because the third named inventor listed in the declaration does not match the third named inventor in the published international application and the surcharge under 37 CFR 1.492(h) was not paid.

On 06 December 2006, a decision was mailed (1) dismissing without prejudice applicants' petition under 37 CFR 1.181 to accept the copy of the declaration of inventors filed 05 July 2006 as having been originally filed in the USPTO on 19 August 2005 and (2) dismissing without prejudice applicants' petition under 37 CFR 1.182.

On 14 December 2006, applicants submitted the instant "RENEWED PETITION UNDER 37 CFR 1.182".

DISCUSSION

The transmittal letter filed 19 August 2005 indicates that a declaration of inventors was included. However, the file does not contain a declaration of inventors filed on that date.

Petition Under 37 CFR 1.181

The submission filed via facsimile transmission on 05 July 2006 has properly been treated as a petition under 37 CFR 1.181 to accept the copy of the declaration of inventors filed 05 July 2006 as having been originally received in the USPTO on 19 August 2005. However, the petition is not signed by a registered practitioner nor does it contain a statement that the copy of the declaration filed 05 July 2006 is a true copy of the declaration originally filed 19 August 2005.

The submission filed 14 December 2006 does not attempt to remedy these deficiencies. Accordingly, the declaration of inventors has been accorded a receipt date of 05 July 2006.

Petition Under 37 CFR 1.182

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

As noted in the decision mailed 06 December 2006, item (2) has been met. Item (1) has now been met as well.

Declaration of Inventors

As noted above, the declaration of inventors has been accorded a receipt date of 05 July 2006. 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 has been charged to Deposit Account 06-1205.

CONCLUSION

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

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

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including according the application a 35 U.S.C. §§ 371(c)(1), (c)(2), and (c)(4) date of **05 July 2006**.

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01/08/2007 SBASHEIR 00000002 061205 10546429
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In re Application of DEI	:	
U.S. Application No.: 10/546,448	:	
PCT Application No.: PCT/JP04/01621	:	
Int. Filing Date: 16 February 2004	:	DECISION
Priority Date Claimed: 21 February 2003	:	
Attorney Docket No.: 029471-0188	:	
For: IMAGE DATA DISTRIBUTION CONTROL METHOD, DEVICE, SYSTEM, AND PROGRAM	:	

This is in response to applicant's "Petition to Convert Under 37 C.F.R. § 1.182" filed 05 October 2005.

BACKGROUND

On 16 February 2004, applicant filed international application PCT/JP04/01621, which claimed priority of an earlier Japan application filed 21 February 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 02 September 2004. The thirty-month period for paying the basic national fee in the United States expired on 21 August 2005.

On 19 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 October 2005, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

The present petition requests conversion of the present national stage application to a continuation application under 35 U.S.C. 111(a). U.S. Statutes and Regulations do not make specific provision for the requested action and as such the Office does not grant such petitions

for conversion as a mere matter of course. The Office will only grant such petitions upon a showing by applicant of sufficient cause (e.g., the loss of patent rights) where no other remedy is available. In the present case, applicant has failed to make a showing of sufficient cause.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182".

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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19 JAN 2006

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In re Application of DEI	:	
U.S. Application No.: 10/546,448	:	
PCT Application No.: PCT/JP04/01621	:	
Int. Filing Date: 16 February 2004	:	DECISION
Priority Date Claimed: 21 February 2003	:	
Attorney Docket No.: 029471-0188	:	
For: IMAGE DATA DISTRIBUTION CONTROL METHOD, DEVICE, SYSTEM, AND PROGRAM	:	

This is in response to applicant's "Renewed Petition to Convert Under 37 C.F.R. § 1.182" filed 28 December 2005.

BACKGROUND

On 16 February 2004, applicant filed international application PCT/JP04/01621, which claimed priority of an earlier Japan application filed 21 February 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 02 September 2004. The thirty-month period for paying the basic national fee in the United States expired on 21 August 2005.

On 19 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 October 2005, applicant filed a petition under 37 CFR 1.182.

On 28 October 2005, this Office mailed a decision dismissing the 05 October 2005 petition.

On 28 December 2005, applicant filed the present renewed petition under 37 CFR 1.182.

DISCUSSION

The present petition requests conversion of the present national stage application to a continuation application under 35 U.S.C. 111(a). U.S. Statutes and Regulations do not make specific provision for the requested action and as such the Office does not grant such petitions for conversion as a mere matter of course. The Office will only grant such petitions upon a showing by applicant of sufficient cause (e.g., the loss of patent rights) where no other remedy is available.

In the present case, applicant has failed to make a showing of sufficient cause. Although the petition states that the papers submitted on 19 August 2005 were consistent with a continuation application filed under 35 U.S.C. 111(a), the papers were not inconsistent with a submission under 35 U.S.C. 371. The claim of priority to the international application is not deemed a definitive indication that the application was intended to be filed under 35 U.S.C. 111(a) instead of 35 U.S.C. 371. Furthermore, the statement in the petition that applicant would suffer a loss of patent rights unless the requested conversion is granted is incorrect. While it is true that the present application would have a date under 35 U.S.C. 102(e) of 19 August 2005, such 102(e) date is later than the 35 U.S.C. 102(a)/102(b) prior art date of 02 September 2004 (i.e. the date of publication of the international application).

Applicant is advised that purported English translation filed 19 August 2005 is defective since it is not a literal translation of the international application. The purported English translation filed with the renewed petition is unacceptable since it is not properly formatted (i.e., the text contains multiple insertions and strikethroughs). The specification and claims filed 19 August 2005 will not be treated as an amendment.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.182 is DISMISSED without prejudice.

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 proper English translation of the international application must be filed.

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

MAILED

JUN 0 1 2009

OFFICE OF PETITIONS

In re Application of :
Rafter et al. :
Application No. 10/546,460 :
Filed: August 19, 2005 :
Attorney Docket No. 2046.088US1 :

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 11, 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 Schwegman, Lundberg & Woessner, P.A., has been revoked by the assignee of the patent application on May 2, 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: HUSCH BLACKWELL SANDERS, LLP
HUSCH BLACKWELL SANDERS LLP WELSH & KATZ
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606

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JUN 23 2010

OFFICE OF PETITIONS

Nixon Peabody LLP
P.O. Box 60610
Palo Alto CA 94306

In re Application of Dozol et. al.
Application No. 10/546,465
Filing Date: April 7, 2006
Attorney Docket No. 434299-662

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed March 10, 2010, to revive the application.

The petition is **granted**.

The application became abandoned for failure to timely pay the issue and publication fees on or before February 3, 2010, as required by the Notice of Allowance and Fee(s) Due, issued November 3, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on February 4, 2010. A Notice of Abandonment was issued on March 19, 2010.

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.

As to item (1), petitioner has filed the fees required in the notice of allowance and fee(s) due.

As to item (2), petitioner has paid the petition fee of $1620.

As to item (3), 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.

As to item (4), a terminal disclaimer is unnecessary.

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

The Office of Data Management will be informed of the instant decision and the application will be further processed in due course.

Telephone inquiries regarding this communication should be directed to Steven Brantley at (571)272-3203 or in his absence to Amy Gandhi at (571) 272-6699.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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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16 MAY 2007

Lawrence E Ashery
P.O. Box 980
Valley Forge, PA 19482-0980

In re Application of	:	
ITO	:	DECISION
US Application No: 10/546,466	:	
PCT Application No: PCT/JP 03/02238	:	
Int. Filing Date: 27 February 2003	:	
Priority Date: None	:	ON PETITION
Attorney's Docket No.: AOY-4000US	:	
For: CLOSED LOOP CONTROL OF LINEAR VIBRATION ACTUATOR	:	UNDER 37 CFR 1.181

This decision is in response to the paper entitled "PETITION TO REVIVE " filed April 17, 2007, which has been treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

BACKGROUND

On February 27, 2003, applicant filed the international application PCT/JP03/02238.A copy of the international application was communicated to the United State Patent and Trademark Office from the International Bureau on 10 September 2004. A Demand for international preliminary examination, in which the United States was elected, was filed on 29 August 2004. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 27 August 2005.

On 18 August 2005, applicant filed a transmittal letter for entry into the nation stage in the United States, which was accompanied by, inter alia,: the requisite basic national fee as required by 35U.S.C. 371 (c)(1); a English language translation of the international Application. An oath and declaration was not submitted.

On June 22, 2006, the United States Designated/Elected Office mailed a Notification of Missing Parts under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/905) indicating the applicant must file an executed oath or declaration in accordance with 37 CFR 1.66 or 37 CFR 1.68 and $130 surcharge for large entity. The notification set a two-month time limit in which to respond.

On April 19, 2007 the USPTO mailed a Notice of Abandonment indicating a reply was not received to the Notice to File Missing Parts mailed on June 22, 2006.

On April 17, 2007, applicant filed the present petition to withdraw the holding of abandonment, an executed declaration and the required surcharge.

DICUSSION

The petition is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in view of the revised policy published at 1156 OG 53, **Withdrawing the Holding of Abandonment When Office Actions Are Not Received**. The showing required by the notice to establish the failure to receive an Office action must consist of a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the filed jacket and docket records indicate that the Office action was not received. A copy of the docket record where the non-received Office action would have been enter had it been received and docketed must be attached to and referenced in practitioner's statement. Thus, what the Office now requires, as set forth in the OG notice, are the docket reports for when the response is due. Thus, the required evidence is the docket report for the time period of August 22, 2006 (when the oath or declaration and surcharge was due).

Petitioner has presented a copy of the docket records, i.e. the firm's docket record for all cases due on the response date August 22, 2006. Therefore, the NOTIFICATION OF ABANDONMENT mailed April 19, 2007 is hereby **VACATED**.

CONCLUSION

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

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

Leonard E. Smith
Supervisory PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration

Telephone: (571) 272-3297
Facsimile: (571) 273-0459

Newton Edwards
PCT Legal Administration Detailee
PCT Special Programs Office
Telephone 571-272-6094

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

RECEIVED

JAN 05 2009

OFFICE OF PETITIONS

In re Application of
HENDLER, Sheldon S. et al.
Application No. 10/546,470
Filed: May 24, 2006
Attorney Docket No. **100487.0011US4**

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 05, 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/

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **SHELDON S. HENDLER**
2159 AVENIDA DE LA PLAYA
LA JOLLA, CA 92037

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

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COATS & BENNETT, PLLC
1400 Crescent Green, Suite 300
Cary, NC 27518

Mail Date: 04/21/2010

Applicant	: Ake Danielsson	: DECISION ON REQUEST FOR
Patent Number	: 7597805	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/546,477	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/26/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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SEMICONDUCTOR COMPONENTS INDUSTRIES, LLC
ATTN: ROBERT D. ATKINS/LAW DEPT./MD 1700
P.O. BOX 62890
PHOENIX, AZ 85082-2890

Mail Date: 04/21/2010

Applicant	: Jefferson W. Hall	: DECISION ON REQUEST FOR
Patent Number	: 7583522	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/546,491	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **313** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

Best Available Copy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 12, 2010

TO SPE OF : ART UNIT 1791 - SPE

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/546,493 Patent No.: 7,731,817 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 formal drawings be entered as requested by applicant? (See COCIN date 06-25-2010)

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

Comments: _____

1799 _____ **SPE**
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

FIGURES ACCEPTED. FIGURES WERE PART OF PCT APPLICATION

Katarzyna Wyrozebski 1791
SPE Art Unit

11 JAN 2007

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BRADLEY ARANT ROSE & WHITE, LLP
INTELLECTUAL PROPERTY DEPARTMENT-NWJ
1819 FIFTH AVENUE NORTH
BIRMINGHAM AL 35203-2104

In re Application of	:	
Singh et al.	:	
Application No.: 10/546,506	:	DECISION
PCT No.: PCT/US04/05255	:	
Int. Filing Date: 23 February 2004	:	ON
Priority Date: 21 February 2003	:	
Attorney Docket No.: P68570WO01GP	:	PETITION
For: Biologically Active Native Biomatrix Composition	:	

This is with regard to submission filed on 16 May 2006.

BACKGROUND

This international application was filed on 23 February 2004, claimed an earliest priority date of 21 February 2003, and designated the United States. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 22 August 2005 (since 21 August 2005 was a Sunday). Applicants filed *inter alia* the required basic national fee on 22 August 2005.

On 31 March 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(h). The Notification observed the defect that "Inventor number 2 [is] missing from Oath."

DISCUSSION

Review of the declaration filed on 22 August 2005 reveals that it names only Raj K. Singh as an inventor, whereas the declaration filed on 16 May 2006 only nominates Gene Siegal. However, the published international application nominates both "SINGH, Raj" and "SIEGAL, Gene." Counsel's attention is drawn to MPEP 201.03, which explains in part that

> **While each inventor need not execute the same declaration, each oath or declaration executed must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration.**

Neither the declaration filed on 16 September 2006 nor that filed on 22 August 2005 includes "a complete listing of all inventors" nominated in the published international application. Per MPEP 201.03, it would be improper to combine the two declarations to arrive at a single composite document. Since neither declaration names the complete inventive entity, neither complies with 37 CFR 1.497(b)(1). It is also noted that neither declaration specifically identifies the application to which it is directed by application number, though a docket number appears on each.

CONCLUSION

The declaration is **NOT ACCEPTED**, without prejudice.

Applicants are given a **ONE (1) MONTH** period for response in which to file a declaration in full compliance with the requirements of 37 CFR 1.497(a) and (b). Extensions of time under 37 CFR 1.136(a) are **NOT** available. Failure to timely reply 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.

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

07 FEB 2007

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

In re Application of YAMOTO et al :
U.S. Application No.: 10/546,508 :
PCT Application No.: PCT/JP2004/001807 :
Int. Filing Date: 18 February 2004 :
Priority Date Claimed: 18 February 2003 : DECISION
Attorney Docket No.: F-8786 :
For: VAPORIZER, MATERIAL SOLUTION :
VAPORIZING METHOD, AND :
VAPORIZER WASHING METHOD :

This is in response to applicant's "Petition to Revive Abandoned Application Under 37 CFR §1.10(c)" filed 25 January 2007.

BACKGROUND

On 18 February 2004, applicant filed international application PCT/JP2004/001807, which claimed priority of an earlier Japan application filed 18 February 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 02 September 2004. The thirty-month period for paying the basic national fee in the United States expired on 18 August 2005.

On 18 August 2005, applicant purportedly filed national stage papers in the United States Designated/Elected Office (DO/EO/US) via the Express Mail Post Office to Addressee service of the USPS ("Express Mail"). The submission was accorded a receipt date of 22 August 2005.

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 timely file the requisite basic national fee.

On 25 January 2007, applicant filed the present petition under 37 CFR 1.10(c).

DISCUSSION

37 CFR 1.10(c) states,

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
>
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

With regard to item (1) above, the petition was promptly filed after applicant became aware of the accorded national stage application receipt date.

With regard to item (2) above, a review of the national stage transmittal letter and the Customer Copy of the Express Mail mailing label indicates that the Express Mail mailing label number was placed on the correspondence in question prior to the original mailing by Express Mail.

With regard to item (3) above, the Express Mail mailing label shows a USPS date stamp of 18 August 2005.

CONCLUSION

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

The Notification of Abandonment (Form DO/EO/909) mailed 08 January 2007 is hereby VACATED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a 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.[1]

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

[1] Applicant is advised that although the communication filed 04 December 2006 states that a petition under 37 CFR 1.47(a) has been filed, no such petition appears in the application file.

0 6 FEB 2008

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

In re Application of YAMOTO et al :
U.S. Application No.: 10/546,508 :
PCT Application No.: PCT/JP2004/001807 :
Int. Filing Date: 18 February 2004 :
Priority Date Claimed: 18 February 2003 : DECISION
Attorney Docket No.: F-8786 :
For: VAPORIZER, MATERIAL SOLUTION :
VAPORIZING METHOD, AND :
VAPORIZER WASHING METHOD :

This is in response to applicant's "Petition Under 37 C.F.R. § 1.47(a)" filed 04 December 2005.

BACKGROUND

On 18 February 2004, applicant filed international application PCT/JP2004/001807, which claimed priority of an earlier Japan application filed 18 February 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 02 September 2004. The thirty-month period for paying the basic national fee in the United States expired on 18 August 2005.

On 18 August 2005, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission included, *inter alia*, the requisite basic national fee.

On 28 August 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 must be submitted.

On 04 December 2006, applicant filed an executed declaration along with the present petition under 37 CFR 1.47(a).

On 10 December 2007, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which indicated that the declaration filed 04 December 2006 was not properly executed.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

With regard to item (1) above, applicant has submitted a declaration signed by the available inventors each on his/her own behalf and on behalf of the nonsigning inventor. However, the declaration does not use an official form provided by the USPTO, i.e. USPTO Form PTO/SB/106. Accordingly, 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 Hisayoshi Yamoto refuses to sign the application papers. The petition adequately demonstrates that a bona fide attempt was made to present a copy of the application papers to Yamoto for signature (see affidavit of Hisao Fukumori, ¶6) and that such application papers were successfully delivered (see copy of mail delivery receipt). Furthermore, the petition sufficiently demonstrates that Yamoto refuses to sign. In particular,

Yamoto has failed to respond to the letter dated 26 October 2006 requesting his signature. Thus, it can be concluded with reasonable certainty that Yamoto refuses to join in the application.

With regard to item (3) above, applicant has provided the requisite petition fee.

With regard to item (4) above, the petition states the last known address of the nonsigning inventor.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

The Notification of Defective Response (Form PCT/DO/EO/916) mailed 10 December 2007 is hereby VACATED.

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

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

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

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ALEXANDRIA, VA 22313-1450
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11 APR 2008

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

In re Application of YAMOTO et al :
U.S. Application No.: 10/546,508 :
PCT Application No.: PCT/JP2004/001807 :
Int. Filing Date: 18 February 2004 :
Priority Date Claimed: 18 February 2003 : DECISION
Attorney Docket No.: F-8786 :
For: CARBURETOR, METHOD OF :
VAPORIZING MATERIAL SOLUTION . . . :

This is in response to applicant's "Renewed Petition Under 37 C.F.R. § 1.47(a)" filed 07 April 2008.

BACKGROUND

On 18 February 2004, applicant filed international application PCT/JP2004/001807, which claimed priority of an earlier Japan application filed 18 February 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 02 September 2004. The thirty-month period for paying the basic national fee in the United States expired on 18 August 2005.

On 18 August 2005, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission included, *inter alia*, the requisite basic national fee.

On 28 August 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 must be submitted.

On 04 December 2006, applicant filed an executed declaration along with a petition under 37 CFR 1.47(a).

On 06 February 2008, this Office mailed a decision dismissing the 04 December 2006 petition.

On 07 April 2008, applicant filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

Applicant has previously satisfied items (2), (3), and (4) above.

With regard to item (1) above, applicant has submitted a declaration signed by the available inventors each on his/her own behalf and on behalf of the nonsigning inventor. Furthermore, applicant has provided a statement that the translation contained in the declaration is accurate.

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 18 February 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 04 December 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
PCT Legal Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 04/20/2010

Applicant	: Adriana Brizio	: DECISION ON REQUEST FOR
Patent Number	: 7569240	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/546,535	: OF WYETH
Filed	: 08/22/2005	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/546,538	06/26/2006	Per-Ola Freskgard	FRESKGARD3B	8497

1444 7590 05/14/2010

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
05/14/2010	PAPER

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

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

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

MAY 1 4 2010

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

In re Application of	:
Freskgard et al.	:
Serial No.: 10/546,538	:DECISION ON PETITION
Filed: 26 June 2006	:
Attorney Docket No.: FRESKGARD=3B	:

This letter is in response to the Petition under 37 C.F.R. 1.181 filed on 9 June 2009 to vacate the notice of non-compliant amendment mailed on 19 February 2010.

BACKGROUND

This application is a national stage filing of a PCT application and as such is subject to PCT Unity of Invention practice.

On 31 July 2008, the examiner mailed a restriction requirement in which the original claims 1-22 were subject to an election of a single species. Claims 1, 10-11 and 19 were identified as generic.

On 24 December 2008, Applicant elected a species of BB_A_00098, a MW of less than 2,000 Daltons, for examination, with traverse.

On 17 April 2009, the examiner mailed to applicants a Notice of Non-Responsive Amendment concerning the election of a structure 9 species.

On 30 April 2009, Applicant further elected a species of structure 9 where X is OH, with traverse.

On 10 June 2009, the examiner mailed a non-final Office action. The examiner considered the traversal and made the election of species requirement FINAL. All the pending claims were examined on the merits.

On 9 December 2009, applicants filed a response to the Office action and amended many of the pending claims and added new claims 76-101.

> 76 (New). The method according to claim 1, further comprising the step of deducing the identity of the encoded molecule(s) using the identifier nucleic acid.

On 19 February 2010, the examiner mailed to applicants a Notice of Non-Responsive Amendment which made the following requirements

> "Newly added clams 76-101 are not readable upon the elected species. See restriction requirement mailed 7/31/08 which states that...the reply must also identify the claims readable on the elected species, **including any claims subsequently added.** (Emphasis added)".

In the letter mailed 19 February 2010, the examiner also indicated that

> "newly amended claim 1 is contradictory to the original claim and as filed specification. Cf. original claim filed on 8/22/05 with the corresponding disclosure at page 3, lines 19-30. The original claim 1 recites for the genus encoded molecule to encode a bifunctional complex. The presently amended claim 1 recites the species, bifunctional complexes as comprising the genus, encoded molecule, which is therefore being contradictory therewith. Furthermore, the entire claim 1 appears to be a picking and choosing of disparate parts of the species (that results in nearly 4 pages of claim 1). However, the claims should find support in the specification as claimed."

On 15 March 2010, applicants filed this petition under consideration.

DISCUSSION

The petition and file history have been carefully considered.

Before addressing the merits of the petition, a few irregularities in the prosecution history are noted. The election of species required amongst the ranges of molecular weights in claim 19 is unwarranted. Claim 19 is set forth below:

19. (currently amended) The method according to ~~any of the claims 1 to 18~~ claim 1, wherein the encoded molecule has a molecular weight less than 2000 Dalton, preferably less than 1000 Dalton, and more preferred less than 500 Dalton.

A molecular weight of less that 500 Daltons overlaps in scope with the molecular weight of less than 1000 Daltons, which in turn overlaps in scope with the molecular weight of less than 2000 Daltons. MPEP 806.03 sets forth guidance concerning claims defining the same essential features of a single embodiment.

> Where the claims of an application define the same essential characteristics of a single disclosed embodiment of an invention, restriction therebetween should never be required. This is because the claims are not directed to distinct inventions; rather they are different definitions of the same disclosed subject matter, varying in breadth or scope of definition.

As MPEP 806 states "where inventions are related as disclosed but are not distinct as claimed, restriction is never proper." Here, because the "species" of claim 19 are not patentably distinct from each other, the election of species requirement was unwarranted.

Next, the Notice of Non-Responsive Amendment mailed 17 April 2009 (1) admits that applicants' response is bona fide and (2) provides no indication that the omission to elect a species was deliberate on applicants' part.

In this situation, should the examiner have any concerns about the amendment, MPEP 714.03 provides the following guidance:

> "The treatment to be given to the amendment depends upon:
> (A) whether the amendment is bona fide;
> (B) whether there is sufficient time for applicants' reply to be filed within the time period for reply to the non-final Office action; and
> (C) the nature of the deficiency."

MPEP 714.03 goes on to state that

> "Where an amendment substantially responds to the rejections, objections, or requirements in a non-final Office action (and is a bona fide attempt to advance the application to final action) but contains a minor deficiency (e.g., fails to treat every rejection, objection, or requirement), the examiner may simply act on the amendment and issue a new (non-final or final) Office action."

Turning now to the Notice of Non-Responsive Amendment mailed 19 February 2010, again the Notice clearly indicates that applicants' response is bona fide. In this situation, the Office should have attempted to contact applicants by telephone to obtain an election for addressed any remaining concerns to applicants under a miscellaneous letter filed on a PTOL-90 form.

MPEP 714 provides guidance for applicants to identify the status of new claims as either newly added or as New Claim. Here, Applicants have identified the status of claims 76-101 as new. This is sufficient to meet the requirements of 37 CFR 1.121(c). Note that MPEP 714(II)(C) permits the use of additional status identifiers and also permits the Office to waive certain status identifies in order to prevent delays in prosecution.

Applicants also petition the statements made in the Notice mailed 19 February 2010 that

(i) refer to the amended claim 1 as contradictory to the original claims and as-filed specification

(ii) state that the amended claim arose from picking and choosing of disparate parts of the specification and

(iii) stated that the amendment should find support in the specification as claimed.

Item (i) above seems to indicate that the examiner is suggesting that the claims read upon an invention not elected by original presentation. Should that be the case, then the examiner should have included one of Form Paragraphs 8.04 or 8.26 and followed the guidance in MPEP 821.03, which states in part:

> All claims that the examiner holds as not being directed to the elected subject matter are withdrawn from further consideration by the examiner in accordance with 37 CFR 1.142(b). See MPEP § 821.01 through § 821.04. The examiner should clearly set forth in the Office action the reasons why the claims withdrawn from consideration are not readable on the elected invention. Applicant may traverse the requirement pursuant to 37 CFR 1.143. If a final requirement for restriction is made by the examiner, applicant may file a petition under 37 CFR 1.144 for review of the restriction requirement.

Here, no specific reasons were set forth with regard to independence, distinction and burden between the invention as originally claims and the invention set forth in the amended claims. It is noted that claim length is not a valid reason to withdraw a claim from examination.

Finally, Items (i)-(iii) above also seem to be directed towards an allegation of new matter or inadequate written description. If warranted, such issues should be raised in an Office action on the merits and not in a Notice of Non-Responsive Amendment.

DECISION

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

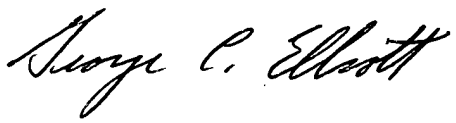
The requirement to elect a species of molecular weight from "less than 2000 Daltons or preferably less than 1000 Daltons or more preferably less than 500 Daltons" (claim 19) has been withdrawn.

The amendment to the claims filed on 9 December 2009 will be entered.

The two Notices of Non-Responsive Amendments mailed on 17 April 2009 and 19 February 2010 are hereby vacated as improper.

The application will be forwarded to the examiner for consideration of the papers filed 15 March 2010 and 9 December 2009 and for preparation of an Office action on claims as amended on 9 December 2009, consistent with 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.



George Elliott
Director, Technology Center 1600

09 NOV 2005

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ASHRAF KAMAL SALEM MASHHOUR
9(a) AMER ST., APT 12, FLOOR 5
MESSAHA, DOKKI
GIZA/GREATER CAIRO - EGYPT
POSTAL CODE 12311

In re Application of MASHHOUR
Application No.: 10/546,543
PCT No.: PCT/EG03/00007
Int. Filing: 15 November 2003
Priority Date: 24 November 2002
Attorney Docket No.: None
For: SCHEME FOR SPREADING AND FACILITATING REMOTE E-SERVICES

DECISION ON

PETITION TO REVIVE

UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 31 October 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 $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 31 October 2005.

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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Haynes and Boone, LLP
901 Main Street, Suite 3100
Dallas, TX 75202

COPY MAILED

AUG 0 2 2007

OFFICE OF PETITIONS

In re Application of :
David Paul Brisco :
Application No. 10/546,548 : DECISION ON PETITION
Filed: August 23, 2005 : TO WITHDRAW
Attorney Docket No. 25791.238.05 : FROM RECORD
:

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

The request is **NOT APPROVED**.

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

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

A courtesy copy of this decision is being mailed to the first named signing inventor. A courtesy copy is being mailed to the address noted in the request. If the attorneys with this firm desire to receive future communications concerning this application, the proper power of attorney documents should be submitted.

There are no outstanding Office actions at this time.

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 Kimberly Inabinet at 571-272- 4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: David Paul Brisco
405 Westridge Drive
Duncan, OK 73533

cc: Todd Mattingly
King & Spalding, LLP
1100 Louisiana Street, Suite 4000
Houston, TX 77002

13 JUL 2007

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Seed Intellectual Property Law Group PLLC
701 Fifth Avenue
Suite 6300
Seattle, WA 98104

In re Application of
BROWN, Michael Paul
Application No.: 10/546,552
PCT No.: PCT/AU04/00223
Int. Filing Date: 23 February 2004
Priority Date: 21 February 2003
Attorney Docket No.: 650063.403USPC
For: METHOD OF DIAGNOSIS AND TREATMENT

DECISION
ON
REQUEST FOR REFUND

This decision is issued in response to applicant's facsimile communications dated 25 October 2006 which is being treated as a request for refund.

Applicant's request for refund under 37 CFR 1.26 is **GRANTED** and applicant request under 37 CFR 1.28(a) is **DISMISSED** without prejudice.

A. Request under 37 CFR 1.26

The request for refund under 37 CFR 1.26 states that the transmittal letter, submitted on 27 January 2006, authorized the Director to charge Deposit Account no. 19-1090 "any deficiency in the basic national fee." A review of the application file and finance record reveal that Deposit Account no. 19-1090 was charged: $360 multiple dependent claims fee, $600 extra independent claims fee, and $1950 extra total claims fee. The charging of these fees were not authorized by the applicant. Therefore, applicant is correct in its assertion that the United States Designated/Elected did not have authorization to charge the excess claims fees to Deposit Account no. 19-1090.

B. Request under 37 CFR 1.28

Applicant further states that, "[t]his application was mistakenly filed paying large entity fees, but the client has since informed us that they are a small entity."

37 CFR 1.28(a) provides:

(1)The failure to establish status as a small entity (Section 1.9(f) and Section 1.27 of this part) in any application or patent prior to paying, or at the time of paying, any fee precludes payment of the fee in the amount established for

> small entities. A refund pursuant to Section 1.26 of this part, based on establishment of small entity status, of a portion of fees timely paid in full prior to establishing status as a small entity may only be obtained if a statement under Section 1.27 and a request for a refund of the excess amount are filed within two months of the date of the timely payment of the full fee. The two-month time period is not extendable under Section 1.136. Status as a small entity is waived for any fee by the failure to establish the status prior to paying, at the time of paying, or within two months of the date of payment of, the fee.

In the present case, the 25 October 2006 request for refund of a portion of the fees paid upon filing the present application based upon the subsequent establishment of small entity status was not made within two months of the payment of the large entity fees on 22 August 2005. Accordingly, petitioner is not entitled to a refund of a portion of the large entity fees paid upon filing the present application.

C. Applicable Fees

Therefore, the following fees will be applied to the above-identified application: basic national fee (large entity) - $300; examination fee (large entity) - $200; search fee (large entity) - $400; oath/declaration surcharge (large entity) - $130; national stage application size fee (large entity) - $250; assignment recordation fee - $40; multiple dependent claims surcharge (small entity) - $180; extra claims fee (small entity) - $1,150; five month extension of time fee (small entity) - $1080; and an extra independent claims fee (small entity) - $300.

Based on the above, the United States Designated/Elected Office (DO/EO/US) will apply a credit in the amount of **$1280.00** to Deposit Account No. **19-1090.**

Lastly, applicant states that the USPTO has charged excess claims from applicant's Deposit Account on numerous occasions without authorization. This matter has been brought to the attention of the United States Designated/Elected Office (DO/EO/US). However, in view of the similarity of applicant's transmittal letter and the transmittal letter issued by the UPSTO (Form PTO-1390), applicant may wish to consider using the form issued by the USPTO to avoid confusion.

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

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

20 FEB 2007

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

In re Application of SMITH et al.	
Application No.: 10/546,553	DECISION ON PETITION
PCT No.: PCT/US04/36541	
Int. Filing: 01 November 2004	UNDER 37 CFR 1.47(a)
Priority Date: 03 November 2003	
Attorney Docket No.: 020564	
For: PRIORITIZING PHONEBOOK NUMBERS IN A TELEPHONE	

This is a decision on applicant's petition under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 15 August 2006 and refiled on 16 January 2007, to accept the application without the signature of joint inventor, Simon Staddon. This is also responsive to applicant request to withdraw the holding of abandonment.

BACKGROUND

On 22 August 2005, applicant filed a transmittal letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee.

On 15 May 2006, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating *inter alia*, that an oath or declaration in accordance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period was required.

On 15 August 2006, applicant filed the instant petition along with a declaration, executed by the joint inventors on behalf of the nonsigning inventor. The petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4) requested the acceptance of the application without the signature of inventor, Simon Staddon alleging that Mr. Staddon refuses to sign the application.

On 26 December 2006, a Notification of Abandonment was mailed to applicant indicating that applicant failed to respond to the Notification of Missing Requirements within the time period set therein.

On 16 January 2007, applicant refiled a copy of the earlier filed petition along with a request to withdraw the holding of abandonment.

DISCUSSION

A review of the USPTO records reveals that applicant filed a timely response on 15 August 2006 in reply to the 905. The 26 December 2006 Notification of Abandonment is hereby **VACATED.**

Petition under 37 CFR 1.47(a)

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

The petition included the requisite petition fee, satisfying Item (1). Item (3) is satisfied because the last known address of non-signing inventor, Simon Staddon was provided.

With regard to item (4), Petitioner submitted a declaration executed by the legal representative of deceased joint inventor, Alan Andrew Smith. 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 Julie Stuart meets the requirements of 37 CFR 1.497(a) and (b) as the declaration identifies Ms. Stuart as the legal representative of deceased inventor Alan Andrew Smith and states the country of citizenship, former residency and mailing address for *both* the deceased inventor and the legal representative. Thus, the declaration executed by the legal representative of the joint inventor on his behalf and on behalf of the non-signing inventor was submitted and satisfies the requirements of 37 CFR 1.47(a).

With respect to Item (2) above, Petitioner provided Karen Vuong's statement of first hand knowledge, in support of the petition under 37 CFR 1.47(a). Ms. Vuong states that on 27 October 2005, she sent a copy of the application papers

along with a declaration and assignment to Mr. Staddon for his signature. DHL tracking detail for delivery indicates that the package was delivered to Mr. Staddon's address on 31 October 2005. However, no signature for the 31 October 2005 delivery was obtained. Thereafter, on 27 July 2006, applicant attempted a second delivery of the patent application along with declaration and assignment forms to Mr. Staddon's last known address, without success. DHL tracking detail indicates that on 27 July 2006, " delivery attempted; recipient not home". Since Mr. Staddon did not sign for the papers delivered in 27 October 2005, it is not clear that the papers were ever delivered to Mr. Staddon.

It is unclear whether Mr. Staddon was temporarily unavailable or is no longer available at his last known address to sign the application papers. Since Mr. Staddon did not sign for the delivery and no further attempts to contact him via telephone or email were employed, it may be that Mr. Staddon is no longer residing at the address provided. Petitioner has not provide any evidence of further attempts made to obtain Mr. Staddon's current address, telephone number or email address by contacting his last employer or co-inventors or through a search of the Internet to locate him. Petitioner should make further attempts to contact Mr. Staddon and provide evidence of these diligent efforts as described above to locate or reach the non-signing inventor before it can be concluded that Mr. Staddon cannot be reached or located or refuses to sign.

Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP), Proof of Unavailability or Refusal, states, in pertinent part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or , if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.... It is reasonable to require that the *inventor be presented with* the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956)
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a *bona fide* attempt was made to present a copy of the

application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

In sum, Petitioner has satisfied Items (1), (3) and (4) above. However, Petitioner has not satisfied Item (2) by demonstrating: (1) a *bona fide* attempt was made to present a *copy of the application papers for U.S. application 10/546,553 (specification, including claims, drawings, and declaration)* to the nonsigning inventor for his signature and (2) Mr. Staddon's refusal to sign, either in writing or by telephone, these documents.

For the reasons set forth above, the evidence submitted does not support a finding that the nonsigning inventor refuses to sign the application at this time. Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

The petition under 37 CFR §1.47(a) is **DISMISSED WITHOUT PREJUDICE**. The 26 December 2006 Notification of Abandonment is hereby **VACATED.**

Any reconsideration on the merits of the petition under 37 CFR §1.47(a) must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.47(a)." No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

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

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31 JUL 2007

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

In re Application of SMITH et al.	:
Application No.: 10/546,553	: DECISION ON
PCT No.: PCT/US04/36541	:
Int. Filing: 01 November 2004	: RENEWED PETITION
Priority Date: 03 November 2003	:
Attorney Docket No.: 020564	:UNDER 37 CFR 1.47(a)
For: PRIORITIZING PHONEBOOK NUMBERS IN A TELEPHONE	:

This is a decision on applicant's renewed petition under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 19 April 2007.

BACKGROUND

On 15 May 2006, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating *inter alia*, that an oath or declaration in accordance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period was required.

On 15 August 2006, applicant filed a petition along with a declaration, executed by the legal representative of deceased joint inventor on behalf of the nonsigning inventor. The petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4) requested the acceptance of the application without the signature of inventor, Simon Staddon alleging that Mr. Staddon refuses to sign the application.

On 26 December 2006, a Notification of Abandonment was mailed to applicant indicating that applicant failed to respond to the Notification of Missing Requirements within the time period set therein. On 16 January 2007, applicant refiled a copy of the earlier filed petition along with a request to withdraw the holding of abandonment.

On 20 February 2007, a decision dismissing a petition was mailed indicating that Petitioner had failed to satisfy the requirements of 37 CFR 1.47(a). The Notification of Abandonment was vacated.

On 19 April 2007, applicant filed a renewed petition along with a declaration executed by the previously nonsigning inventor.

DISCUSSION

Petitioner has now presented a renewed petition under 37 CFR 1.47(a) along with the declaration signed by inventor Simon Staddon. A review of the declaration reveals that the declaration identifies and is executed by the inventor Simon Staddon named in the international

application. The declaration states the residency, citizenship and mailing address of each inventor. Thus, the declaration is acceptable and the requirements of 37 CFR 1.497(a) and (b).

The renewed petition under 37 CFR 1.47(a) is considered moot as declaration executed by the previously unavailable inventor has now been submitted. The declarations (submitted on 15 August 2006 and 19 April 2007) are acceptable under 37 CFR 1.497(a) and (b).

CONCLUSION

For the above reasons, the renewed petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**.

The 26 December 2006 Notification of Abandonment is **VACATED** in accord with the decision mailed on 21 February 2007.

The declarations, executed by the legal representative of the deceased inventor and the previously nonsigning joint inventor (submitted on 15 August 2006 and 19 April 2007), are in compliance with 37 CFR 1.497(a) and (b) and are acceptable.

This application is being forwarded to United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 19 April 2007.

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09 FEB 2006

JORDAN & HAMBURG
122 East 42nd Street
New York, NY 10168

In re Application of:	:	
UCHIDA, Yoshitaka, et al.	:	COMMUNICATION
U.S. Application No.: 10/546,554	:	
PCT No.: PCT/JP2003/009619	:	
International Filing Date: 29 July 2003	:	
Priority Date: 24 March 2003	:	
Attorney's Docket No.: F-8788	:	
For: CARBON MONOXIDE REFORMING CATALYST COMPOSITION	:	

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

BACKGROUND

On 29 July 2003, applicants filed international application PCT/JP2003/009619 which claimed a priority date of 24 March 2003 and which designated the United States. On 07 October 2004, a copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) by the International Bureau (IB). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 24 September 2005.

On 22 August 2005, above-named counsel filed on behalf of applicants a submission requesting entry into the national stage in the United States for international application PCT/JP2003/009619. The submission included, among other materials, payment of the basic national fee and a translation of the international application into English. This submission was assigned U.S. application number 10/546,554 and has been appropriately treated as the U.S. national stage of international application PCT/JP2003/009619.

On 22 September 2005, above-named counsel filed on behalf of applicants a second submission requesting entry into the national stage in the United States for international application PCT/JP2003/009619. This submission included, among other materials, payment of the basic national fee. These materials were assigned U.S. application number 10/550,254.

DISCUSSION

As is evident from the above-recited facts, counsel has submitted two sets of papers to enter the national stage under 35 U.S.C. 371 for international application number PCT/JP2003/009619 (U.S. application numbers 10/546,554 and 10/550,254). The end result for an international application designating the United States is a single U.S. national stage application (see, 35 U.S.C. 363). Therefore, the submission of two sets of national stage papers to enter the United States was improper.

The materials filed on 22 August 2005 and assigned U.S. application number 10/546,554 were the first of the two filings to be processed by the USPTO. Accordingly, U.S. application number 10/546,554 is the application file that will continue to be processed as the national stage of PCT /JP2003/009619. The materials filed 22 September 2005 and assigned U.S. application number 10/550,254 have been placed in application file 10/534,994.

The duplicate fees submitted in application number 10/550,254 will be refunded to Deposit Account 10-1250 and U.S. application number 10/550,254 will be discontinued.

CONCLUSION

U.S. application number 10/546,554 is the national stage of PCT /JP2003/009619.

The materials filed 22 September 2005 and assigned U.S. application number 10/550,254 have been placed in application file 10/534,994. The fees submitted on 22 September 2005 will be refunded to Deposit Account No. 10-1250, and application number 10/550,254 will be discontinued.

All further correspondence with respect to this national stage application should be directed to U.S. application number 10/546,554.

The present application (10/546,554) is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Missing Requirements (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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08 MAY 2006

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Cynthia S Murphy
Renner Otto Boisselle & Sklar
1621 Euclid Avenue
19th Floor
Cleveland OH 44115-2191

In re Application of	:	
BEND, Robert J.	:	
Application No.: 10/546,560	:	DECISION
PCT No.: PCT/AU04/00172	:	
Int. Filing Date: 13 February 2004	:	ON PETITION UNDER
Priority Date: 14 February 2003	:	
Docket No.: EQUIP0535WOUS	:	37 CFR 1.137(b)
For: CLEANING AND HEATING OF IRON LINERS FOR CASTING ALUMINIUM CYLINDER BLOCKS	:	

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 24 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 supplied a declaration in compliance with 37 CFR 1.497(a)-(b). The fee for late filing of the search fee, examination fee or oath or declaration has not 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, including mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that the fee for late filing of the search fee, examination fee or oath or declaration is required.

Erin P. Thomson

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18 APR 2006

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Cynthia S. Murphy
Renner, Otto, Boisselle &
Sklar, LLP
1621 Euclid Avenue, 19th Floor
Cleveland, Ohio 44115-2191

In re Application of	:	DECISION ON
Robert J. BAND	:	
Application No.: 10/546,561	:	
PCT No.: PCT/AU03/01426	:	
Int. Filing Date: 30 October 2003	:	PETITION UNDER
Priority Date: 30 October 2002	:	
Attorney's Docket No.: EQUIP0534WOUS	:	
For: APPARATUS AND METHOD FOR LOW	:	
PRESSURE SAND CASTING	:	37 CFR 1.137(b)

This decision is in response to applicant's "PETITION TO REVIVE UNDER 37 C.F.R. 1.137(b)," filed on 24 August 2005.

BACKGROUND

On 08 October 2003, this international application was filed, claiming an earliest priority date of 30 October 2002.

The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 30 April 2005. This international application became abandoned with respect to the United States at midnight on 30 April 2005 for failure to pay the required basic national fee.

On 24 August 2005, applicants filed the instant petition under 37 CFR 1.137(b) and a Transmittal letter for entry into the national stage in the United States, which was accompanied by 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. The 35 USC 371(c)(1), (c)(2) and (c)(4) date of this application is **24 August 2005**.

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JUN 22 2009

OFFICE OF PETITIONS

In re Application of :
David CARTER :
Application No. 10/546,567 :
Filed: June 21, 2006 :
Attorney Docket No. 006422.00035 :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 26, 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 22, 2008 which set a shortened statutory period for reply of three (3) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 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 an amendment; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of April 22, 2008 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 3673 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

0 7 JAN 2008

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TOWNSEND AND TOWNSEND AND CREW, LLP
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SAN FRANCISCO CA 94111-3834

In re Application of	:	DECISION
STEINMAN et al.	:	
Application No.: 10/546,569	:	
PCT No.: PCT/US2004/005359	:	
Int. Filing Date: 24 February 2004	:	
Priority Date: 24 February 2003	:	
Attorney Docket No.: 022259-000310US	:	
For: METHODS FOR TREATING OR PREVENTING AUTOIMMUNE DISEASE USING HISTAMINE H1 RECEPTOR-BLOCKING AGENTS	:	

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 17 December 2007.

BACKGROUND

On 24 February 2004, applicant filed international application PCT/US2004/005359, which designated the U.S. and claimed a priority date of 24 February 2003. A copy of the international application was communicated to the USPTO 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 24 August 2005.

On 22 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.

On 26 April 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATION CONTAINING NUCLEOTIDE AND/OR AMINO ACID SEQUENCE DISCLOSURES (Form PCT/DO/EO/922). The NOTIFICATION set a two-month extendable period for reply.

On 04 December 2007, 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 properly respond to the NOTIFICATION TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATION CONTAINING

NUCLEOTIDE AND/OR AMINO ACID SEQUENCE DISCLOSURES within the time period set therein.

On 21 December 2007, applicants filed the instant submission.

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), a response to the NOTIFICATION TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATION CONTAINING NUCLEOTIDE AND/OR AMINO ACID SEQUENCE DISCLOSURES was filed 17 December 2007.

As to item (2), applicant submitted the petition fee on 17 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
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
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03 MAY 2006

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QUALCOMM, INC
5775 MOREHOUSE DR.
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In re Application of	:	
SMITH et al.	:	DECISION ON
Application No.: 10/546,579	:	
PCT No.: PCT/US04/42040	:	PAPERS
Int. Filing Date: 13 December 2004	:	
Priority Date: 12 December 2003	:	UNDER 37 CFR 1.42
Attorney's Docket No.: 020501	:	
For: PHASE LOCKED LOOP THAT SETS GAIN AUTOMATICALLY	:	

This is a decision on applicants' submission filed in the United States Patent and Trademark Office (USPTO) on 22 August 2005, which was accompanied by a declaration of inventors. The indication in this declaration that joint inventor Alan Andrew Smith is deceased has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 13 December 2004, applicants filed international application PCT/US04/42040, which designated the United States and claimed a priority date of 12 December 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 30 June 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 12 June 2006.

On 22 August 2005, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee and a declaration of the inventors. The indication in this declaration that inventor Alan Andrew Smith is deceased has been treated as a request for status under 37 CFR 1.42.

DISCUSSION

The submission filed 22 August 2005 has been reviewed and has been found in compliance with 37 CFR 1.42. The declaration filed 22 August 2005 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **ACCEPTED**.

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

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OFFICE OF PETITIONS

In re Application of	:	
Smith et al.	:	
Application No. 10/546,579	:	ON PETITION
Filed: August 22, 2005	:	
Attorney Docket No. 020501	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 12, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment and an Information Disclosure Statement (IDS), (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 2816 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

15 SEP 2005

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VENABLE LLP
P.O. Box 34385
Washington, DC 20043-9998

In re Application of :
SAHA, Murari Mohan *et al* :
U.S. Application No.: 10/546,595 :
PCT No.: PCT/SE02/02144 :
Int. Filing Date: 22 November 2002 : **DECISION**
Priority Date: 23 November 2001 :
Attorney's Docket No.: 43315-204115 :
For: FAULT LOCATION USING MEASUREMENTS :
FROM TWO ENDS OF A LINE :

This is a decision on the "Petition Under 37 C.F.R. § 1.181" filed on 23 August 2005. No petition fee is required.

BACKGROUND

On 22 November 2002, applicant filed international application PCT/SE02/02144 claiming priority to a patent application filed 23 November 2001.

On 24 May 2004, applicant purportedly filed papers to enter the national stage of PCT/SE02/02144. These papers would have been within thirty months from the original priority date. However, there is no record that the USPTO received or processed these papers.

On 23 August 2005, applicants submitted the instant petition which was accompanied by, *inter alia*, copies of the documents purportedly submitted on 24 May 2004 and a stamped postcard receipt for those documents.

DISCUSSION

Petitioners claim that the above-captioned application was originally submitted on 24 May 2004. A check of USPTO records show that there is no record that this application was processed and the fees received. Accordingly, the above-captioned application would be abandoned pursuant to 37 CFR 1.495(b)(2).

Nevertheless, MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. Applicants must enclose a self-addressed postcard identifying all of the papers filed. The USPTO will stamp the receipt date on the card and place it on the outgoing mail. The identifying data on the card must clearly identify the paper for which receipt is requested. A postcard receipt which itemizes and properly identifies the

papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicants have provided a copy of the date-stamped filing receipt for documents submitted 24 May 2004. The receipt clearly identifies the application by the name of the applicant, the title and the international application number. The filing receipt indicates that the following papers were filed: (1) Transmittal Letter; (2) Copy of the international application; (3) drawings; (4) IPRP; (5) Search report; (6) Notice; (7) Application Data Sheet; (8) preliminary amendment; (6) Information Disclosure Statement and Total Fees: $1,210.00. The postcard receipt is stamped "OIPE MAY 24 2004" across its face.

Accordingly, applicants have provided *prima facie* evidence that the national stage application was originally filed on 24 May 2004.

A review of the papers originally filed 24 May 2004 shows that the transmittal letter contained authorization to charge the required fees to counsel's Deposit Account No. 22-0261. These fees have been charged as authorized.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is hereby **GRANTED**.

The above-captioned application has been accepted as having been received on 24 May 2004.

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 oath or declaration in compliance with 37 CFR 1.497(a) and (b) are required.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

10 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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David A. Hall
TOWNSEND AND TOWNSEND AND CREW, LLP
12730 High Bluff Drive, Suite 400
San Diego, CA 92130

In re Application of:	
SHIMKO, Martin, A., et al.	DECISION ON PETITION UNDER
U.S. Application No.: 10/546,614	37 CFR 1.47(a) AND REQUEST
PCT No.: PCT/US2004/005182	FOR STATUS UNDER
International Filing Date: 19 February 2004	37 CFR 1.42
Priority Date: 21 February 2003	
Attorney's Docket No.: 41200-0002	
For: ELECTROLYZER APPARATUS AND METHOD FOR HYDROGEN PRODUCTION	

This decision is issued in response to applicants' "Petition Under 37 CFR 1.47 Re: Non-Signing Inventor" filed 19 August 2005, and the accompanying declaration executed on behalf of a deceased inventor. These materials are treated herein under 37 CFR 1.47(a) and 1.42. Applicants submitted $130 as the petition fee; however, the required petition fee is $200.

BACKGROUND

On 19 February 2004, applicants filed international application PCT/US2004/005182. The application claimed a priority date of 21 February 2003 and designated the United States. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 21 August 2005.

On 19 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, the "Petition Under 37 CFR 1.47 Re: Non-Signing Inventor" considered herein, and a partially executed declaration executed on behalf of a deceased inventor. The petition and declaration are considered below under 37 CFR 1.47(a) and 1.42.

DISCUSSION

1. Petition Under 37 CFR 1.47(a):

A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the nonsigning inventor; (3) an oath or declaration executed by the other inventors on behalf of themselves and the nonsigning inventor;

and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

Here, applicants have submitted $130 of the $200 petition fee. The petition includes an authorization to charge a Deposit Account for required fees. However, because above-named counsel has changed law firms since the petition was filed, the previous firm's Deposit Account has not been charged for the additional fee required here. Accordingly, an additional payment of $70 is required to complete the petition fee. Item (1) is therefore not satisfied.

The petition expressly states the last known address of the nonsigning inventor. Item (2) is satisfied.

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

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

Applicants have filed a declaration that contains an unsigned signature block for the nonsigning inventor (Sandeep VERMA), is executed by two surviving inventors (Martin A. SHIMKO and Thomas Jackson), and is executed on behalf of the deceased inventor (Jeram S. KAMLANI) by his executor. However, as discussed below, the declaration does not provide all the information required with respect to the deceased inventor and his executor. A revised declaration acceptable on behalf of the deceased inventor (which also identifies all the other inventors and leaves an unsigned signature box for the nonsigning inventor) must be submitted before item (3) can be considered satisfied.

Regarding item (4), where it is asserted that an inventor has refused to execute the application papers, section 409.03(d) of the MPEP states that a "copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney." The MPEP also requires "a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made." Here, applicants have included a statement, with accompanying documentary support, which demonstrates that the nonsigning inventor has been presented with a copy of the complete application papers, as required. The statement also indicates that the inventor refused to provide the executed declaration before the date the application materials were filed. However, the materials do not demonstrate a final refusal by the inventor to execute the application materials. According to the statement, in his e last communication (in August 2005), the inventor stated that he expected to complete his review of the application materials within two weeks. Under these circumstances, supplemental materials are required to determine if the inventor's actions subsequent to the communications described in the present petition support a conclusion that he has refused to execute the application. Until such materials are provided, item (4) is not considered satisfied.

2. **Request For Status Under 37 CFR 1.42**:

37 CFR 1.42 states in part:

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

37 CFR 1.497(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 executor, **and** the citizenship of the deceased inventor. Here, the filed declaration does not comply with 37 CFR 1.497(b)(2) in that it does not provide separate citizenship information for the deceased inventor and the executor (it is also unclear whether the mailing address and residence information provided is for the executor or is the last known information for the deceased inventor).

Because the filed declaration does not include all the information required by 37 CFR 1.497(b)(2), the declaration cannot be accepted under 37 CFR 1.42 and 37 CFR 1.497.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) for acceptance of the application without the signature of inventor Sandeep VERMA is **DISMISSED** without prejudice.

Applicants' request for status under 37 CFR 1.42 with respect to deceased inventor Jeram S. KAMLANI 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 Renewed Submission Under 37 CFR 1.42" and must include the materials required to satisfy items (1), (3), and (4) of a grantable petition under 37 CFR 1.47(a), as discussed above and in the MPEP. With respect to item (3), such materials must include a declaration acceptable on behalf of the nonsigning inventor that is properly executed on behalf of the deceased inventor and includes all information required under 37 CFR 1.42 and 1.497, as discussed above. No additional petition fee is required.

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

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

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
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31 JUL 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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David A. Hall
TOWNSEND AND TOWNSEND AND CREW, LLP
12730 High Bluff Drive, Suite 400
San Diego, CA 92130

In re Application of:	
SHIMKO, Martin, A., et al.	DECISION ON RENEWED
U.S. Application No.: 10/546,614	PETITION UNDER 37 CFR 1.47(a)
PCT No.: PCT/US2004/005182	AND SUBMISSION UNDER 37
International Filing Date: 19 February 2004	CFR 1.42
Priority Date: 21 February 2003	
Attorney's Docket No.: 41200-0002	
For: ELECTROLIZED APPARATUS AND METHOD FOR HYDROGEN PRODUCTION	

This communication is issued in response to applicants' "Renewed Petition Under 37 CFR 1.47(a) and Renewed Submission Under 37 CFR 1.42" filed on 10 July 2006. No petition fee is required.

BACKGROUND

The procedural background for this application was set forth in the previous decision mailed herein on 10 May 2006. In that decision, applicants' petition under 37 CFR 1.47(a) was dismissed for failure to satisfy all the requirements of a grantable petition, and applicants' submission under 37 CFR 1.42 was rejected for failure to include all the information required under 37 CFR 1.497.

On 10 July 2006, applicants filed the "Renewed Petition Under 37 CFR 1.47(a) and Renewed Submission Under 37 CFR 1.42" considered herein.

DISCUSSION

A. Renewed Submission Under 37 CFR 1.42:

As set forth in the previous decision, the declaration filed 19 August 2005 was not acceptable because it failed to clearly indicate the citizenship of both the deceased inventor and his executor and the residence and mailing address of the executor, as required under 37 CFR 1.42 and 1.497(b)(2).

The renewed submission includes an "Added Page To Declaration And Power Of Attorney For Patent Application For Signature Of Executor On Behalf Of Estate Of Inventor Per 37 CFR 1.42" and a newly executed signature page that lists all four inventors herein (and is

identified as page "3"). The "Added Page" is executed by Deborah K. MOSS as executor of the estate of the deceased inventor Jeram S. KAMLANI, and it expressly states the citizenship, residence and mailing address for both the deceased inventor and the executor. However, the "Added Page" cannot stand on its own as a supplemental declaration providing this required information (because it does not contain the language required for proper execution under 37 CFR 1.68), and applicants have not provided a copy of the complete declaration to which this "Added Page" was appended when executed, so it cannot be determined whether such document included the required language. It appears that the separate signature page naming all the inventors (and executed by Deborah MOSS) is the third page of such document, but applicants have not provided the first two pages of the newly executed declaration.[1]

Based on the above, applicants have failed to provide a complete, acceptable declaration executed by the executor of the deceased inventor's estate and including all the information required under 37 CFR 1.497(b)(2). Granting status under 37 CFR 1.42 is therefore inappropriate at the present time.

B. Renewed Petition Under 37 CFR 1.47(a):

Applicants original petition under 37 CFR 1.47(a) was dismissed for failure to include: (1) the complete petition fee; (2) an acceptable declaration by the other inventors on behalf of themselves and the non-signing inventor; and (3) an adequate showing that the inventor has refused to execute the application.

The renewed petition includes the authorization to charge Deposit Account No. 20-1430 the $70 required to complete the petition fee. This petition fee requirement is therefore satisfied.

With respect to the inventor's refusal to execute the declaration, the renewed petition includes a supplemental declaration of David A. HALL, which, in combination with the previously filed materials, adequately demonstrates that the non-signing inventor has refused to execute the application. This requirement is therefore satisfied.

The sole remaining requirement for a grantable petition is the acceptable declaration by the other inventors on behalf of themselves and the non-signing inventor. However, as noted above, applicants have still failed to provide a complete, acceptable declaration in satisfaction of this requirement. This element of a grantable petition therefore remains unsatisfied.

CONCLUSION

Applicants' renewed petition under 37 CFR 1.47(a) for acceptance of the application without the signature of inventor Sandeep VERMA is **DISMISSED** without prejudice.

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[1] Applicants have provided a copy of the previously filed three-page declaration, but it cannot be concluded from this submission that the first two pages of the newly executed declaration are the same. It is noted that the docket number listed on the previously filed declaration is different from the docket number listed on the "Added Page" and the newly executed signature page submitted with the renewed submission.

Applicants' renewed request for status under 37 CFR 1.42 with respect to deceased inventor Jeram S. KAMLANI is **DISMISSED** without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Second Renewed Petition Under 37 CFR 1.47(a) And Renewed Submission Under 37 CFR 1.42" and must include a declaration acceptable on behalf of the non-signing inventor that is properly executed on behalf of the deceased inventor and includes all information required under 37 CFR 1.42 and 1.497, as discussed above. No additional petition fee is required.

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

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

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UNITED STATES PATENT AND TRADEMARK OFFICE

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16 NOV 2006

David A. Hall
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San Diego, CA 92130

In re Application of:	
SHIMKO, Martin, A., et al.	DECISION ON SECOND
U.S. Application No.: 10/546,614	RENEWED PETITION UNDER
PCT No.: PCT/US2004/005182	37 CFR 1.47(a) AND SUBMISSION
International Filing Date: 19 February 2004	UNDER 37 CFR 1.42
Priority Date: 21 February 2003	
Attorney's Docket No.: 41200-0002	
For: ELECTROLIZED APPARATUS AND METHOD FOR HYDROGEN PRODUCTION	

This decision is issued in response to applicants' "Second Renewed Petition Under 37 CFR 1.47(a) and Renewed Submission Under 37 CFR 1.42" filed on 13 September 2006. No petition fee is required.

BACKGROUND

The procedural background for this application was set forth in the previous decisions mailed herein on 10 May 2006 and 31 July 2006. In the most recent decision, applicants' submission under 37 CFR 1.42 was rejected for failure to include the complete declaration executed on behalf of the deceased inventor, and the renewed petition under 37 CFR 1.47(a) was dismissed for failure to provide an acceptable declaration.

On 13 September 2006, applicants filed the "Second Renewed Petition Under 37 CFR 1.47(a) and Renewed Submission Under 37 CFR 1.42" considered herein.

DISCUSSION

A. Second Renewed Submission Under 37 CFR 1.42:

The second renewed submission includes a complete declaration (including an "Added Page To Declaration And Power Of Attorney For Patent Application For Signature Of Executor On Behalf Of Estate Of Inventor Per 37 CFR 1.42") executed by Deborah K. MOSS as executor of the estate of the deceased inventor Jeram S. KAMLANI. This declaration includes all the information required under 37 CFR 1.42 and 1.497. Granting applicants status under 37 CFR 1.42 is therefore appropriate at the present time.

B. Second Renewed Petition Under 37 CFR 1.47(a):

The decision mailed 31 July 2006 indicated that applicants had provided all the requirements for a grantable petition except an acceptable declaration executed by the other inventors on their own behalf and the non-signing inventor. Specifically, no such declaration had been submitted that was properly executed on behalf of the deceased inventor, Jeram S. KAMLANI.

As discussed above, an acceptable declaration has now been submitted on behalf of the deceased inventor. The final requirement of a grantable petition under 37 CFR 1.47(a) has therefore been satisfied.

CONCLUSION

Applicants' renewed request for status under 37 CFR 1.42 with respect to deceased inventor Jeram S. KAMLANI is **GRANTED**.

Applicants' second renewed petition under 37 CFR 1.47(a) is **GRANTED**. The application is accepted without the signature of non-signing inventor Sandeep VERMA.

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 the last known address set forth in the petition, and notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being referred 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 13 September 2006.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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16 NOV 2006

Mr. Sandeep VERMA
95 Crownview Drive
Monroe, CT 06468

In re Application of: SHIMKO, Martin, A., et al.
U.S. Application No.: 10/546,614
PCT No.: PCT/US2004/005182
International Filing Date: 19 February 2004
Priority Date: 21 February 2003
Attorney's Docket No.: 41200-0002
For: ELECTROLIZED APPARATUS AND METHOD FOR HYDROGEN PRODUCTION

Dear Mr. VERMA:

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

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

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Counsel Of Record:
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POTOMAC PATENT GROUP PLLC
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FREDERICKSBURG VA 22404

MAILED

JUN 16 2010

OFFICE OF PETITIONS

In re Application of :
Panesar, et al. :
Application No. 10/546,616 :
Filed: July 31, 2006 :
Attorney Docket No. 0903-007 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 27, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned September 23, 2009 for failure to timely submit a proper reply to the final Office action mailed June 22, 2009. The final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed January 22, 2010.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The 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 fee and submission required by 37 CFR 1.114; (2) the required petition fee; and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 2181 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MICHAUD-DUFFY GROUP LLP
306 INDUSTRIAL PARK ROAD
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MIDDLETOWN CT 06457

COPY MAILED

SEP 26 2008

OFFICE OF PETITIONS

In re Application of :
Ribbeck : DECISION ON PETITION
Application No. 10/546,626 :
Filed: July 27, 2006 :
Docket No.: 1053-0001WOUS :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed June 17, 2008.

This application was held abandoned for failure to timely submit a proper reply to the restriction requirement mailed November 6, 2007. The restriction requirement set a one month shortened statutory period of time for reply. A petition for one month extension of time was received December 20, 2007. Notice of Abandonment June 12, 2008.

Petitioners assert that a reply to the restriction requirement was submitted December 20, 2007 via the Electronic Filing System (EFS) and have included as proof of submission and proof of receipt of the reply a copy of an EFS Acknowledgement Receipt.

The original reply response filed December 20, 2007 has not been located in the application file. However, in view of the evidence thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

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

The copy of the reply submitted herewith will be used for examination.

The application file is being forwarded to the Technology Center 3700 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Woodard, Emhardt, Moriarty, McNett & Henry LLP
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137

Mail Date: 05/17/2010

Applicant	: Thomas Buck	: DECISION ON REQUEST FOR
Patent Number	: 7654960	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/546,629	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/05/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **673** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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28 DEC 2005

Gerald E. Worth
PROSKAUER ROSE LLP
One International Place
Boston, MA 02110

In re Application of :
BRITTON, Charles :
U.S. Application No.: 10/546,635 :
PCT No.: PCT/GB2004/000549 :
Int. Filing Date: 12 February 2004 :
Priority Date: 12 February 2003 :
Attorney Docket No.: BBR-002US :
For: CONTAINER, METHOD AND :
APPARATUS FOR MAKING THE SAME :

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

Applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed with the national stage papers on 24 August 2005 is hereby **GRANTED** as follows:

The basic national fee and petition fee have been paid. Applicant's statement in the petition meets 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) has not been provided.

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

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25 MAR 2008

FISHER, CHRISTEN & SABOL
1725 K STREET, N.W.
SUITE 1108
WASHINGTON, DC 20006

In re Application of	:	DECISION ON
TAESCHLER et al	:	
Application No.: 10/546,651	:	
PCT No.: PCT/EP04/002089	:	
Int. Filing Date: 02 MARCH 2004	:	PETITION UNDER
Priority Date: 03 MARCH 2003	:	
Attorney's Docket No.: LP-2008	:	
For: METHOD FOR THE PRODUCTION OF A	:	
THIOACETIC ACID AND SALTS THEREOF	:	37 CFR 1.137(b)

This decision is in response to applicants' "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on 10 March 2008.

BACKGROUND

On 02 March 2004, this international application was filed, claiming an earliest priority date of 03 March 2003.

On 24 August 2005, applicants filed the Transmittal letter for entry into the national stage in the United States, which was accompanied by, basic national fee, an executed declaration but no English translation of the application..

On 08 August 2008, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating the translation of the application into English. The notification set a two months time limit or 32 months from the priority date for the application, whichever is later to respond. Failure to properly respond would result in abandonment.

On 22 February 2008, the USPTO mailed applicant Notification of Abandonment (Form PCT/DO/EO/909) indicating the application was abandoned because no reply was received.

On 10 March 2008, applicant filed in the United States Patent and Trademark Office (PTO) the instant petition, accompanied by, *inter alia*, an English translation of the application and the petition fee for revival of an unintentionally abandoned application.

DISCUSSION

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

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

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

DECISION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371 date of this application is **10 March 2008.**

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

United States Patent and Trademark Office

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

14 DEC 2005

Pricilla L. Jones
GLAXOSMITHKLINE
Corporate Intellectual Property - UW2220
Five Moore Drive
Post Office Box 13398
Research Triangle Park, North Carolina 27709

Dear Ms. Jones:

This is in response to your request received 13 December 2005 with regard to the incorrect posting of fees to Deposit Account 07-1392 in international application 10/546,656. Please be notified that no action will be taken by the Office since you are not an attorney of record in the application. See MPEP §714.01(a). Besides, there are not enough data pertaining to the application, such as title of the invention, names of applicants, etc. for the Office to process your request for correction mentioned above.

Sincerely,

Nguyên Ngoc-Hô

Nguyên Ngoc-Hô
Paralegal Specialist
PCT Legal Office

Tel: (571) 272-3290

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OCT 2 6 2009

LADAS & PARRY LLP
26 WEST 61ST STREET
NEW YORK NY 10023

In re Application of :	:
Kuhne et al.	:
Serial No.: 10/546,661	: SUSPENSION OF ACTION
Filed: July 16, 2004	:
Attorney Docket No.: **U 015906-1**	:

This is in reply to a petition under 37 CFR 1.103(a) to suspend action in this application at applicants' request for a six month period of time, filed October 26, 2009.

BACKGROUND

Applicants request prosecution in this application be suspended in order to have an expert prepare an opinion concerning the meaning of certain terms and phrases that are used in the Simoncsits et al., Journal of Molecular Biology 309(1):89-97, 2001 article so that the prosecution of this application can be advanced. This reference was cited in the Office Action of April 30, 2009.

DISCUSSION

§ 1.103 Suspension of action by the Office.

(a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office.

Applicants have shown good and sufficient reason for suspension.

DECISION

In view of the above, the petition for suspension of action is **GRANTED** for a period of six months from the date of mailing of this decision.

Should applicant obtain the requisite data prior to the expiration of the period of suspension, a submission of the results should be promptly forwarded to the Office so that prosecution may be resumed.

Should there be any questions with respect to this action, please contact the examiner or Marianne Seidel, by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office general facsimile number, 571-273-8300.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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Alexandria, VA 22313-1450
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OCT 2 6 2009

LADAS & PARRY LLP
26 WEST 61ST STREET
NEW YORK NY 10023

In re Application of :	:
Kuhne et al.	:
Serial No.: 10/546,661	: SUSPENSION OF ACTION
Filed: July 16, 2004	:
Attorney Docket No.: **U 015906-1**	:

This is in reply to a petition under 37 CFR 1.103(a) to suspend action in this application at applicants' request for a six month period of time, filed October 26, 2009.

BACKGROUND

Applicants request prosecution in this application be suspended in order to have an expert prepare an opinion concerning the meaning of certain terms and phrases that are used in the Simoncsits et al., Journal of Molecular Biology 309(1):89-97, 2001 article so that the prosecution of this application can be advanced. This reference was cited in the Office Action of April 30, 2009.

DISCUSSION

§ 1.103 Suspension of action by the Office.

(a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office.

Applicants have shown good and sufficient reason for suspension.

DECISION

In view of the above, the petition for suspension of action is **GRANTED** for a period of six months from the date of mailing of this decision.

Should applicant obtain the requisite data prior to the expiration of the period of suspension, a submission of the results should be promptly forwarded to the Office so that prosecution may be resumed.

Should there be any questions with respect to this action, please contact the examiner or Marianne Seidel, by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office general facsimile number, 571-273-8300.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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13 NOV 2006

Jennifer Lacroix
McAndrews, Held & Malloy, Ltd.
500 West Madison Street, 34th Floor
Chicago, Illinois 60661

In re Application of :
TABOR, et al. :
Application No.: 10/546,677 :
PCT No.: PCT/US04/05198 : DECISION ON PAPERS
Int. Filing Date: 20 February 2004 :
Priority Date: 03 March 2003 : UNDER 37 CFR 1.42
Attorney Docket No.: 14764US02 :
For: METHOD FOR REDUCING THE :
ALLERGENIC PROTEIN CONTENT OF :
NATURAL RUBBER LATEX ARTICLES :

This application is before the Office of PCT Legal Administration for issues arising under 35 U.S.C. 371. The combined declaration and power of attorney filed 10 July 2006 is being treated as a request for status under 37 CFR 1.42. No petition fee is due.

BACKGROUND

On 20 February 2004, applicant filed international application PCT/US04/05198, which claimed priority to an earlier application filed 03 March 2003 . Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 03 September 2005.

On 22 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).

On 26 April 2006, applicant was mailed a "Notification of Missing Requirements" (Form PCT/DO/EO/905) informing applicant that an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. Applicant was afforded two months to file the required response and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 10 July 2006, applicant filed the response including an executed combined declaration and power of attorney accompanied by a petition for a one-month extension of time and payment of the appropriate petition fee. With the filing of the petition for a one-month extension of time and payment of the petition fee, the present response is considered timely filed.

DISCUSSION

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

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

The declaration submitted on 10 July 2006 was executed by S. Ann Hartlage as legal representative to the estate of the deceased co-inventor, James Hartlage. However, the filed declaration does not satisfy the requirements under 37 CFR 1.497(b). Specifically, the oath or declaration must provide the citizenship, residence, and mailing address of both the deceased co-inventor and the signing legal representative. The declaration filed on 10 July 2006 provides the residence, citizenship, and post office address for only one individual and it is unclear whether this information is for the legal representative or the deceased inventor. The declaration indicates that a supplemental sheet contains this additional information; however, this additional sheet apparently was not filed as the document only contains two pages. Accordingly, the declaration is not in compliance with 37 CFR 1.497(b).

CONCLUSION

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

20 DEC 2006

Jennifer Lacroix
McAndrews, Held & Malloy, Ltd.
500 West Madison Street, 34th Floor
Chicago, Illinois 60661

In re Application of :
TABOR, et al. :
Application No.: 10/546,677 :
PCT No.: PCT/US04/05198 : DECISION ON PAPERS
Int. Filing Date: 20 February 2004 :
Priority Date: 03 March 2003 : UNDER 37 CFR 1.42
Attorney Docket No.: 14764US02 :
For: METHOD FOR REDUCING THE :
ALLERGENIC PROTEIN CONTENT OF :
NATURAL RUBBER LATEX ARTICLES :

This decision is in response to applicant's renewed petition under 37 CFR 1.42 filed 06 December 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 13 November 2006, applicant was mailed a decision dismissing applicant's request for status pursuant to 37 CFR 1.42. Applicant was afforded two months to file any request for reconsideration.

On 06 December 2006, applicant filed the response considered herein.

DISCUSSION

As detailed in the 13 November 2006 decision, 37 CFR 1.42 When the Inventor is Dead, states, in part:

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

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

CONCLUSION

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

This application has an international application filing date of 20 February 2004 and will be given a date of **06 December 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

#7

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29 SEP 2006

David S Resnick
Nixon Peabody
100 Summer Street
Boston, MA 02110

In re Application of UNGER et al.
Application No.: 10/546,703
PCT No.: PCT/EP04/01637
Int. Filing: 19 February 2004
Priority Date: 24 February 2003
Attorney Docket No.: 700355-57210
For: MODULATION OF THE POLIOVIRUS RECEPTOR FUNCTION

DECISION :

This application is before the Office of PCT Legal Administration for consideration of issues arising under 35 U.S.C. 371 and applicant's submission entitled "Completion of Filing Requirements for International Application Entering the National Stage in the U.S. Designated/Elected Office (DO/US) Under 35 U.S.C. 371" filed on 15 February 2006 in the United States Patent and Trademark Office (USPTO).

On 15 December 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 executed in accord with 37 CFR 1.66 and 1.68, was required. The declaration executed by inventor Beste has been altered. The USPTO does not accept a declaration that has been altered.

On 15 February 2006, applicant filed a copy of the declaration in which the changes were dated and initialed. The declaration is in compliance with 37 CFR 1.497(a) and (b) and is acceptable.

This application is being forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 08 November 2005.

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

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

SUMMARY OF FEES DUE:

Total additional fees required for this application is **$480** for a Small Entity:

- The paper or compact disc copy of the "Sequence Listing" is not the same as the computer readable form of the "Sequence Listing" as required by 37 CFR 1.821(e). Applicant must provide a substitute paper or compact disc copy of the "Sequence Listing", **as well as an amendment specifically directing its entry into the application** OR a substitute computer readable form (CRF) copy of the "Sequence Listing". These two items must be the same. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000).
- A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 CFR 1.821(e). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

- The application search fee has not been paid. Applicant must submit **$200** to complete the search fee. Note a surcharge will be required if submitted later than commencement of the national stage (37 CFR 1.492(h)) and the basic national fee was not paid before July 1, 2005.
- The application examination fee has not been paid. Applicant must submit **$100** to complete the examination fee for a small entity in compliance with 37 CFR 1.27. Note a surcharge will be required if submitted later than commencement of the national stage (37 CFR 1.492(h)) and the basic national fee was not paid before July 1, 2005.

- Total additional claim fee(s) for this application is $ **180**

  - **$180** for multiple dependent claim surchare.

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

For questions regarding compliance to 37 CFR 1.821-1.825 requirements, please contact:

- **For Rules Interpretation, call (571) 272-0951**
- **For Patentin Software Program Help, call Patent EBC at 1-866-217-9197 or directly at 703-305-3028 / 703-308-6845 between the hours of 6 a.m. and 12 midnight, Monday through Friday, EST.**
- **Send e-mail correspondence for Patentin Software Program Help @ ebc@uspto.gov**

ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

29 NOV 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 S Resnick
Nixon Peabody
100 Summer Street
Boston, MA 02110

In re Application of UNGER et al.
Application No.: 10/546,703
PCT No.: PCT/EP04/01637
Int. Filing: 19 February 2004
Priority Date: 24 February 2003
Attorney Docket No.: 700355-57210
For: MODULATION OF THE POLIOVIRUS RECEPTOR FUNCTION

DECISION ON

PETITION UNDER

37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 09 November 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "applicants unintentionally did not provide the necessary fees with the filing" has been interpreted as meaning that "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. If this is an incorrect interpretation in view of the rules, petitioner is required to promptly notify this office.

A review of the application file reveals that applicant authorized that the basic national fee of $150 and the required petition fee of $750 be charged to his deposit account. In addition, applicant authorized the payment of the surcharge for filing the oath or declaration after the thirty month period. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

It is noted that the declaration executed by inventor Beste has been altered. The USPTO does not accept a declaration that has been altered. Section 602.01 of the MPEP states the following:

> The wording of an oath or declaration cannot be amended, altered or changed in any manner after it has been signed. If the wording is not correct or if all of the required affirmations have not been made, or if it has not been properly subscribed to, a new oath or declaration must be required....

Any changes made in ink in the application or oath prior to signing should be initialed and dated by the applicants prior to execution of the oath or declaration. The Office will not consider whether non-initialed and/or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration.

The changes made in the declaration executed by inventor Beste were not dated and initialed or signed. Therefore, a new acceptable oath or declaration executed by Gerald Beste is required to satisfy the requirements of 35 U.S.C. 371 (c)(4) for entrance into the national stage

in the United States.

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 a newly executed oath or declaration by inventor Gerald Beste, and in compliance with 37 CFR 1.497(a) and (b), is required.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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#3

13 JAN 2006

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

In re Application of WEI et al :
U.S. Application No.: 10/546,708 :
PCT Application No.: PCT/IB03/05735 :
Int. Filing Date: 02 December 2003 : DECISION
Priority Date Claimed: 23 December 2002 :
Attorney Docket No.: CN020026 :
For: METHOD AND SYSTEM FOR :
AUTHENTIFICATING A DISC :

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 24 August 2005.

BACKGROUND

On 02 December 2003, applicant filed international application PCT/IB03/05735, which claimed priority of an earlier China 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.

International application PCT/IB03/05735 became abandoned as to the United States for failure to timely pay the basic national fee.

On 24 August 2005, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

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

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

With regard to item (1), applicant has provided the required 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.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

COPY MAILED

OCT 2 2 2007

OFFICE OF PETITIONS

In re Application of :
Frank-Uwe Andersen, et al. :
Application No. 10/546,710 : DECISION ON PETITION
Filed: August 24, 2005 : TO WITHDRAW
Attorney Docket No. 449122083300 : 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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20 APR 2007

24498
THOMSON LICENSING INC.
PATENT OPERATIONS
P.O. Box 5312
Princeton, NJ 08453-5312

In re Application of :
BOISSON *et al* :
U.S. Application No.: 10/546,715 :
PCT No.: PCT/FR2004/050084 :
Int. Filing Date: 26 February 2004 : **DECISION ON**
Priority Date: 06 March 2003 : **PETITION FOR REVIVAL**
Attorney Docket No.: PF030044 : **UNDER 37 CFR 1.137(b)**
For: METHOD FOR CODING A VIDEO :
IMAGE TAKING INTO ACCOUNT THE :
PART RELATING TO A COMPONENT :
OF A MOVEMENT VECTOR :

Applicants' petition to revive under 37 CFR 1.137(b) filed on 29 March 2007 is hereby **GRANTED** as follows:

A declaration in compliance with 37 CFR 1.497(a) and (b), a $130.00 surcharge fee and the petition fee were submitted. Applicants' statement in the petition is sufficient to satisfy 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 26 February 2004, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 29 March 2007.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

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AUG 0 7 2007

OFFICE OF PETITIONS

In re Application of
PACHL, Jorn
Application No. 10/546,717
Filed: August 24, 2005
Attorney Docket No. **449122083600**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

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

The request is **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 23, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

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

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MCGINN INTELLECTUAL PROPERTY
LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA VA 22182-3817

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OFFICE OF PETITIONS

In re Application of :
Satoshi KAMIYA :
Application No. 10/546,718 : DECISION ON PETITION
Filed: August 24, 2005 :
Attorney Docket No. MA-601-PCT-US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 02, 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 December 24, 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) were obtained. Accordingly, the date of abandonment of this application is March 25, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action of December 24, 2008 is accepted as being unintentionally delayed.

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

This application is being referred to Technology Center AU 2419 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
Paralegal Specialist
Office of Petitions

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 04/20/2010

Applicant	: Atsushi Yamaguchi	: DECISION ON REQUEST FOR
Patent Number	: 7586823	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/546,719	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **789** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

07 SEP 2006

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

In re Application of	
KELLY, Declan P., et al.	
Application No.: 10/546,720	DECISION
PCT No.: PCT/IB03/05589	
Int. Filing Date: 28 November 2003	ON PETITION UNDER
Priority Date: 20 December 2002	
Docket No.: NL021423	37 CFR 1.137(b)
For: CREATING EDIT EFFECTS ON MPEG-2 COMPRESSED VIDEO	

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

Applicants indicate 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 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 will be charged to deposit account no. 14-1270, as authorized.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a date of 24 August 2005 under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4).

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

09/08/2006 SBASHEIK 00000007 141270 10546720
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31 JAN 2006

Corporate Patent Counsel
Philips Electronics North America Corporation
P.O. Box 3001
Briarcliff Manor, NY 10510

In re Application of	:	DECISION ON
Yang Peng et al	:	
Application No.: 10/546,721	:	
PCT No.: PCT/IB2003/005689	:	
Int. Filing Date: 04 December 2003	:	PETITION UNDER
Priority Date: 23 December 2002	:	
Attorney's Docket No.: CN020030	:	
For: EXTENSIBLE DISC PLAYER	:	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 24 August 2005.

BACKGROUND

On 04 December 2003, this international application was filed, claiming an earliest priority date of 23 December 2002. A copy of the intentional application was transmitted on 08 July 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 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 24 August 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 petition fee, and basic national fee. No executed declaration or oath was submitted at such time.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a

grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

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

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

DECISION

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

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

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-6459

02 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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Michael E. Belk
Phillips Electronics North America Corporation
P.O. Box 3001
Briarcliff Manor, NY 10510

In re Application of :
PAUWS, Steffen Clarence :
Application No.: 10/546,722 :
PCT No.: PCT/IB03/50023 :
Int. Filing Date: 27 November 2003 : DECISION ON PETITION
Priority Date: 20 December 2002 :
Attorney Docket No.: NL021398 :
For: QUERY BY INDEFINITE EXPRESSIONS

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

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

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

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

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

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

Mail Date: 04/26/2010

Applicant	: Franck Lopez	: DECISION ON REQUEST FOR
Patent Number	: 7637484	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/546,735	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/15/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **867** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON, DC 20004

Mail Date: 04/21/2010

Applicant	: Vidar Mortensen	: DECISION ON REQUEST FOR
Patent Number	: 7661390	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/546,737	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **748** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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10 JUL 2006

BUCHANAN INGERSOLL LLP
(INCLUDING BURNS, DOANE, SWECKER & MATHIS)
P.O. BOX 1404
ALEXANDRIA VA 22313-1404

In re Application of	:	
GALLO et al.	:	
Application No.: 10/546,739	:	DECISION
PCT No.: PCT/US2004/006952	:	
Int. Filing Date: 05 March 2004	:	
Priority Date: 06 March 2003	:	
Attorney Docket No.: 034123-157	:	
For: ANTI-VIRAL ACTIVITY OF CATHELICIDIN PEPTIDES	:	

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 07 April 2006 in the United States Patent and Trademark Office (USPTO). The petition is **DISMISSED** without prejudice.

BACKGROUND

On 05 March 2004, applicants filed international application PCT/US2004/006952, which designated the United States and claimed a priority date of 06 March 2003. A copy of the international application was communicated from the International Bureau to the USPTO on 18 November 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 06 September 2005.

On 25 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 and an assertion of small entity status

On 07 April 2006, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors signed by two of the three joint inventors, a declaration in support of the 37 CFR 1.47(a) petition by Susan B. Fuller, copies of two letters sent to the non-signing inventor James F. Jones by Susan Fuller, copies of mailing receipts, and a copy of a returned envelope.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h); (2) factual proof that the missing joint inventor refuses to execute the application or

cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Items (1), (3), and (4) have been met.

Item (2) has not been met. It is not clear whether it is being alleged that Mr. Jones refuses to execute the application or that he cannot be reached after diligent effort. The two are distinct. *See, e.g.,* MPEP 409.03(d), item I. "Inventor Cannot Be Reached" and item II. "Refusal to Join." A first communication was sent to Mr. Jones on 01 August 2005. It appears that someone other than Mr. Jones accepted this package at the National Jewish Medical and Research Center. A second communication was sent to Mr. Jones on 17 August 2005. It appears that this package was returned to petitioner with the hand-written notation on the envelope "no longer here". It is not clear whether Mr. Jones was at the address on 01 August 2005. The person who signed for delivery may not have known that Mr. Jones was no longer there. Accordingly, it is not clear if Mr. Jones received the first communication and did not respond or if he did not receive any communications and his whereabouts are unknown. If it is being alleged that Mr. Jones refuses to sign, some sort of follow-up to the first communication would be required. This follow-up should also establish that Mr. Jones did receive the application papers. If it is being alleged that the inventor cannot be reached or found, copies of documentary evidence such as *internet searches*, certified mail return receipts, cover letters of instructions, and telegrams, that support a finding that the non-signing inventor could not be found or reached should be made part of the affidavit or declaration. See MPEP § 409.03, item I. The declaration of Susan Fuller indicates that a Google search was done for Mr. Jones. It is noted that no copy of this search has been provided. It is suggested that one of the internet directories as WhitePages or 411 be used. It is also suggested that the National Jewish Medical and Research Center be contacted directly, e.g., by phone, to determine whether or not Mr. Jones still works there, and if he does not, to perhaps obtain a forwarding address or phone number.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

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

Please direct further correspondence with respect to this matter to Mail Stop PCT,

Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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13 SEP 2006

BUCHANAN INGERSOLL LLP
(INCLUDING BURNS, DOANE, SWECKER & MATHIS)
P.O. BOX 1404
ALEXANDRIA VA 22313-1404

In re Application of	:	
GALLO et al.	:	
Application No.: 10/546,739	:	DECISION
PCT No.: PCT/US2004/006952	:	
Int. Filing Date: 05 March 2004	:	
Priority Date: 06 March 2003	:	
Attorney Docket No.: 034123-157	:	
For: ANTI-VIRAL ACTIVITY OF CATHELICIDIN PEPTIDES	:	

This is a decision on applicants' submission filed 31 July 2006 in the United States Patent and Trademark Office (USPTO) which included a declaration of inventors.

BACKGROUND

On 05 March 2004, applicants filed international application PCT/US2004/006952, which designated the United States and claimed a priority date of 06 March 2003. A copy of the international application was communicated from the International Bureau to the USPTO on 18 November 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 06 September 2005.

On 25 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 and an assertion of small entity status

On 07 April 2006, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors signed by two of the three joint inventors, a declaration in support of the 37 CFR 1.47(a) petition by Susan B. Fuller, copies of two letters sent to the non-signing inventor James F. Jones by Susan Fuller, copies of mailing receipts, and a copy of a returned envelope.

On 10 July 2006, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a) because factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort had not been provided.

On 31 July 2006, applicants filed the instant submission which was accompanied by a declaration of inventors signed by previously non-signing inventor James F. Jones.

DISCUSSION

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

The declaration of inventors filed 31 July 2006 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

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

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

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

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FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI OH 45202

MAILED

FEB 05 2010

OFFICE OF PETITIONS

In re Application of :
Bhima R. Vijayendran, et al. :
Application No. 10/546,744 : NOTICE
Filed: July 18, 2006 :
Attorney Docket No. 4897/0535448 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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KING & SPALDING
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036-4003

MAILED

JUL 17 2009

OFFICE OF PETITIONS

In re Application :
Bertino, et al. :
Application No. 10/546,750 : PATENT TERM ADJUSTMENT
Filed: November 4, 2005 :
Dkt. No.: 13566.105024 :

This is in response to the "PETITION FOR CORRECTION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1. 705(b)," filed May 2, 2009. Applicants submit that the Office has failed to accord the application adjustment pursuant to 37 CFR 1.702(b) and that the patent term adjustment indicated in the initial determination of adjustment of 299 days is incorrect. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, § 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

[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

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1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036-4003

In re Patent No. 7,576,188
Issued: August 18, 2009
Application No. 10/546,750
Filing or 371(c) Date: November 4, 2005
Dkt. No.: 13566.105024

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the "PETITION FOR CORRECTION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed September 21, 2009. Patentees request correction of the patent term adjustment from 299 days to 639 days. Patentees requested this correction on the sole basis that the Office took in excess of three years to issue the above-referenced patent. This matter is being properly treated under 37 CFR 1.705(d).

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. 7,576,188 on August 18, 2009. The patent issued with a patent term adjustment of 299 days. The instant application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(d). Patentees argue 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 is entitled to an adjustment of 639 days (301 days pursuant to 35 USC 154(b)(1)(A) *plus* 340 days pursuant to 35 USC 154(b)(1)(B) *less* zero overlapping days *less* two 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 August 18, 2009, the application was pending three years and 340 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 301 days pursuant to 37 CFR 1.702(a)(1) is correct. At issue is whether patentees should accrue 340 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 301 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 301 days of examination delay under 37 CFR 1.702(a)(1) overlaps with the period of 340 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).

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

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

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, September 12, 2005, and ending on the date that the patent issued, August 18, 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 301 days prior to the issuance of the restriction requirement on November 1, 2007. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), the application was pending three years and 340 days prior to the issuance of the patent on August 18, 2009.

The 301 days of examination delay under 37 CFR 1.702(a)(1) overlaps with the period of 340 days of delay in issuance of the patent under 37 CFR 1.702(b). Entry of both the 301 days and the 340 days is neither permitted nor warranted given that 340 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office should have considered the 340 days of Office delay under the three-year pendency provision in conjunction with the 301 days of examination delay, reduced two days for applicant delay, and entered 338 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 338 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.

No additional fee is due in connection with this matter.

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	:	7,576,188 B2
DATED	:	August 18, 2009
INVENTOR(S)	:	Bertino, 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 299 days

Delete the phrase "by 299 days" and insert – by 338 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 16 2010

OFFICE OF PETITIONS

KING & SPALDING
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036-4003

In re Patent No. 7,576,188
Issued: August 18, 2009
Application No. 10/546,750
Filed or 371(c) date: November 4, 2005
Dkt. No.: 13566.105024

: 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 13, 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 639 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**.

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 639 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 639 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 : 7,576,188 B2

DATED : **August 18, 2009** **DRAFT**

INVENTOR(S) : Bertino, 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 338 days

Delete the phrase "by 338 days" and insert – by 639 days--

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OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN VA 22102

In re Application of :

KAMPF, Marcus et al. :
Application No. 10/546,759 : DECISION ON PETITION
Filed: August 25, 2005 : TO WITHDRAW
Attorney Docket No. **449122083400** : FROM RECORD

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

The request is **APPROVED**.

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

The request was signed by Deborah S. Gladstein on behalf of all attorneys of record who are associated with customer No. 25227. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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.

J. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **MARCUS KAMPF**
SPONHOLZSTR. 12
BERLIN, 12159
GERMANY

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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/546,759	08/25/2005	Marcus Kampf	449122083400

CONFIRMATION NO. 2840

OC000000025209499

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 08/06/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/28/2007.

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

Michelle L. Soper

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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DARBY & DARBY P.C.
P.O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770

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JAN 05 2009

OFFICE OF PETITIONS

In re Application of :
Sadamu Ishidu et al :
Application No. 10/546,777 :
Filed: August 24, 2005 :
Attorney Docket No. 20239/0202967-US0

ON PETITION

This is a decision on the petition, filed December 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 3, 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 2822 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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

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William H Bollman
Manelli Denison & Selter
7th Floor
2000 M Street NW
Washington, DC 20036

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FEB 03 2009

OFFICE OF PETITIONS

In re Application of Evans :
Application No. 10/546,813 : Decision on Petition
Filing Date: August 24, 2005 :
Attorney Docket No. 20-715 :

This is a decision on the petition under 37 CFR 1.181 filed August 21, 2008, requesting the Office withdraw the holding of abandonment.

The petition is **granted.**

The Office mailed a non-final Office action on February 8, 2008. The Office action set a three-month shortened statutory period for reply. A Notice of Abandonment was mailed on August 18, 2008. The Notice of Abandonment states the application is abandoned because a reply was never received in response to the February 8, 2008 Office action.

Petitioner contends a reply and request for an extension of time were timely filed on August 6, 2008.

The original papers filed August 6, 2008, have been found and matched with the file and Office records indicate a payment of $525 was received for a three-month extension of time on August 6, 2008. Therefore, the application is clearly not abandoned.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 3749 will be informed of the instant decision and the application, including the papers filed August 6, 2008, will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR., SUITE 200
FALLS CHURCH VA 22042

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OFFICE OF PETITIONS

In re Application of
Reinders
Application No. 10/546,836
Filed: August 25, 2005
Attorney Docket No.: 05589.0018.PCUS00
For: EVAPORATIVE COOLER

ON PETITION

This is a decision on the petition, filed July 3, 2009, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the December 31, 2008 non-final Office action. No response being received and no proper extensions of time being obtained under the provisions of 37 CFR 1.136(a), this application became abandoned on April 1, 2009. The filing of the present petition precedes the mailing of a Notice of Abandonment.

Applicant has submitted an amendment in reply to the December 31, 2008 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the December 31, 2008 non-final Office action, and the $,1620.00 petition fee. All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1,110.00 extension of time submitted with the petition on July 3, 2009 was filed subsequent to the expiration of the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

After the mailing of this decision, the application will be returned to Technology Center AU 3744 for consideration of the amendment filed on July 3, 2009.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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17 NOV 2006

AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH FL 33402-3188

In re Application of	:	
LECLERQUE et al.	:	
Application No.: 10/546,849	:	DECISION
PCT No.: PCT/DE2004/000211	:	
Int. Filing Date: 09 February 2004	:	
Priority Date: 24 February 2003	:	
Attorney Docket No.: 9725-1	:	
For: NOVEL DOMINANT SELECTION MARKER FOR THE TRANSFORMATION OF FUNGI	:	

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 20 October 2006 in the United States Patent and Trademark Office (USPTO). The petition is **DISMISSED** without prejudice.

BACKGROUND

On 09 February 2004, applicants filed international application PCT/DE2004/000211, which designated the United States and claimed a priority date of 24 February 2003. A copy of the international application was communicated from the International Bureau to the USPTO on 10 September 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 24 August 2005.

On 24 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, a translation of the international application into English, and an assertion of small entity status.

On 20 April 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 were required.

On 20 October 2006, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a petition/fee for a four month extension of time, a declaration of inventors, 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.

Item (1) has been met.

Item (2) has not been met. MPEP § 409.03(d), item I 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, no statement of facts has been provided nor has any documentary evidence been provided.

Item (3) has not been met. Applicants have not provided a clear statement of the last known address of the non-signing inventor Hong Wan.

Item (4) has not been met. The declaration of inventors filed 20 October 2006 is not in compliance with 37 CFR 1.497(a)-(b) because it does not clearly identify the application which is being executed. The declaration identifies the application as application number 10/546,849 filed 24 August 2005 having the title "CANCER THERAPEUTIC COMPOSITIONS". However, the title for application number 10/546,849 filed 24 August 2005 is "NOVEL DOMINANT SELECTION MARKER FOR THE TRANSFORMATION OF FUNGI".

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

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

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

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

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	WAN, et al.	Confirmation No.:	4380
Application No.:	10/546,849	Examiner:	
Date Filed:	August 24, 2005	Group:	

For: NOVEL DOMINANT SELECTION MARKER FOR THE TRANSFORMATION OF FUNGI

RESPONSE TO DECISION ON PETITION
PURSUANT TO 37 C.F.R. §1.47

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

Attn: Daniel Stemmer
Office of PCT Legal Administration

Dear Sir:

This is in response to the Decision mailed November 17, 2006 (hereinafter "Decision"), dismissing the Petition Pursuant to 37 C.F.R. §1.47 which was filed with the US Patent Office on October 20, 2006 (hereinafter "Petition"). The Petition requested that the above-identified application be prosecuted in the name of only one of the inventors, Andreas LeClerque, as the co-inventor, Hong Wan, was not able to be located for signing the Declaration and Power of Attorney.

During the time period in which we were awaiting the Decision, our foreign associate was successful in locating Mrs. Wan and in obtaining her signature on a Declaration for Utility or Design Application Using an Application Data Sheet. The undersigned hereby withdraws the Petition Pursuant to 37 C.F.R. §1.47 and requests that the enclosed Declaration of Hong Wan be accepted by the US Patent Office. An executed Declaration of the co-inventor, Andreas LeClerque, was previously filed on October 20, 2006; however it was indicated that this Declaration did not clearly identify the subject application. A copy of the executed Declaration of Andreas LeClerque, clearly identifying the subject application is also enclosed.

As the time period for responding to the Decision expired on January 17, 2007, this Response is accompanied by a Petition for One Month Extension of Time, along with authorization to charge the required fee, as well as any underpayment in fees during the prosecution of this application, to Deposit Account No. 50-0951.

Please contact the undersigned if clarification on any of the above is needed. Thank you for your assistance in this matter.

Respectfully submitted,

AKERMAN SENTERFITT

Dated: 2/14/07

Stephan A. Pendorf
Registration No. 32,665
P.O. Box 3188
West Palm Beach, FL 33402-3188
Tel: 561-653-5000

22 JAN 2008

United States Patent and Trademark Office

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Banger Shia
204 Canyon Creek
Victoria, TX 77901

In re Application of	:	
Ding	:	
Application No.: 10/546,856	:	DECISION
PCT No.: PCT/CN2004/000143	:	
Int. Filing Date: 24 February 2004	:	ON
Earliest Priority Date: 25 February 2003	:	
Attorney Docket No.: 15842 B	:	PETITION
For: Totally Biodegradable Plastic Master Batch & Its Preparation	:	

This is in response to the petition to revive under 37 CFR 1.137(b) filed on 13 November 2007.

DISCUSSION

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

Regarding requirement (1), applicant has filed part of the required reply (in the form of an English translation of the international application, the surcharge under 37 CFR 1.492(h) and the processing fee under 37 CFR 1.492(i)). However, inspection of the declaration document accompanying the petition reveals that only the first page has been presented; the document neither nominates nor is executed by the inventor. Hence, the "required reply" requirement has not been satisfied.

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

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

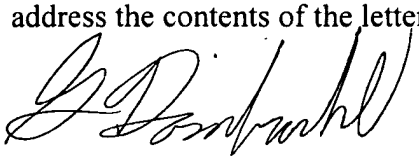
Regarding requirement (4), no terminal disclaimer is required.

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).

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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Dr. BANGER SHIA
102 Lindencrest Ct.
Sugar Land TX 77479-5201

In re Application of	:	
Ding	:	
Application No.: 10/546,856	:	DECISION
PCT No.: PCT/CN2004/000143	:	
Int. Filing Date: 24 February 2004	:	ON
Earliest Priority Date: 25 February 2003	:	
Attorney Docket No.: 15842 B	:	PETITION
For: Totally Biodegradable Plastic Master Batch & Its Preparation	:	

This is in response to the renewed petition to revive under 37 CFR 1.137(b) filed on 04 March 2008.

DISCUSSION

In a Decision mailed on 22 January 2008, the petition under 37 CFR 1.137(b) filed on 13 November 2007 was dismissed, without prejudice, because

> Regarding requirement (1), applicant has filed part of the required reply (in the form of an English translation of the international application, the surcharge under 37 CFR 1.492(h) and the processing fee under 37 CFR 1.492(i)). However, inspection of the declaration document accompanying the petition reveals that only the first page has been presented; the document neither nominates nor is executed by the inventor. Hence, the "required reply" requirement has not been satisfied.

In response, petitioner provides a partial copy of the 13 November 2007 Electronic Acknowledgement Receipt and indicates that the "single file" SW_971182-Decl-POA.pdf itemized thereon "evidences a two-page single PDF file submitted" which includes both "a Declaration" and "continuing on page 2 with the title 'Authorization of Agent'," and "being executed with Applicant's signature on the 2nd page of the submitted single file." Further inspection of the Electronic Acknowledgement Receipt reveals that it itemizes an "Oath or Declaration filed" with a "Start" and "End" page of 1, along with a "Power of Attorney" with a "Start" and "End" page of 2. That is, the 2-page PDF file is described as having been made up of two separate documents, an "Oath or Declaration" and a "Power of Attorney." There is no indication that these two documents were signed by the applicant as a combined document; rather, the evidence presented tends to show that two separate 1-page documents, a Declaration and a Power of Attorney, were combined into a single .pdf file for purposes of submission to the USPTO. *Petitioner has not adequately shown that the 1-page Declaration document and the 1-page Power of Attorney document were submitted to the inventor together for signature in such a way that the inventor's signature of the Power of Attorney also constitutes an execution of the Declaration.* Petitioner refers to a declaration submitted in another application to support the proposition that "a three-page combined form 'Declaration with Authorization of Agent'" was accepted (and therefore apparently that it is permissible to submit combined Declaration and Power of Attorney documents), but this point is not germane to the issue at hand. Rather, the instant declaration appears to be defective because a 1-page declaration page (neither naming nor signed by the inventor) appears to have been later added to a Power of Attorney signed by the

inventor, and combined into a single "multipart" .pdf file, without it being clear that the inventor actually signed the declaration document. It is noted that the pertinent Electronic Acknowledgement Receipt in the case cited by petitioner itemizes a three-page Oath or Declaration, as opposed to the "multipart" .pdf file shown in the instant case.

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).

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

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

2 5 AUG 2008
United States Patent and Trademark Office

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

Dr. BANGER SHIA
102 Lindencrest Ct.
Sugar Land TX 77479-5201

In re Application of	:	
Ding	:	
Application No.: 10/546,856	:	DECISION
PCT No.: PCT/CN2004/000143	:	
Int. Filing Date: 24 February 2004	:	ON
Earliest Priority Date: 25 February 2003	:	
Attorney Docket No.: 15842 B; SW-971182 (SW-100)	:	PETITION
For: Totally Biodegradable Plastic	:	
Master Batch & Its Preparation	:	

This is in response to the renewed petition to revive under 37 CFR 1.137(b) filed on 03 July 2008.

DISCUSSION

In a Decision mailed on 09 May 2008, the renewed petition under 37 CFR 1.137(b) filed on 04 March 2008 was dismissed, without prejudice, because the "required reply" requirement had not been satisfied to the extent that a declaration acceptable for purposes of compliance with 37 CFR 1.497(a) and (b) had not been filed.

In response, petitioner has submitted a newly executed declaration document. However, inspection of the document reveals that it nominates "SHAO-ZHONG DING" in place of "DING, Shaozhong" nominated in the published international application; petitioner has provided no explanation of this discrepancy (e.g., whether the same inventor is being named and whether the discrepancy represents a mere typographical error or alternative phonetic spelling).. In addition, the declaration includes an un-initialed alteration to its second page (the hand-written text). *See* MPEP 605.04(a). As such, it would not be appropriate to accept this declaration document at this time. Therefore, requirement (1) of 37 CFR 1.137(b) still has not been satisfied.

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).

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

/George Dombroske/
George Dombroske
PCT Legal Examiner
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Fax: (571) 273-0459

United States Patent and Trademark Office

18 NOV 2008

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Dr. BANGER SHIA
102 Lindencrest Ct.
Sugar Land TX 77479-5201

In re Application of	:	
Ding	:	
Application No.: 10/546,856	:	DECISION
PCT No.: PCT/CN2004/000143	:	
Int. Filing Date: 24 February 2004	:	ON
Earliest Priority Date: 25 February 2003	:	
Attorney Docket No.: 15842 B	:	PETITION
For: Totally Biodegradable Plastic Master Batch & Its Preparation	:	

This is in response to "Response to Petition Dismissed" filed on 22 September 2008, which is being treated as a renewed petition to revive under 37 CFR 1.137(b). The petition is hereby **GRANTED** as follows:

Petitioner has stated 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." Said 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. 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 Office of Patent Application Processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **22 September 2008**.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

0 8 SEP 2008

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

In re Application of	:	
WATANABE et al.	:	
Application No.: 10/546,863	:	DECISION
PCT No.: PCT/JP04/02983	:	
Int. Filing Date:08 March 2004	:	
Priority Date: 07 March 2003	:	
Attorney Docket No.: 277084US0PCT	:	
For: METHOD FOR ADHERING PLASTIC	:	

This is a decision on applicant's"Petition under 37 CFR 1.182", in effect, requesting acceptance of an English translation as a replacement for the English translation filed 25 August 2005 in the above identified application. A petition[1] is not required. The request to accept the English translation was filed in the United States Patent and Trademark Office (USPTO) on 10 July 2008. The $130 processing fee for filing the English translation after the thirty month period is required and has been charged to applicant's deposit account.

On 25 August 2005, applicant filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO 1390) along with, *inter alia*, the basic national fee and an English translation of the international application PCT/JP06/02983.

On 10 July 2008, applicant filed the instant request to accept an English translation for international application PCT/JP04/02983 as a replacement for the originally filed English translation. A correct English translation of the international application PCT/JP04/02983 was submitted. The new English translation of the international application filed on 10 July 2008 is accepted.

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

[1] The petition fee will be refunded to applicant's credit card.

27 FEB 2006

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

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

In re Application of:	:	
VANDERBEKEN, Bert, et al.	:	
U.S. Application No.: 10/546,864	:	DECISION ON PAPERS
PCT No.: PCT/EP2004/050053	:	SUBMITTED UNDER
International Filing Date: 29 January 2004	:	37 CFR 1.42
Priority Date: 27 February 2003	:	
Attorney's Docket No.: 016782-0325	:	
For: AN ELEVATOR ROPE	:	

This decision is issued in response to the 21 October 2005 submission of a declaration executed on behalf of deceased inventor Rene DEBUE by his legal representative Rita HOSTENS, treated herein as a submission under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 25 August 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 21 October 2005, applicants filed the declaration considered herein, accompanied by the $130 surcharge for filing the declaration later than thirty months after the priority date. As noted above, the declaration was executed on behalf of the deceased sole inventor by his legal representative.

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."

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 21 October 2005 identifies the deceased inventor and states the inventor's country of citizenship, as required for compliance with 37 CFR 1.497(a)(3). The declaration is signed by Rita HOSTENS as "legal representative" of the deceased inventor, states the relationship to the deceased (i.e., legal representative), 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).

Based on the above, 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 declaration filed on 21 October 2005 is accepted as complying with 37 CFR 1.497.

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

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

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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.
10/546,870	08/25/2005	Kiyoaki Takiguchi	274352US6PCT	6393

22850 7590 01/28/2008

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

EXAMINER	
DAGLAWI, AMAR A	

ART UNIT	PAPER NUMBER
2618	

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

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.
10/546,870	08/25/2005	Kiyoaki Takiguchi	274352US6PCT	6393

7590 01/28/2008

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

EXAMINER	
DAGLAWI, AMAR A	

ART UNIT	PAPER NUMBER
2618	

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

Adjustment date: 01/24/2008 [illegible]
[illegible] GTREY1 [illegible]
01 FC:1651 -200.00 OP
03 FC:1633 -400.00 OP
02 FC:1636
03 FC:1642 -400.00 OP
04 FC:1614 -200.00 OP
04 FC:1614 -200.00 OP

Notice of Abandonment	Application No.	Applicant(s)	
	10/546,870	TAKIGUCHI, KIYOAKI	
	Examiner	Art Unit	
	Daglawi, Amar	2618	

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

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
   (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
   (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
   (d) ☐ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
   (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
   (b) ☐ The submitted fee of $_____ is insufficient. A balance of $_____ is due.
   The issue fee required by 37 CFR 1.18 is $_____. The publication fee, if required by 37 CFR 1.18(d), is $_____.
   (c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
   (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ No corrected drawings have been received.

4. ☑ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☐ The reason(s) below:

/Rick Clemons/ ☐☐Administrative Assistant☐☐Art Unit: 3900

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BOURQUE & ASSOCIATES
INTELLECTUAL PROPERTY ATTORNEYS PA
835 HANOVER STREET
SUITE 301
MANCHESTER, NH 03104

COPY MAILED

NOV 19 2007

OFFICE OF PETITIONS

In re Application of :
Peter Winter-Moore :
Application No. 10/546,880 : DECISION ON PETITION
Filed: August 24, 2005 : TO WITHDRAW
Attorney Docket No. TILLBRK-002XX : 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 31, 2007.

The request is **NOT APPROVED**.

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

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

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

There is an outstanding Office action mailed September 18, 2007 that requires a reply from applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: PETER WINTER-MOORE
52 GLENDON WAY
DORRIDGE. WEST MIDLANDS B93 8SY GB
UNITED KINGDOM

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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INTELLECTUAL PROPERTY ATTORNEYS, PA
835 HANOVER STREET
SUITE 301
MANCHESTER, NH 03104

COPY MAILED

MAR 3 1 2008

OFFICE OF PETITIONS

In re Application of :
Peter Winter-Moore :
Application No. 10/546,880 : DECISION ON PETITION
Filed: October 5, 2005 : TO WITHDRAW
Attorney Docket No. TILLBRK-002XX : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed January 21, 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 Daniel J. Bourque, Esq. on behalf of all attorneys of record who are associated with customer No. 28452.

All attorneys/agents associated with the Customer Number 28452 have been withdrawn.

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

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

There is an outstanding Office action mailed September 18, 2007 that requires a reply from the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: PETER WINTER-MOORE
52 GLENDON WAY
DORRIDGE, WEST MIDLANDS B93 8SY GB
UNITED KINGDOM

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/546,880	10/05/2005	Peter Winter-Moore	TILLBRK-002XX

CONFIRMATION NO. 6655

POWER OF ATTORNEY NOTICE

28452
BOURQUE & ASSOCIATES
INTELLECTUAL PROPERTY ATTORNEYS, P.A.
835 HANOVER STREET
SUITE 301
MANCHESTER, NH 03104

Date Mailed: 03/24/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/21/2008.

- 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.

/amwise/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
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19 OCT 2007

David Jacobs
LUCASH, GESMER &
UPDEGROVE, LLP
40 BROAD ST
SUITE 300
BOSTON MA 02109

In re Application of	:	
WILLIAMS	:	DECISION ON REQUEST
U.S. Application No.: 10/546,897	:	FOR WITHDRAWAL AS
PCT No.: PCT/GB2004/000826	:	ATTORNEY OF RECORD
Int. Filing Date: 27 February 2004	:	
Priority Date: 28 February 2003	:	
Attorney Docket No.: UDL-103-US	:	
For: METHOD FOR PRODUCING	:	
NUCLEATION OF SOLID PHASE FROM	:	
A SUPERCOOLED LIQUID	:	

This decision is in response to the "Request For Withdrawal As Attorney Or Agent Of Record And Change Of Correspondence Address" (Form PCT/SB/83) filed 11 September 2007.

The criteria for effecting a proper withdrawal of attorney are set forth in Section 402.06 of the Manual of Patent Examining Procedure (M.P.E.P.) which reads, in part, as follows:

> In the event that a notice of withdrawal is filed by an attorney or agent of record, the file will be forwarded to the appropriate official for decision on the request. The **withdrawal is effective when approved** rather than when received.
>
> To expedite the handling of requests for permission to withdraw as attorney, under 37 CFR 1.36, Form PTO/SB/83 may be used. Because the Office does not recognize law firms, each attorney of record must sign the notice of withdrawal, or the notice of withdrawal must contain a clear indication of one attorney signing on behalf of himself or herself and another. ...
>
> The Director of the United States Patent and Trademark Office usually requires that there be at least 30 days between *approval* of the withdrawal and the latter of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a). This is so that the applicant will have sufficient time to obtain other representation or take other action.

Attorney David Jacobs has provided a clear indication that the request for withdrawal is being made on behalf of himself and Daniel Kim.

There is no pending Office communication in this application for which the time period for response will expire in the next 30 days.

Because all of the criteria delineated in Section 402.06 of the M.P.E.P. have been complied with, the request for withdrawal as attorney of record is appropriately **GRANTED**.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 271-3294
Fax: (571) 273-0459

22 JAN 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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THE LAW OFFICE OF RANDALL T. ERICKSON, P.C.
1749 S. NAPERVILLE ROAD
SUITE 202
WHEATON IL 60187

In re Application of	:	
FAUBEL et al.	:	
Application No.: 10/546,899	:	DECISION ON
PCT No.: PCT/EP2004/001761	:	
Int. Filing Date: 23 February 2004	:	PETITION
Priority Date: 26 February 2003	:	
Attorney Docket No.: 6580P0020US	:	
For: NOZZLE ASSEMBLY	:	

This decision is in response to the "PETITION TO RESCIND NOTIFICATION OF ABANDONMENT" filed 17 December 2007 in the United States Patent and Trademark Office (USPTO), which has properly been treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 23 February 2004, applicant filed international application PCT/EP2004/001761, which designated the U.S. and claimed a priority date of 26 February 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) 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 26 August 2005.

On 25 August 2005, applicant filed a Transmittal Letter (Form PTO-1390) for entry into the national stage under 35 U.S.C. 371 accompanied by, *inter alia*, the U.S. Basic National Fee.

On 08 May 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 a declaration of inventors in compliance with 37 CFR 1.497(a)-(b) was required. The NOTIFICATION OF MISSING REQUIREMENTS set a two-month extendable time period.

On 29 November 2007, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (PCT/DO/EO/909) indicating that the application was abandoned for failure to respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 08 May 2006 within the time period set therein.

On 17 December 2007, applicant filed the instant "PETITION TO RESCIND NOTIFICATION OF ABANDONMENT", which has properly been treated as a petition under 37 CFR 1.181.

DISCUSSION

The petition filed 17 December 2007 requests that the copy of the declaration accompanying the petition be accepted as having been received on 16 June 2006 pursuant to 37 CFR 1.8(b).

37 CFR 1.8(b) states

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed or decided with prejudice, or the prosecution of a reexamination proceeding is terminated pursuant to § 1.550(d) or § 1.957(b) or limited pursuant to § 1.957(c), or a requester paper is refused consideration pursuant to § 1.957(a), the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement that attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing, transmission or submission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement. If the correspondence was transmitted via the Office electronic filing system, a copy of an acknowledgment receipt generated by the Office electronic filing system confirming submission may be used to support this statement.

Items (1)-(3) have been satisfied. Therefore, the declaration received on 17 December 2007 may properly be accepted as originally received in the USPTO on 16 June 2006. Accordingly, the NOTIFICATION OF ABANDONMENT mailed 29 November 2007 is hereby VACATED.

The declaration of inventors filed 16 June 2006 is in compliance with 37 CFR 1.497(a)-(b).

DECISION

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

For the reasons set forth above, the NOTIFICATION OF ABANDONMENT mailed 29 November 2007 is hereby VACATED.

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

/Daniel Stemmer/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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KING & SPALDING LLP
1180 PEACHTREE STREET
ATLANTA, GA 30309-3521

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JUN 2 4 2008

OFFICE OF PETITIONS

In re Application of Ward :
Application No. 10/546,901 : Decision on Petition
Filing Date: August 19, 2005 :
Attorney Docket No. 12745.105001 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 14, 2008, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action including a requirement for restriction/election mailed June 28, 2007, which set a shortened statutory period for reply 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 Tuesday, July 31, 2007. A Notice of Abandonment was mailed March 3, 2008.

The instant petition requests revival of the application. Petitioner has submitted the required petition fee of $770. Petitioner has submitted a reply to the non-final Office action in the form of continuation application no. 12/005,497, filed December 27, 2007. 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.

Since this application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of Application No. 12/005,497.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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AUG 27 2007

OFFICE OF PETITIONS

Haynes and Boone, LLP
901 Main Street, Suite 3100
Dallas, TX 75202

In re Application of :

Mark Shuster et al. :
Application No. 10/546,903 : DECISION ON PETITION
Filed: May 15, 2006 : TO WITHDRAW
Attorney Docket No. 25791.236.05 : FROM RECORD
:

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

The request is **NOT APPROVED**.

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

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

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **King & Spalding, LLP**
Todd Mattingly
1100 Louisiana Street
Suite 4000
Houston, TX 77002

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/546,909	06/05/2006	Gerrit Gerritsen	16876-3	7934

52450 7590 04/15/2008

KRIEG DEVAULT LLP
ONE INDIANA SQUARE
SUITE 2800
INDIANAPOLIS, IN 46204-2079

EXAMINER	
JONES, DAVID B	
ART UNIT	**PAPER NUMBER**
3725	

MAIL DATE	DELIVERY MODE
04/15/2008	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.

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KRIEG DEVAULT LLP
ONE INDIANA SQUARE
SUITE 2800
INDIANAPOLIS IN 46204-2079

In re Application of:
Gerritsen, Gerrit et al
Serial No. 10/546,909
Filed: Aug. 24, 2005
Docket: 16876-3
Title: METHOD FOR CORRECTING A FOLDING OPERATION AND FOLDING PRESS

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition to withdraw the holding of abandonment filed on Apr. 4, 2008. The petition is being considered as a petition pursuant to 37 CFR 1.181(a). No fee is required. The petitioner requests a withdrawal of the holding of abandonment.

The petition is **GRANTED.**

The present application was held abandoned for failure to timely respond to the Non-Final Rejection mailed on Sep. 20, 2007 which set forth a three-month period for reply. Notice of abandonment was mailed on Mar. 24, 2008.

Petitioner asserts that a timely response to the Non-Final Rejection of Sep. 20, 2007 was mailed on Mar. 17, 2008. The petitioner has supplied a copy of the amendment with a certificate of mailing dated Mar. 17, 2008 as well as a copy of an acknowledgement post-card receipt indicating a receipt date of Mar. 19, 2008. There was a petition of three-month extension of time fee paid according to USPTO Palm system. Furthermore, there was a copy of the response scanned in the IFW file dated Mar. 19, 2008.

As the petitioner has provided convincing evidence that a timely reply to the Non-Final Office action was received on Mar. 19, 2008, there is no abandonment in fact. Any inconvenience or delay caused to applicant is regretted.

In view of the above, the Notice of Abandonment mailed Mar. 24, 2008 is in error and is hereby vacated. The holding of abandonment is withdrawn. This application is being forwarded to the examiner in Art Unit 3725 for appropriate action.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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11 MAY 2007

ROBERT F. DENNIS
386 DE SALLE TERRACE
FREMONT, CA 94536

In re Application of :
LOCHINGER, Alexander et al. :
Application No.: 10/546,934 :
PCT No.: PCT/US05/21821 :
Int. Filing Date: 21 June 2005 : DECISION
Priority Date: 21 June 2004 :
Attorney's Docket No.: TP-#3 :
For: Integrated Product Inventory and Dispensing System, :
And Personal Dental Care Unit Having Disposable :
Containers With State-Sensitive Elements :

This is a decision on applicants' second filing of National Stage application papers on 21 December 2006 for international application PCT/US05/21821 under 35 U.S.C. 371.

BACKGROUND

On 21 June 2005, applicants filed international application PCT/US05/21821, claiming a priority date of 21 June 2004. The thirty-month for paying the basic national fee in the United States expired at midnight on 21 December 2006.

On 25 August 2005, applicants filed a first transmittal letter for entry into the national stage in the United States, which was accompanied by a check for the basic national fee (small entity). These papers were assigned application number 10/546,934.

On 08 August 2006, after the check submitted on 25 August 2005 bounced, the Office mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the instant application has been abandoned because applicants have failed to provide the full basic national fee by 30 months from the earliest priority date.

On 21 December 2006, applicants filed a second transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee. These papers were stamped with serial number 11/630,713.

DISCUSSION

I. Merging of Application Files

The end result for an international application designating the United States of America is a single U.S. national stage application. As such, the papers filed on 21 December 2006 have been placed in application number 10/546,934.

Applicants should use application number **10/546,934** in all future communications with the United States Patent and Trademark Office in regards to the U.S. national stage of international application PCT/US05/21821.

II. Withdrawal of Holding of Abandonment

To avoid abandonment of an application, under 37 CFR 1.495(b), the applicant shall furnish to the United States Patent and Trademark Office not later than the expiration of thirty months from the priority date:

> (1) A copy of the international application, unless it has been previously communicated by the International Bureau or unless it was originally filed in the United States Patent and Trademark Office; and
>
> (2) The basic national fee

As to item (1), in the present case, the international application was filed with the United States Patent and Trademark Office.

With regard to item (2), applicants' second submission, on 21 December 2006, included a check for the basic national fee (small entity). Since, the basic national fee was submitted prior to the expiration of the thirty-month deadline (21 December 2006), the requirements of 37 CFR 1.495(b) have been satisfied. As such, because applicants fulfilled the requirements of 37 CFR 1.495(b) the Notification of Abandonment (Form PCT/DO/EO/909) issued on 08 August 2006 is vacated.

CONCLUSION

The Notification of Abandonment (Form PCT/DO/EO/909) issued on 08 August 2006 is **VACATED**.

The application papers filed 21 December 2006 have been placed in application number 10/546,934.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing in accordance with this decision.

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (571) 272-3288
Facsimile: (571) 273-0459

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

13 OCT 2005

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Edward J. Howard
Plevy, Howard & Darcy, P.C.
P.O. Box 226
Fort Washington, PA 19034

In re Application of
CINQUIN
Application No.: 10/546,937
PCT No.: PCT/FR04/50089
Int. Filing Date: 27 February 2004
Priority Date: 27 February 2003
Atty. Docket No.: BEAUMONT-22
For: KNEE DISTRACTOR

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 29 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 inventor is required.

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

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January 21, 2010

Patent No. : 7,635,369 B2
Appl. No. : 10/546,937
Inventor(s) : Philippe Cinquin, et al.
Issued : December 22, 2009
Title : **KNEE DISTRACTOR**
Docket No. : **0353/0585-US0**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

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

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

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

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

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

By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

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

Antonio Johnson
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571)272-0483

Leason Ellis LLP
81 Main Street
Suite 503
White Plains NY 10601

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Customer# 43214
EMPK & SHILOH, LLP
116 JOHN ST.
SUITE 1201
NEW YORK, NY 10038

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AUG 23 2007

OFFICE OF PETITIONS

In re Application of :
KRYGIER, Marcelo et al. :
Application No. 10/546,938 : DECISION ON PETITION
Filed: January 25, 2007 : TO WITHDRAW
Attorney Docket No. **EIG-P-5642-US1** : 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 05, 2007.

The request is **NOT APPROVED**.

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

The request to withdraw less than all attorneys appointed by customer number 43214 cannot be approved. The addition and/or deletion of a practitioner from the list of practitioners associated with a Customer Number should be made by submitting a "Request for Customer Number Data Change" (PTO/SB/124) which will result in the addition or deletion of such practitioner from the list of persons authorized to represent any applicant or assignee of the entire interest who appointed all of the practitioners associated with such Customer Number. See MPEP 403 Section I. Customer Number Practice.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Customer# 56639**
EMPK & SHILOH, LLP
116 JOHN ST,
SUITE 1201
NEW YORK, NY 10038

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116 JOHN ST.
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FEB 26 2008

OFFICE OF PETITIONS

In re Application of :
KRYGIER, Marcelo et al. :
Application No. 10/546,938 : DECISION ON PETITION
Filed: January 25, 2007 : TO WITHDRAW
Attorney Docket No. **EIG-P-5642-US1** : 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 08, 2008.

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

A review of the file record indicates that the power of attorney to Empk & Shiloh, LLP has been revoked by the assignee of the patent application on February 22, 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 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **SLATER & MATSIL, L.L.P.**
17950 PRESTON ROAD
SUITE 1000
DALLAS, TX 75252

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Paper No.

KRATZ, QUINTOS & HANSON, LLP
1420 K Street, N.W.
Suite 400
WASHINGTON DC 20005

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FEB 0 2 2009

OFFICE OF PETITIONS

In re Application of :
Yasuhiro Sakai : DECISION ON PETITION
Application No. 10/546,957 :
Filed: June 9, 2006 :
Attorney Docket No. 050408 :

This is in response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR §1.181, filed August 27, 2008.

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action mailed December 11, 2007. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered filed and no extension of time considered obtained, the application became abandoned. A courtesy Notice of Abandonment was mailed on July 31, 2008.

In response, applicants timely filed the instant petition. Applicants contend a response was timely filed with a three-month extension of time on June 11, 2008. In support thereof, applicants submit a copy of their return postcard and a copy of the response as originally filed.

Petitioner's evidence has been reviewed, and is persuasive. However, consideration of their evidence is unnecessary. Their response, including an extension of time, is present in the application with a date of receipt of June 11, 2008.

Further, the three-month extension of time, required to make the response timely, is of record with a date of June 11, 2008.

Accordingly, the Notice of Abandonment mailed July 31, 2008 and the holding of abandonment are hereby **WITHDRAWN**.

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

No fee is required on petition under § 1.181.

Technology Center AU 2834 has been advised of this decision. The application is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for consideration by the examiner of the response timely filed on June 11, 2008.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

13 SEP 2005

#3

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Daniel R. McClure
THOMAS, KAYDEN, HORSTEMEYER & RISLEY LLP
100 Galleria Parkway, N.W., Suite 1750
Atlanta, GA 30339-5948

In re Application of :
KRAEGELOH, Stefan *et al* :
Application No.: 10/549,965 :
PCT No.: PCT/EP03/12522 : **DECISION**
Int. Filing Date: 10 November 2003 :
Priority Date: 21 November 2002 :
Attorney Docket No.: 251918-1051 :
For: RECEIVER AND METHOD FOR :
OPERATING A RECEIVER :

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 18 August 2005 is hereby **GRANTED** as follows:

The basic national fee and petition fee have been paid. Applicants'state that "[t]he entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration has not been provided.

This application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that a declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee are required.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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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	:	
Vitaly Bardachenko	:	
Application No. 10/546,971	:	DECISION ON PETITION
Filed: August 26, 2005	:	TO WITHDRAW
Attorney Docket No. VLOC-005/00US 304556-2008	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 26, 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 Erik B. Milch on behalf of all attorneys of record who are associated with customer No. 22903.

All attorneys/agents associated with the Customer Number 22903 have been withdrawn.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

The application became abandoned for failure to timely file a reply to the outstanding Office action mailed December 13, 2007.

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

/April M. Wise/
April M. Wise
Petitions Examiner
Office of Petitions

cc: VITALY BARDACHENKO
3/1 UL ENTUZIASTOV, APT. 127
02154 KIEV, UKRAINE

cc: SOFT RESOURCES, LLC
1111 ROBINDALE DRIVE
GREAT FALLS, VA 22066

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/546,971	12/11/2006	Vitaly Bardachenko	VLOC-005/00US 304556-2008

CONFIRMATION NO. 1258

POWER OF ATTORNEY NOTICE

22903
COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
Suite 1100
777 - 6th Street, NW
WASHINGTON, DC 20001

Date Mailed: 10/20/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/26/2008.

- 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.

/amwise/

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

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11 APR 2007

ACCENTURE CHICAGO 28164
BRINKS HOFER GILSON & LIONE
P O BOX 10395
CHICAGO IL 60610

In re Application of MAGNER et al.	:
Application No.: 10/546,973	: DECISION ON
PCT No.: PCT/EP04/02066	:
Int. Filing: 1 March 2004	: PETITION
Priority Date: 28 February 2003	:
Attorney Docket No.:10022-751	:UNDER 37 CFR 1.47(a)
For: ACTIVITY BASED COSTING UNDER-WRITING TOOL	:

This is a decision on applicant's petition under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 12 September 2006, to accept the application without the signatures of joint inventors Laurie Mahoney and Steven I. Kauderer. Petitioner requests a three month extension of time, which is granted.

BACKGROUND

On 29 August 2005, applicant filed a transmittal letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee.

On 12 April 2006, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating *inter alia*, that an oath or declaration in accordance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period was required.

On 12 September 2006, applicant filed the instant petition along with a declaration, executed by the joint inventors on behalf of the nonsigning inventors. The petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4) requested the acceptance of the application without the signatures of inventors Laurie Mahoney and Steven I. Kauderer alleging that the non-signing inventors refused to sign and are unavailable.

DISCUSSION

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

Petitioner satisfied Item (1) with the authorization to charge the $200 petition fee to applicant's deposit account.

With respect to Item (2) above, Petitioner provided a statement of first- hand knowledge from Amir N. Penn, patent attorney. Mr. Penn states that he sent a letter to the non-signing inventors Laurie Mahoney and Steven I. Kauderer, including a copy of the patent application and declaration. This correspondence was delivered to Mr. Kauderer on 10 July 2006. Mr. Penn also communicated with Ms. Mahoney via Federal Express mailing on 21 July 2006. Neither inventor has responded to this correspondence. Mr. Penn states that he was unable to locate a telephone number and further contact the nonsigning inventors. The action taken by petitioner is sufficient to demonstrate that a *bona fide* attempt was made to present a copy of the application papers for U.S. application 10/546,973 (specification, including claims, drawings, and declaration) to the nonsigning inventors for their signatures and that Laurie Mahoney and Steven I. Kauderer, by their conduct, refuse to sign the application papers. Item (2) is satisfied.

Item (3) is satisfied with the submission of last known address of the non-signing inventors.

Item (4) is not satisfied with the submission of five page declaration with multiple page as, executed by the joint inventors on behalf of the non-signing inventor. It appears to be a composite declaration created from the combination of separately executed declarations. The declaration is not properly executed. It appears that either the attorney pieced together separate complete declarations into one composite declaration or that the inventors were presented with an incomplete declaration. While it is acceptable for applicants to execute separate copies of the declaration, the entire declaration, as executed by the inventor, must be submitted. "Where individual declarations are executed, they must be submitted as individual declaration rather than combined into one declaration." See MPEP 201.03. What is required is one declaration where all inventors have signed or separate complete declarations. The requirements of 37 CFR 1.497 (a) and (b) have not been met and the declaration is unacceptable as filed. Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a).

CONCLUSION

The petition under 37 CFR §1.47(a) is **DISMISSED WITHOUT PREJUDICE**.

Any reconsideration on the merits of the petition under 37 CFR §1.47(a) must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.47(a)." No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

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

Cynthia M. Kratz
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UNITED STATES PATENT AND TRADEMARK OFFICE

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09 JUL 2007

BRINKS HOFER GILSON & LIONE
NBC TOWER - SUITE 3600
455 N. CITYFRONT PLAZA DRIVE
CHICAGO, IL 60611-5599

In re Application of MAGNER et al.	:
Application No.: 10/546,973	: DECISION ON
PCT No.: PCT/EP04/02066	:
Int. Filing: 1 March 2004	: RENEWED PETITION
Priority Date: 28 February 2003	:
Attorney Docket No.:10022-751	:UNDER 37 CFR 1.47(a)
For: ACTIVITY BASED COSTING UNDER-WRITING TOOL	:

This is a decision on applicant's renewed petition under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 20 April 2007, to accept the application without the signature of joint inventors Laurie Mahoney and Steven I. Kauderer.

BACKGROUND

On 29 August 2005, applicant filed a transmittal letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee.

On 12 April 2006, a Notification of Missing Requirements (FORM PCT/DO/EO/905) was mailed to applicant indicating *inter alia*, that an oath or declaration in accordance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period was required.

On 12 September 2006, applicant filed the instant petition along with a declaration, executed by the joint inventors on behalf of the nonsigning inventors. The petition under 37 CFR 1.47(a) in an attempt to satisfy the requirements of 35 U.S.C. 371(c)(4) requested the acceptance of the application without the signatures of inventors Laurie Mahoney and Steven I. Kauderer alleging that the non-signing inventors refused to sign and are unavailable.

On 11 April 2007, a decision dismissing the petition was mailed indicating that the declarations, which accompanied the petition, were unacceptable.

DISCUSSION

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

Petitioner previously satisfied Items (1), (2) and Item (3). Item (4) is satisfied with the submission of four complete declarations, executed by the joint inventors on behalf of the non-

signing inventor. The declarations meet the requirements of 37 CFR 1.497 (a) and (b) and are acceptable as filed. Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a).

CONCLUSION

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

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(a) application using the declaration filed 20 April 2007. The application has an international filing date of 01 March 2004 under 35 U.S.C. 363, and a date of 20 April 2007 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

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UNITED STATES PATENT AND TRADEMARK OFFICE

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9 FEB 2006

Wenderoth, Lind & Ponack, L.L.P.
2033 K Street, NW
Suite 800
Washington, D.C. 20006-1021

In re Application of
MATSUSHIMA et al.
Application No.: 10/546,992
PCT No.: PCT/JP04/02235
Int. Filing Date: 25 February 2004
Priority Date: 28 February 2003
Attorney Docket No.: 2005-1276A
For: OCULAR HYPOTENSIVE AGENT

DECISION ON
REQUEST UNDER 37 CFR 1.42

This decision is issued in response to applicants' "Explanation of Signatures on Declaration and Power of Attorney" which is being treated as submission under 37 CFR 1.42 filed 21 November 2005. No petition fee is required.

BACKGROUND

On 25 February 2004, applicants filed international application PCT/JP04/02235, which claimed a priority date of 28 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, 28 August 2005.

On 26 August 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 preliminary amendment; and a copy of the international application.

On 21 November 2005, applicants filed an executed declaration/power of attorney. The declaration was executed by Kumiko Fujinaga as an applicant/inventor and Tomoko Nishikawa, Fukuyoshi Matsushima and Shizuko Matsushima as legal representatives.

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.

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.

The declaration filed 21 November 2005 is executed by Tomoko Nishikawa, Fukuyoshi Matsushima and Shizuko Matsushima as the "legal representatives" of Hiroaki Matsushima and provides their residence, post office address and country of citizenship. In addition, the declaration provides the residence, post office address and country of citizenship of the deceased inventor. The declaration is acceptable under 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b).

CONCLUSION

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

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

Anthony Smith
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02 MAR 2007

RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON DC 20036

In re Application of	:
MIKI HASEGAWA	:
Application No.: 10/547,003	: DECISION ON
PCT No.: PCT/JP04/02591	:
Int. Filing: 27 February 2004	: PETITION UNDER
Priority Date: 28 February 2003	:
Attorney Docket No.: SHO-0111	: 37 CFR 1.181
For: DIELECTRIC SHEET	:

This is a decision on applicant's "PETITION under 37 CFR 1.181" filed in the United States Patent and Trademark Office (USPTO) on 01 December 2006. No petition fee is required.

BACKGROUND

On 26 August 2005, applicant filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO 1390) along with, *inter alia*, the basic national fee.

On 12 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 07 November 2006, a Notification of Abandonment was mailed to the 12 December 2005, a Notification of Missing Requirements within the time period set therein. On 1 December 2006, applicant filed the instant petition indicating that he had filed a response to the 903 on 8 February 2006. Applicant included a copy of an itemized USPTO date-stamped postcard for 26 August 2005 indicating that an unexecuted oath or declaration and an English translation of the international application was filed on 26 August 2005.

DISCUSSION

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.

Applicant has stated that the present papers are a copy of the papers originally filed on 08 February 2006. However applicant has not provided a copy of the date-stamped itemized postcard receipt, identifying the application, the executed declaration and the filing date of 8 February 2006. The postcard provided is stamped "OIPE AUG 26 2005." The evidence is insufficient to establish that an executed oath or declaration identifying the international application was received in the USPTO on 8 February 2006 and that the itemized postcard receipt indicating a date of 08 February 2006 was mailed by the USPTO.

CONCLUSION

The petition under 37 CFR 1.181 is **DISMISSED WITHOUT PREJUDICE**.

The application remains **ABANDONED**.

Any reconsideration on the merits of this petition should be entitled "Renewed Petition under 37 CFR 1.181".

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UNITED STATES PATENT AND TRADEMARK OFFICE

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25 JUN 2007

RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON DC 20036

In re Application of	:
MIKI HASEGAWA	:
Application No.: 10/547,003	: DECISION ON
PCT No.: PCT/JP04/02591	:
Int. Filing: 27 February 2004	: RENEWED PETITION
Priority Date: 28 February 2003	:
Attorney Docket No.: SHO-0111	: UNDER 37 CFR 1.181
For: DIELECTRIC SHEET	:

This is a decision on applicant's "RENEWED PETITION under 37 CFR 1.181" filed in the United States Patent and Trademark Office (USPTO) on 01 December 2006. No petition fee is required.

BACKGROUND

On 12 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 07 November 2006, a Notification of Abandonment was mailed to the 12 December 2005, indicating that applicant had failed to respond to the Notification of Missing Requirements within the time period set therein.

On 1 December 2006, applicant filed a petition indicating that he had filed a response to the 903 on 8 February 2006. On 2 March 2007, a decision dismissing the petition was mailed indicating that applicant did not provide sufficient evidence to establish that an executed oath or declaration identifying the international application was received in the USPTO on 8 February 2006.

On 09 March 2007, applicant filed the instant renewed petition.

DISCUSSION

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.

Applicant has stated that the present papers are a copy of the papers originally filed on 08 February 2006 and has provided a copy of the date-stamped itemized postcard receipt, identifying the application, the executed declaration and the filing date of 8 February 2006. The postcard provided is stamped "OIPE FEB 08 2006." A review of the USPTO date-stamped, itemized postcard receipt indicates that a combined declaration and power of attorney were deposited with the USPTO on 08 February 2006 in response to the Notification of Missing Requirements.

The evidence submitted is sufficient to establish that a declaration for this application was, in fact, received in the USPTO on 08 February 2006. The communication filed 09 March 2007 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 08 February 2006. 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.

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED**. The Notification of Abandonment mailed on 07 November 2006 is hereby **VACATED**.

The copy of the declaration originally submitted on 08 February 2006 and resubmitted 09 March 2007 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 in accordance with this decision. The 35 U.S.C. 371(c)(1), (c)(2) & (c)(4) date is 08 February 2006.

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

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FEB 22 2010

In re Application of	:	
Satoru Komatsu, et al.	:	
Application No. 10/547,026	:	DECISION GRANTING PETITION
Filed: August 25, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 38716	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 19, 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 28, 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 3661 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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

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DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
New York, NY 10008-0770

Mail Date: 04/21/2010

Applicant	: Takashi Nakai	: DECISION ON REQUEST FOR
Patent Number	: 7585165	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/547,047	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/26/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1048** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

#6

31 JUL 2006

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20306
MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S Wacker Drive
32nd Floor
Chicago, IL 60606

In re Application of :
McEVOY *et al* :
U.S. Application No.: 10/547,065 :
PCT No.: PCT/IE04/00028 :
Int. Filing Date: 27 February 2004 :
Priority Date: 28 February 2003 :
Attorney Docket No.: 05-693 :
For: OPTICAL CO_2 AND COMBINED O_2/CO_2 SENSORS :

DECISION ON PAPERS FILED UNDER 37 CFR 1.42

This is a decision on the declaration originally filed on 06 February 2006 and then modified on 01 June 2006. These papers have been treated as a petition under 37 CFR 1.42. No fee is required.

BACKGROUND

On 12 December 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath/declaration in compliance with 37 CFR 1.497(a) and (b) must be provided. Applicants were given two months to respond.

On 06 February 2006, applicants submitted a declaration signed by three of the four named inventors and the legal representative of a deceased inventor.

On 01 June 2006, applicants submitted via facsimile another declaration signed by three of the four named inventors and the legal representative of the deceased inventor.

DISCUSSION

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

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

The declaration submitted on 06 February 2006 is not in compliance with 37 CFR 1.497(a) and (b). No information for the deceased inventor or his legal representative was recorded on the declaration as required.

In a telephone call with the undersigned, counsel explained that the last page of the declaration may have been mixed up with the assignment documents. As such, counsel resubmitted the declaration on 01 June 2006.

A review of the declaration filed 01 June 2006 shows that it is in compliance with 37 CFR 1.497(a) and (b). The citizenship, residence and address of all the joint inventors (including the deceased inventor) are listed on the declaration pursuant to 37 CFR 1.497(a)(3) and 37 CFR 1.63(c)(1). The citizenship, residence and address of the legal representative are recorded on the declaration pursuant to 37 CFR 1.497(b)(2).

CONCLUSION

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

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 28 February 2003, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 01 June 2006.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

19 MAY 2006

UNITED STATES PATENT and TRADEMARK OFFICE

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PHILIPS ELECTRONICS NORTH
Intellectual Property & Standards
P.O. Box 3001
Briarcliff Manor, NY 10510-8001

In re Application of	:	DECISION ON
TRAJKOVIC et al	:	
Application No.: 10/547,091	:	
PCT No.: PCT/IB2003/005377	:	
Int. Filing Date: 24 November 2003	:	PETITION UNDER
Priority Date: 04 December 2002	:	
Attorney's Docket No.: US020494US	:	
For: RECOMMENDING SHOWS BASED...	:	
SIMILAR VIEWING HABITS	:	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 26 August 2005.

BACKGROUND

On 24 November 2003, this international application was filed, claiming an earliest priority date of 04 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 04 June 2005. This international application became abandoned with respect to the United States at midnight on 04 June 2005 for failure to pay the required basic national fee.

On 29 August 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. An improper composite executed declaration was submitted at such time.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay

in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

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

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

Applicants have not provided a properly executed declaration. The declaration is defective since it does not comply with 37 CFR 1.497(a)(3). A Declaration, under 37 CFR 1.497(a)(3) must identify each inventor. See MPEP § 602. In this instance, applicants submitted a composite declaration comprising of two sets of declarations. Each declaration must be complete and contain the names all inventors on it and not as here in which the first page of the second set of the declaration is missing. Therefore the composite Declaration is defective.

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
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24500 CENTER RIDGE ROAD, SUITE 280
CLEVELAND, OH 44145

Mail Date: 04/21/2010

Applicant	: Qiu Feng	: DECISION ON REQUEST FOR
Patent Number	: 7618541	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/547,097	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/30/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

12 FEB 2008

Jordan and Hamburg, LLP
122 East 42nd Street
Suite 4000
New York NY 10168

In re Application of :
HAHN, et al. :
Application No.: 10/547,107 : DECISION ON PETITION
PCT No.: PCT/KR04/00380 :
Int. Filing Date: 24 February 2004 : UNDER 37 CFR 1.10(c)
Priority Date: 27 February 2003 :
Atty. Docket No.: F-8793 :
For: METHOD OF SELLING COMMODITIES AND :
SHARING SALES PROFITS USING INTERNET :

This is a decision on applicant's correspondence filed 27 March 2007 in the United States Patent and Trademark Office (USPTO) seeking a new official filing receipt and Notice of Acceptance (Form PCT/DO/EO/903). The request is being treated as a petition under 37 CFR 1.10. No petition fee is required.

BACKGROUND

On 23 February 2004, applicant filed international application PCT/KR04/00380 which claimed priority to an earlier Korean application filed 27 February 2003. A copy of the International Application was forwarded to the United States Patent and Trademark Office (USPTO) from the International Bureau (IB) on 10 September 2004. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 27 August 2005.

On 26 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) and an English translation of the international application.

On 10 May 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 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 response.

Applicant subsequently filed an executed combined declaration and power of attorney.

On 16 March 2007, applicant was mailed a "Notification of Acceptance" (Form

PCT/DO/EO/903) indicating a 371 date of 10 November 2006.

On 27 March 2007, applicant filed the present petition and request for corrected filing receipt indicating that the papers at issue, satisfying the 35 U.S.C. 371 requirements, were filed 09 November 2006.

DISCUSSION

37 CFR 1.10(c) states: Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

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

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

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

Applicant has satisfied all three items above. In addition, a review of the USPS track and confirm website shows a date of acceptance by the USPS of "New York, NY 10150 11/09/06 8:03pm." Therefore, it is proper to grant applicant's petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.10 is **GRANTED**.

The application will be given an international filing date of 24 February 2004 under 35 U.S.C. 363 and a date of **09 November 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) mailed 16 March 2007 indicating a date of 10 November 2006 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision, namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) and corrected filing receipt indicating the correct 371 date as detailed above.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 04/20/2010

Applicant	: Sheila Ragbir	: DECISION ON REQUEST FOR
Patent Number	: 7588602	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/547,126	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/26/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **186** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Hanley, Flight & Zimmerman, LLC
150 S. Wacker Drive
Suite 2100
Chicago IL 60606

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JUN 15 2009

OFFICE OF PETITIONS

In re Application of :
YEO et al. :
Application No. 10/547,140 : DECISION ON PETITION
Filed: 08/24/2005 :
Attorney Docket No. 20002/21464 :

This is a decision on the petition under 37 CFR 1.181 (no fee), filed January 22, 2009, 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 nonfinal Office action mailed April 24, 2008, which set a three (3) month shortened statutory period for reply. In the absence of a timely filed reply, the application became abandoned on July 25, 2008. On January 22, 2009, the Office mailed a Notice of Abandonment.

Petitioner asserts that the nonfinal Office action dated mailed April 24, 2008, was not received at the correspondence address of record.

A review of the written record indicates no irregularity in the mailing of the nonfinal 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.

As stated in Section 711.03(c)(I)(A) of the Manual for Patent Examining Procedure:

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to

withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. The practitioner submitted a copy of the master docket for the firm where the nonfinal Office action would have been entered had it been received and docketed. The practitioner stated the nonfinal Office action would have been entered in this docketing system had it been received and docketed. The practitioner attested to the fact that a search of the records indicated that the nonfinal Office action was not received at the correspondence address of record. Accordingly, petitioner presented the required showing under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**. The holding of abandonment is hereby withdrawn. As no petition fee is required, the Office will refund the $130.00 fee submitted with the petition. Additionally, pursuant to 37 CFR 1.136, a request for an extension of time must be filed before the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, the $1,110.00 extension of time fee will be refunded.

The matter is being referred to the Technology Center 2168 for appropriate action on the reply with this petition.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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DAY PITNEY LLP
7 TIMES SQUARE
NEW YORK NY 10036-7311

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OFFICE OF PETITIONS

In re Application of
Steingrimur Th Blondal et al
Application No.10/547,146
Filed: August 24, 2005
Attorney Docket No. 502424.114140

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 12, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and response; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed June 30, 2008, is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on January 12, 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) 272-3208.

This application is being referred to Technology Center AU 2833 for appropriate action by the Examiner in the normal course of business on the reply received January 12, 2009.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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DICKINSON WRIGHT, PLLC
1875 EYE STREET, NW
SUITE 1200
WASHINGTON, DC 20006

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JUN 29 2010

OFFICE OF PETITIONS

In re Application of	:	
Hecker et al.	:	DECISION ON PETITION
Application No. 10/547,152	:	TO WITHDRAW
Filed: October 24, 2006	:	FROM RECORD
Attorney Docket No. 2002P18709 (NSN)	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 27, 2010.

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

A review of the file record indicates that on June 4, 2010 the power of attorney to Dickinson Wright, PLLC was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

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

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09 AUG 2006

PERKINS COIE LLP
P.O. BOX 1247
SEATTLE, WASHINGTON 98111-1247

In re Application of: KAMIENIECKI	:	
Application No.: 10/547,153	:	
PCT Application No.: PCT/US03/40069	:	DECISION ON
Int. Filing Date: 15 December 2003	:	PETITION UNDER
Priority Date Claimed: 13 December 2002	:	37 CFR 1.137(b)
Attorney Docket No.: 427008001WO00	:	
For: Apparatus and Method for Electrical Characterization of Semi-Conductors	:	

This decision is a response to Applicant's "Petition to Revive Abandoned Application Under 37 CFR 1.137(b)", which was filed on 25 August 2005.

BACKGROUND

On 15 December 2003, Applicant filed international application PCT/US03/40069. The international application claims a priority date of 13 December 2002 and designates the United States. Under 35 U.S.C. 371 and 37 CFR 1.495, the thirty-month period for commencement of the national stage in the United States, and paying the required basic national fee expired at midnight on 13 June 2005.

On 25 August 2005, Applicant filed the instant petition to revive accompanied by, *inter alia*, the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and petition fee. Additionally, a copy of the published international application, and signed documents for requesting commencement of the U.S. national stage application, were also submitted.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) the required reply, (2) the petition as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Applicant has provided a statement that "the entire delay in filing the required papers and fees for the commencement of the national stage of this application until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and, hence, has satisfied the requirements of 37 CFR 1.137(b)(3). The submission of the basic national fee ($150 for a small entity) and the payment of the petition fee ($750 for a small entity) satisfies the requirement under 37 CFR 1.137(b). A terminal disclaimer is not required because the application was filed on or after 08 June 1995. Therefore, the requirements for a grantable petition under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

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

The application is being forwarded to the National Stage Processing Division 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) and (b), and the surcharge for filing the oath or declaration after the thirty month period, is required.

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

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

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OFFICE OF PETITIONS

HARNESS, DICKEY & PIERCE, PLC
P.O. BOX 8910
RESTON, VA 20195

In re Application of :
Ayal Pinkus, et al. :
Application No. 10/547,158 : DECISION ON PETITION
Filed: August 25, 2005 :
Attorney Docket No. 164/US/20 :

This is a decision on the petition, filed July 8, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed December 10, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on July 6, 2009.

Petitioner asserts that the Office action dated December 10, 2008 was not received.

A review of the written record indicates an irregularity in the mailing of the Office action of December 10, 2008. In this regard, the Office received a Revocation and Power of Attorney on December 4, 2008, prior to the mailing of the Office action of December 10, 2008. Office records were not updated to reflect this new change of address. Accordingly, as the Office action was mailed to an incorrect address, the Notice of Abandonment mailed July 6, 2009 is hereby **vacated** and the holding of abandonment **withdrawn**.

This application is being referred to the Technology Center technical support staff of Art Unit 3663 for re-mailing the Office action of December 10, 2008 and resetting the period for reply.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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SPRINKLE IP LAW GROUP
1301 W. 25TH STREET
SUITE 408
AUSTIN, TX 78705

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OFFICE OF PETITIONS

In re Application of :
Peter Corner, et al. :
Application No. 10/547,159 : DECISION ON PETITION
Filed: August 25, 2005 : TO WITHDRAW
Attorney Docket No. CASA1100 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed August 12, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Sprinkle IP Law Group does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

Further the request cannot be approved because the petitioner has not made all the necessary certifications as required by Manual Patent Examination Procedure (MPEP) 402.06 effective May 12, 2008.

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 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: MEYERTONS, HOOD KIVLIN, KOWERT & GOETZEL
THE CHASE BUILDING
700 LAVACA STREET
SUITE 800
AUSTIN, TX 78701

02 MAY 2006

#2

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Glenn E. Von Tersch
Perkins Coie LLP
P.O. Box 2168
Menlo Park, CA 94026

In re Application of:	:	
FANNING, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/547,171 (10/547,170)	:	
PCT No.: PCT/US04/05517	:	UNDER 37 CFR 1.10(e)
International Filing Date: 24 February 2004	:	
Priority Date: 25 February 2003	:	
Attorney's Docket No.: 40121-8001.US02	:	
For: CONTENT REGULATION	:	

This decision is in response to applicant's "Petition For Filing Date Under 37 C.F.R. § 1.10" filed 18 April 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 24 February 2004, applicant filed international application PCT/US04/05517 which claimed priority to an earlier application filed 25 February 2003. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 25 August 2005.

On 25 August 2005, applicant filed two separate applications each including 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 unsigned combined declaration and power of attorney and a preliminary amendment. The preliminary amendments were not identical.

On 18 April 2006, applicant filed the present petition.

DISCUSSION

As discussed above, a review of USPTO records finds that applicant has filed two separate applications for entry into the national stage in the United States for international application PCT/US04/05517. The copies submitted on 18 April 2006 as part of the subject petition under 37 CFR 1.10 match those assigned serial number 10/547,170. Since the original papers have been located and are undergoing pre-exam processing there is no need to consider the present petition under 37 CFR 1.10 and it is dismissed as moot.

Applicant is advised that there can only be one U.S. national stage application for a given PCT international application. Thus, the filing of two national stage applications is improper.

The USPTO has established this application (10/547,171) as the U.S. national stage entry of PCT/US04/05517. Applicant must either a) advise the USPTO that it would like the files merged by providing the USPTO with instructions as to which of the two preliminary amendments to process for the national stage entry or b) file a petition under 37 CFR 1.182 to convert one of the national stage applications filed 25 August 2005 to an application under 35 U.S.C. 111.

CONCLUSION

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

Applicant is afforded **TWO (2) MONTHS** from the mail date of this decision to provide a proper response as detailed above. Failure to file a timely response will result in the abandonment of the application.

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

Derek A. Putonen
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Office of PCT Legal Administration
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19 MAY 2006

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KOHLER SCHMID MOEBUS
RUPPMANNSTRASSE 27
D-70565 STUTTGART DE GERMANY

In re Application of	:	DECISION ON
HAMPEL, Hermann	:	
Application No.: 10/547,181	:	
PCT No.: PCT/EP2004/001315	:	
Int. Filing Date: 12 February 2004	:	PETITION UNDER
Priority Date: 12 February 2003	:	
Attorney's Docket No.: U201US(PCT)	:	
For: MEASURING SYSTEM COMPRISING...	:	
AND METHODS THEREFOR	:	37 CFR 1.137(b)

This decision is in response to applicant's "PETITION UNDER 37 C.F.R. 1.137(b)," filed on 29 August 2005. The $750.00 petition has been charged to Deposit Account Number 11-1447.

BACKGROUND

On 12 February 2004, this international application was filed, claiming an earliest priority date of 12 February 2003.

The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 12 August 2005. This international application became abandoned with respect to the United States at midnight on 12 August 2005 for failure to pay the required basic national fee.

On 29 August 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. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **29 August 2005.**

Rafael Bacares
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PCT Legal Office
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Facsimile: (571) 273-0459

23 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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CAESAR, RIVISE, BERNSTEIN, COHEN & POKOTILOW, LTD.
11th Floor, Seven Penn Center
1635 Market Street
Philadelphia, PA 19103-2212

In re Application of :
LUFFMAN, Charles, Raymond :
U.S. Application No.: 10/547,205 :
PCT No.: PCT/GB2004/000742 :
Int. Filing Date: 24 February 2004 :
Priority Date: 24 February 2003 :
Attorney Docket No.: S1011/20187 :
For: AIRCRAFT :

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

Applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed on 26 August 2005 is hereby **GRANTED** as follows:

The basic national fee and petition fee for a small entity have been paid. Applicant's statement is sufficient to meet the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

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) and a surcharge fee is required.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

23 MAY 2006

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1635 Market Street
Philadelphia, PA 19103-2212

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CAESAR, RIVISE, BERNSTEIN
COHEN & POKOTILOW, LTD

In re Application of
LUFFMAN, Charles, Raymond
U.S. Application No.: 10/547,205
PCT No.: PCT/GB2004/000742
Int. Filing Date: 24 February 2004
Priority Date: 24 February 2003
Attorney Docket No.: S1011/20187
For: AIRCRAFT

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

Applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed on 26 August 2005 is hereby **GRANTED** as follows:

The basic national fee and petition fee for a small entity have been paid. Applicant's statement is sufficient to meet the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

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) and a surcharge fee is required.

James Thomson
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Office of PCT Legal Administration

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24 APR 2008

22918
PERKINS COIE LLP
P.O. Box 2168
Menlo Park, CA 94026

In re Application of :
LEE *et al* :
U.S. Application No.: 10/547,225 :
PCT No.: PCT/KR2004/000223 :
Int. Filing Date: 06 February 2004 :
Priority Date: 28 February 2003 :
Attorney Docket No.: 58877-8001.US01 : **DECISION**
For: ZIRCONIUM ALLOY NUCLEAR FUEL CLADDING TUBE HAVING EXCELLENT CORROSION RESISTANCE AND PROCESS FOR THE MANUFACTURE OF THE CLADDING TUBE. :

This decision is in response to the "Petition Under 37 CFR 1.182" filed 17 April 2008.

BACKGROUND

On 26 August 2005, applicants filed a national stage application listing the international application number on the transmittal letter as PCT/KR2004/0002234. A declaration was also submitted listing the PCT as PCT/KR2004/000223.

On 10 May 2006, a Notification of Acceptance of Application Under 35 U.S.C. 371 and 1.495 (Form PCT/DO/EO/903) and filing receipt were mailed. The international application was denoted as PCT/KR2004/0002234.

On 03 July 2006, a request for a corrected filing receipt was mailed.

On 17 April 2008, applicants filed a petition to change the underlying PCT application in the above-identified national stage application.

DISCUSSION

In the papers filed 17 April 2008, applicants petition to correct the PCT number to PCT/KR2004/000223. Applicants state that the transmittal letter had a typographical error incorrectly identified the underlying PCT application as PCT/KR2004/0002234, rather than PCT/KR2004/000223. Despite this error, petitioners argue that the national

phase application as filed is sufficient to identify the correct international application number.

This request is treated as a petition under 37 CFR 1.182. The $400.00 petition fee has been charged to Deposit Account No. 50-2207 as authorized.

A review of the above-captioned application file verifies that the wrong U.S. application number, PCT/KR2004/0002234, was designated on the transmittal letter filed 26 August 2006. Nonetheless, all other indications on the transmittal letter including the name of the first inventor, the title, and the international filing date correspond to PCT/KR2004/000223. Moreover, the declaration submitted on 26 August 2005 lists PCT/KR2004/000223 as the international application and is signed by the inventors of PCT/KR2004/000223.

As such, it is clear that the subject application was intended to be filed as the national stage of PCT/KR2004/000223. This is sufficient for a grantable petition.

CONCLUSION

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

The subject application is the national stage of PCT/KR2004/000223. All Office records will be updated to reflect this change.

The Form PCT/DO/EO/903 and filing receipt mailed 10 May 2006 both contain erroneous PCT information and are hereby **VACATED**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for the issuance of a corrected Notification of Acceptance of Application Under 35 U.S.C. 371 and 1.495 (Form PCT/DO/EO/903) and filing receipt.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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PERKINS COIE LLP
P.O. BOX 1208
SEATTLE WA 98111-1208

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JUN 17 2009

OFFICE OF PETITIONS

In re Application of
Lee, et al.
Application No. 10/547,225
Filed: August 26, 2005
Attorney Docket No. 58877-8001.US01

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed August 12, 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 timely manner to the Restriction Requirement, mailed November 28, 2007, which set forth an extendable one (1) month period for reply. The Office contended that this application became abandoned on December 29, 2007 for failure to reply. A Notice of Abandonment was mailed on July 9, 2008.

On August 26, 2005, applicants submitted a Transmittal of a PCT International Application Entering the National Stage in the U.S. as a Designated or Elected Office under 36 U.S.C. 371, which incorrectly listed PCT/KR2004/0002234. This is not a valid PCT Application number. It is noted that the correct application (PCT/KR2004/000223) was listed on other documents filed on August 26, 2005. On December 3, 2007, the Office mailed a Restriction Requirement regarding the incorrect PCT application. On April 17, 2008, Applicants petitioned under 37 CFR 1.182 to correct the priority to PCT/KR2004/000223. This petition was granted on April 24, 2008. On May 1, 2008, the Office mailed a Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495 correcting the priority information to claim priority to PCT/KR2004/000223.

Petitioners request withdrawal of the holding of abandonment based on the assertion that petitioners believed a reply to the November 28, 2007 Restriction Requirement was not required because the Restriction Requirement was not relevant to the pending application due to the subsequent correction of the underlying national stage application.

Petitioners are informed that in order to avoid abandonment, applicants must respond to an Office action within the time period set for reply even if applicants believe the Office action is

meritless/mailed in error/moot. The Office action in question was never withdrawn. Fortunately, petitioners' April 17, 2008 petition can be and will be construed as a reply to the November 28, 2007 Restriction Requirement. In order for the April 17, 2008 petition to be a timely filed reply to the November 28, 2007 Restriction Requirement, a four month extension of time is required. A general authorization to charge required fees was filed on August 26, 2005. Therefore, deposit account no. 50-2207 will be charged a $795.00 small entity 4 month extension of time fee, which is the fee that should have been charged on mailroom date April 27, 2008.

The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the July 9, 2008 Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

Accordingly, the application file will be forwarded to Technology Center A.U. 3643 for consideration of the IDS filed on August 20, 2008 and the IDS filed on February 11, 2009.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/2/09

Paper No.: _____

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 10547232 Patent No.: 7468376

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Valerie Jackson
Certificates of Correction Branch
703-308-9390 ext. 114

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

_____ 1625
SPE **Art Unit**

19 JUN 2007

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Robert D. Traver
Sheridan Ross, PC
1560 Broadway
Suite 1200
Denver, CO 80202

In re Application of :
NAKATANI, et al. :
Application No.: 10/547,234 : DECISION ON PETITION
PCT No.: PCT/JP04/02314 :
Int. Filing Date: 26 February 2004 : UNDER 37 CFR 1.10(e)
Priority Date: 28 February 2003 :
Atty. Docket No.: 5426JS-2 :
For: INHIBITOR :

This is a decision on applicant's "Petition Under 37 CFR 1.182" filed 07 November 2005 in the United States Patent and Trademark Office (USPTO). The petition is being treated as a petition under 37 CFR 1.10(e) to reconstruct lost papers filed using Express Mail from the United States Postal Service. No petition fee is required. The $130.00 paid will be credited to deposit account number 19-1970.

BACKGROUND

On 26 February 2004, applicant filed international application PCT/JP04/02314, which claimed priority of an earlier application filed 28 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. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 28 August 2005.

On 26 August 2005, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by payment of the U.S. basic national fee and an English translation of the international application.

On 07 November 2005, applicant filed the present petition under 37 CFR 1.10(e).

DISCUSSION

A review of the application file finds applicant's original filing contained therein. As such, it is not necessary to consider the petition under 37 CFR 1.10(e) to accept the copies presently filed as having been filed on 26 August 2005. In addition, a review of the application file finds that a "Notice of Acceptance" (Form PCT/DO/EO/903) was mailed to applicant on 06 November 2006. As such, all of the 35 U.S.C. 371 requirements have been met.

CONCLUSION

Applicant's petition under 37 CFR 1.10(e) is **DISMISSED as moot**.

This application is being forwarded to the U.S. National stage processing division for continued processing and forwarding to the appropriate group art unit for examination.

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

Repln. Ref: 06/19/2007 SBASHEIR 0009112600
DA#:191970 Name/Number:10547234
FC: 9204 $130.00 CR

29 FEB 2008

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United States Patent and Trademark Office
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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

In re Application of	:	
TACHAS et al.	:	
Application No.: 10/547,239	:	
PCT No.: PCT/US2004/005896	:	DECISION
Int. Filing Date: 27 February 2004	:	
Priority Date: 28 February 2003	:	
Attorney's Docket No.: 23546-10686	:	
For: MODULATION OF GROWTH HORMONE RECEPTOR EXPRESSION AND INSULIN-LIKE GROWTH FACTOR EXPRESSION	:	

This decision is in response to applicant's "REQUEST FOR CORRECTED FILING RECEIPT" filed 10 August 2006.

BACKGROUND

On 27 February 2004, applicant filed international application PCT/US2004/005896, which designated the United States and claimed a priority date of 28 February 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 16 September 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 29 August 2005 (28 August 2005 being a Sunday).

On 25 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, a declaration of inventors, and a preliminary amendment.

On 04 May 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 25 August 2005.

On 10 August 2006, applicant submitted the instant "REQUEST FOR CORRECTED FILING RECEIPT" requesting that U.S. application number 10/789,526 filed 26 February 2004 (the '526 application) be added to the "Domestic Priority data" section of the Filing Receipt.

DISCUSSION

In order for an application to claim the benefit of a prior-filed copending non-provisional application, the application must contain or be amended to contain a reference to each such prior-filed application indicating the relationship (i.e., continuation, divisional, or continuation-in-part) of the applications. 37 CFR 1.78(a)(2)(i). Here, the preliminary amendment filed 25 August 2005 states that the international application "claims the benefit of" the '526 application but fails to indicate the relationship between the applications.

Applicant is entitled to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the '526 application for the common subject matter, since this application and the instant application are copending. However, this reference must be submitted within the later of four months from the actual filing date of this application or sixteen months from the filing date of the '526 application. 37 CFR 1.78(a)(2)(ii). Applicant may file a petition to accept an unintentionally delayed claim under 37 CFR 1.78(a)(3) for the benefit of the '526 application.

CONCLUSION

For the reasons set forth above, applicants' request for a corrected filing receipt is **REFUSED**.

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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JJGJR.: 09-07

Paper No: __

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OFFICE OF PETITIONS

PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK CA 94026

In re Application of :
Edvell :
Application No.: 10/547,242 :
Filing Date: 25 August, 2005 :
Attorney Docket No. 59662-8003.US01 :

DECISION

This is a decision on the petition, filed on 18 May, 2007, to withdraw the holding of abandonment and considered under 37 C.F.R. §1.181 (notably, while the IFW date is 18 May, the date stamp on the papers in IFW sets forth a date of "May 17 2007").

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

For the reasons set forth below the petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 21

[1] **NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.**

September, 2006, with reply due absent an extension of time on or before 21 December, 2006;

- the application went abandoned by operation of law after midnight 21 December, 2006;
- the Office mailed the Notice of Abandonment on 4 April, 2007;
- on 18 May, 2007, Petitioner filed the instant petition, and averred therein, *inter alia*, timely reply in the form of an amendment (over a 21 March, 2007, certificate of mailing) filed on 26 March, 2007, along with a request and fee for extensions of time, and submits copies of date-stamped receipt cards (see: MPEP §503[2]) and of the averred reply in support of the statement.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) can inform an applicant/practitioner as to events/transactions in an application.

---

[2] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper.a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

---

[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[5]

Delays in responding properly raise the question whether delays are unavoidable.[6] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[7]

And the Petitioner must be diligent in attending to the matter.[8] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[9]))

---

[4] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[5] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[6] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[7] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[8] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[9] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[10]

The commentary at MPEP §711.03(c) provides:

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512.

---

[10] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

> 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.
>
> * * *

Moreover, the regulation places upon Petitioner a diligence requirement to seek relief within two (2) months of the act complained of.

It appears Petitioner has satisfied the showings required herein.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted**, and the 4 April, 2007, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center 2800 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[11]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[11] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

31 MAR 2008

Donald R. Fraser
Law Offices of Fraser Martin & Miller LLC
28366 Kensington Lane
Perrysburg, OH 43551-4163

In re Application of:	:	
HAYWARD et al.	:	DECISION
Application No.: 10/547,261	:	
PCT Application No.: PCT/US05/028208	:	
Int. Filing Date: 09 August 2005	:	UNDER
Priority Date: 11 August 2004	:	
Atty Docket No.: 1-36903	:	
For: METHOD FOR TREATING EXTREMELY SMALL	:	37 CFR § 1.181
PARTICLES OF POLETHYLENE TEREPHTHALATE	:	

Applicants' "REQUEST FOR CORRECTED FILING RECEIPT AND PUBLICATION" which was received on 28 January 2008 is being treated as a petition under 37 CFR 1.181 requesting for a corrected filing receipt. No petition fee is required.

BACKGROUND

On 09 August 2005, applicant filed international application PCT/US05/028208, which claimed priority to a U.S. application filed on 11 August 2004.

On 29 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.

On 03 November 2006, an oath was filed for the national stage entry of PCT/JP2005/006619. The oath was inadvertently placed in this national stage application.

On 19 June 2007, a "NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C 371 AND 37 CFR 1.495" (Form PCT/DO/EO/903) and a filing receipt were issued. The filing receipt contains a listing of wrong applicants for the national stage application.

On 24 January 2008, the application was published with a Pub. No. US 2008/0021194 A1. The publication also listed applicants not of record in the PCT/US05/28208 application.

On 28 January 2008, applicants filed the present petition requesting for a corrected filing receipt and publication.

DISCUSSION

A review of the application file reveals that the names listed on the filing receipt and the publication do not correspond to the inventors named in the declaration filed on 29 August 2005. The applicants for the national stage application of PCT/US05/28208 should be Donald W. Hayward and Daniel L. Witham. Accordingly, the filing receipt is hereby vacated. The request for republication has been forwarded to the official in charge for consideration.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

The present application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a corrected NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903) and a corrected filing receipt.

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

Leonard Smith
Supervisory PCT Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FRASER CLEMENS MARTIN & MILLER LLC
28366 KENSINGTON LANE
PERRYSBURG, OH 43551

Mail Date: 04/20/2010

Applicant	: Donald W. Hayward	: DECISION ON REQUEST FOR
Patent Number	: 7579431	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/547,261	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/03/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **51** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
Washington, D.C. 20231
www.uspto.gov

30 OCT 2006

Richard E Oney
TIFFANY & BOSCO
Third Floor
2525 East Camelback Road
Phoenix AZ 85016-4237

In re Application of:
RAZDAN, Anshuman, et al
U.S. Application No.: 10/547,274
PCT No.: PCT/US2004/005882
International Filing Date: 27 February 2004
Priority Date: 27 February 2003
Attorney's Docket No.: 12505-0048
For: COMPARATIVE AND ANALYTIC APPARATUS AND METHOD FOR CONVERTING TWO-DIMENSIONAL BIT MAP DATA INTO THREE-DIMENSIONAL DATA

DECISION ON REQUEST TO CORRECT INVENTORSHIP

This decision is issued in response to the materials filed 29 September 2006, treated herein in part as a request to correct inventorship under 37 CFR 1.497(d). Deposit Account No. 50-3289 will be charged the required $130 processing fee.

BACKGROUND

On 27 February 2004, applicants filed international application PCT/US2004/005882. The international application claimed a priority date of 27 February 2003, and it designated the United States. The published international application identified three applicant/inventors for the United States: Anshuman RAZDAN, Jeremy ROWE, and John FEMIANI.

The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 29 August 2005 (27 August 2005 was a Saturday).

On 29 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 small entity basic national fee.

On 29 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 and the surcharge for filing the oath or declaration later than thirty months after the priority date were required.

On 29 September 2006, applicants filed a response to the Notification Of Missing Requirements (with required four-month extension fee) that included a declaration executed by two inventors of record (Anshuman RAZDAN and John FEMIANI), as well as materials requesting that the third inventor, Jeremy ROWE, be removed from the present application. These materials are considered herein under 37 CFR 1.497(d).

DISCUSSION

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

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

With respect to item (1), applicants have submitted a statement form the inventor being removed, Jeremy ROWE, in which the inventor states that the error in inventorship (i.e., his inclusion on the international application) occurred without any deceptive intent on his part. Item (1) is therefore satisfied.

With respect to item (2), based on the fee authorization included with the present submission, Deposit Account No. 50-3289 will be charged the required $130 processing fee. Item (2) is therefore satisfied.

With respect to item (3), applicants have submitted a statement of consent to the change of inventorship executed on behalf of the assignee, Arizona Board Of Regents. The statement of consent includes a reference to the Reel/Frame at which the relevant assignment is recorded, as required. Item (3) is therefore satisfied.

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

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

CONCLUSION

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

Jeremy ROWE is hereby removed as an inventor of record herein.

Taking into consideration the removal of Mr. ROWE, the declaration submitted by applicants on 29 September 2006 is in compliance with 37 CFR 1.497.

This application is being referred to the National Stage Processing Branch of the Office Of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 29 September 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

Commissioner for Patents
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13 SEP 2006

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

In re Application of :
Matsushima et al. :
Application No.: 10/547,306 :
PCT No.: PCT/JP04/02240 :
Int. Filing Date: 25 February 2004 : DECISION
Priority Date: 28 February 2003 :
Attorney Docket No.: 277308US0PCT :
For: Method Of Purifying Powdery Resin :

This is in response to the correspondence, including the declaration, filed on 14 April 2006.

BACKGROUND

This international application was filed on 25 February 2004, claimed an earlier priority date of 28 February 2003, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 30 September 2004. The 30 month time period for paying the basic national fee in the United States expired at midnight on 29 August 2005 (since 28 August 2005 was a Sunday). On 29 August 2005, applicants paid *inter alia* the basic national fee.

On 31 March 2006, 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).

DISCUSSION

Counsel presents a "Declaration of Ryouichi AIMIYA" and a "Declaration of Toyofumi GOTOU" which state that the names of the respective inventors were misspelled in the international application and that the correct spellings appear in the accompanying executed declaration. Inspection of the declaration filed on 14 April 2006 reveals that it names Ryouichi AIMIYA and Toyofumi GOTOU among the inventors, and that these same spellings appear on the published international application. Therefore, applicants' explanation of the purported spelling discrepancies is moot. However, applicants' attention is drawn to 37 CFR 1.69(b), which provides that

> 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

Since applicants have neither used a pre-approved foreign language declaration form nor filed a "statement that the translation is accurate" per 37 CFR 1.69(b), the declaration is defective.

DECISION

The declaration filed on 14 April 2006 is **NOT ACCEPTED**, without prejudice.

Since the reply filed on 14 April 2006 appears to have been bona fide, applicant must file a proper response within either a **NON-EXTENDABLE TIME PERIOD of ONE (1) MONTH** from the mailing date of this decision, **OR** within the remainder of the extendable period for response to the Notification of Missing Requirements mailed on 31 March 2006, whichever is longer. Failure to timely reply 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
Office of PCT Legal Administration

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

United States Patent and Trademark Office

Commissioner for Patents
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0 8 JAN 2007

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

In re Application of :
Matsushima et al. :
Application No.: 10/547,306 :
PCT No.: PCT/JP04/02240 :
Int. Filing Date: 25 February 2004 : DECISION
Priority Date: 28 February 2003 :
Attorney Docket No.: 277308US0PCT :
For: Method Of Purifying Powdery Resin :

This is in response to the "Response To Decision" filed on 13 October 2006.

DISCUSSION

In a Decision mailed on 13 September 2006, the declaration filed on 14 April 2006 was not accepted, without prejudice, because

> applicants' attention is drawn to 37 CFR 1.69(b), which provides that
>
> 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
>
> Since applicants have neither used a pre-approved foreign language declaration form nor filed a "statement that the translation is accurate" per 37 CFR 1.69(b), the declaration is defective.

In response, counsel has provided a statement that "Applicants hereby state that the English translation contained in the Rule 1.63 declaration filed on April 14, 2006 is accurate (37 CFR 1.69)." In view of this statement, the requirements of 37 CFR 1.69(b) have now been satisfied. As such, it would now be appropriate to accept the declaration filed on 14 April 2006 for purposes of compliance with 37 CFR 1.497(a) and (b).

DECISION

The declaration filed on 14 April 2006 is **ACCEPTED**.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **14 April 2006**.

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

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6TH FLOOR
TORONTO ON M5G 1R7 CA CANADA

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FEB 1 1 2009

OFFICE OF PETITIONS

In re Application of :
Nagalingam Rajakumar et al :
Application No.10/547,346 : DECISION ON PETITION
Filed: September 1, 2005 :
Attorney Docket No. 4767-227 LAB :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 13, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed June 20, 2008, is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on January 13, 2009, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The $290 extension fee charged on January 13, 2009, will also be credited to petitioner's deposit account as requested on February 3, 2009.

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

This application is being referred to Technology Center AU 1632 for appropriate action by the Examiner in the normal course of business on the reply received January 13, 2009.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/17/09 Paper No.: —

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/547350 Patent No.: 7538176 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D62-B
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-756-1591

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: _____

_____

_____

_____

_____

_____ 1796
SPE **Art Unit**

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BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

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DEC 16 2009

OFFICE OF PETITIONS

In re Application of :
Pardoll et al. :
Application No. 10/547,371 : ON PETITION
Filed: May 18, 2006 :
Attorney Docket No. 001107.00426 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 22, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

The instant petition lacks item (1). As a response to the Office action, petitioner states that a continuation application was submitted. Unfortunately, the Office computer database records fail to disclose the filing of a continuation application on or around the time of filing of the instant petition to revive. **Accordingly, petitioner must state the application number of the**

[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

[2] See MPEP 711.03(c)(III)(C) and (D).

continuation application in order that a proper decision on the merits of this petition may be given.

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

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

By hand: Customer Window located at:

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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BANNER & WITCOFF, LTD.
1100 13TH STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

MAILED

MAR 29 2010

OFFICE OF PETITIONS

In re Application of	:	
Pardoll et al.	:	
Application No. 10/547,371	:	ON PETITION
Filed: May 18, 2006	:	
Attorney Docket No. 001107.00426	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 29, 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 continuing application, (2) the petition fee, and (3) a proper statement of unintentional delay.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 12/578,887.

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON VA 20191

MAILED

JUN 11 2010

OFFICE OF PETITIONS

In re Application of :
Shigeru Shirai, et al. :
Application No. 10/547,388 : DECISION GRANTING PETITION
Filed: August 31, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. P28408 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, June 11, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 40, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3742 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson
Petitions Examiner
Office of Petitions

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

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05 AUG 2008

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www.uspto.gov

Jeffrey A. Sadowski
Howard & Howard Attorneys, PC
39400 Woodward Avenue, Suite 101
Bloomfield Hills, MI 48304-5151

In re Application of:
HAPPE et al.
US Application No.: 10/547,395
PCT Application No.: PCT/EP2004/001885
Int. Filing Date: 26 February 2004
Priority Date: 03 March 2003
Atty Docket No.: 68,193-009
For: GAS REGULATING FITTING

DECISION

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

BACKGROUND

On 26 February 2004, applicants filed international application PCT/EP2004/001885 which claimed a priority date of 03 March 2003. The thirty-month time period for submitting the requisite basic national fee in the United States of America expired at midnight on 03 September 2005.

On 31 August 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, translation of the international application; and an executed declaration.

On 24 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) which set forth a 35 U.S.C. 371 completion date of 31 August 2005.

DISCUSSION

A review of the application file reveals that the requirements of 35 U.S.C. 371(c)(2) has not been completed. Specifically, the purported translation of the international application is defective because the drawings contain untranslated text. PCT Rule 49.5(d) states, "[i]f any drawing contains text matter, the translation of the text matter shall be furnished either in the form of a copy of the original drawing with the translation pasted on the original text matter or in the form of a drawing executed anew." (See also section 1893.01(d) of the Manual of Patent Examining Procedure.) Therefore, the Notice of Acceptance of Application mailed 24 April 2006 was sent in error.

CONCLUSION

Accordingly, the Notice of Acceptance of Application mailed 24 April 2006 is VACATED.

This application is being forwarded to the DO/EO/US for preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905), which should indicate that a proper translation of the drawing must be furnished.

Shian Luong
PCT Special Programs Examiner
Office of PCT Legal Administration
Telephone: (571) 272-4557
Fax: (571) 273-0459

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

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Alexandria, VA 22313-1450
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17 JUN 2006

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

In re Application of:	:	
DI GIACOMO, Luciano	:	DECISION ON PETITION
U.S. Application No.: 10/547,414	:	UNDER 37 CFR 1.137(b)
Int'l Application No: PCT/IT2004/000070	:	
Int'l Filing Date: 19 February 2004	:	
Priority Date: 19 February 2003	:	
Attorney Docket No.: 2512-1157	:	
For: AUTOMATIC APPARATUS FOR LAYING FLOOR OF TILES	:	

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

Applicant's statement that "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" satisfies the requirement of 37 CFR 1.137(b)(3).

Applicant has now submitted the small entity basic national fee, Deposit Account No. 25-0120 will be charged the small entity 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 United States of America.

It is noted that, on 30 June 2006, applicant filed an executed declaration 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 30 June 2006.

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

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SEP 24 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Sakayu SHIMIZU et al. :
Application No. 10/547,424 :
Filed: May 8, 2006 :
Attorney Docket No. 2005_1306A :

This is a decision on the petition under 37 CFR 1.137(b), filed July 01, 2009, to revive the above-identified application.

The petition is **GRANTED**.

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

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 31, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is June 31, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment and a Notice of Appeal; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Ella Colbert at (571) 272-3217 or in her absence to the undersigned at (571) 272-7099.

The application is being referred to Technology Center AU 1652 for appropriate action on the concurrently filed amendment and notice of appeal.

David Bucci
Petitions Examiner
Office of Petitions

11 SEP 2006

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WORKMAN NYDEGGER AND SEELEY
60 E SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

In re Application of
TOYODA et al.
Application No.: 10/547,493 [1]
PCT No.: PCT/JP04/03665
Int. Filing Date: 18 March 2004
Priority Date: 19 March 2003
Attorney Docket No.: 14321.70 [2]
For: OPTICAL SWITCH, OPTICAL MODULATOR AND VARIABLE WAVELENGTH FILTER

NOTIFICATION

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 instructions in 10/548,461, 10/547,565 and 10/547,715 filed in the United States Patent and Trademark Office on 23 June 2006.

On 31 August 2005, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee; the English translation of PCT/JP04/01665; a preliminary amendment; and an executed Declaration identifying PCT/JP04/03665 and attorney docket number (14321.70). These papers were assigned U.S. application number 10/547,493 and processing by the USPTO began. A copy of the itemized postcard receipt for this application with the respective USPTO receipt date-stamped upon it was provided to applicant.

On 31 August 2005, applicant filed second, third and fourth transmittal letters for entry into the national stage in the United States, which also identified PCT/JP04/03665 and attorney docket number (14321.70.3; 14321.70.2; 14321.70.1). Applicant also filed a preliminary amendment and English translation of the international application. The accompanying declaration was directed to PCT/JP04/03665 and assigned application numbers 10/547,565, 10/547,715 and 10/548,461. These papers were not processed by the USPTO. Fees associated with these applications were charged to applicant's credit card.

On 28 April 2006, applicant was notified by the USPTO that the submission of four sets of national stage papers requesting entry into the U.S. national stage was improper.

On 23 June 2006, applicant filed instructions in 10/548,461, 10/547,565 and 10/547,715 .

---

[1] The application numbers assigned to the duplicate filings: 10/547,565, 10/547,715, 10/548,461

[2] Attorney docket numbers 14321.70.3, 14321.70.2, 14321.70.1 identified the respective duplicate filings.

DISCUSSION

According to applicant's instructions, the papers filed as U.S. application no. 10/547,565, 10/547,715 and 10/548,461 will be placed in U.S. application number 10/547,493. The preliminary amendments will not be entered pursuant to applicant's instructions. As a result of the cancellation of th Preliminary Amendments, all claims remain pending.

Applicant should use application number **10/547,493** in all future communications with the U.S. Patent and Trademark Office in regards to the U.S. national stage of international application PCT/JP04/03665.

CONCLUSION

The application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to: (1) merge the papers filed in U.S. Application no. 10/547,565, 10/547,715 and 10/548,461 into U.S. Application no. 10/547,493; (2) record the correspondence address in PALM to the law firm of Workman Nydegger and Seeley. Fees associated with U.S. application 10/547,565,10/547,715 and 10/548,461 will be credited to applicant's credit card.

The 35 U.S.C. 371(c)(1),(c)(2) and (c)(4) date is **31 August 2005.**

Applicant is advised that all future communication regarding PCT/JP04/03665 should reference U.S. serial no. **10/547,493** as 10/547,565, 10/547,715 and 10/548,461 will no longer be active files.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Office of Patent Cooperation Treaty
Legal Administration

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Facsimile: (571) 273-0459

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WORKMAN NYDEGGER AND SEELEY
60 E SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

In re Application of :
TOYODA et al. :
Application No.: 10/547,565 :
Receipt Date: 30 August 2005 : NOTIFICATION
Attorney Docket No.: 14321.70.3 :
For: OPTICAL SWITCH, OPTICAL MODULATOR :
AND VARIABLE WAVELENGTH FILTER :

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

BACKGROUND

On 18 March 2004, applicant filed international application PCT/JP04/03665, which claimed a priority date of 19 March 2003. The thirty month period for paying the basic national fee expired at midnight on 19 September 2005.

On 31 August 2005, applicant filed four transmittal letters for entry into the national stage in the United States which were accompanied by, *inter alia*, the U.S. Basic National Fee. The files were assigned serial numbers 10/547,493, 10/547,565, 10/547,715 and 10/548,461. Application 10/547,493 proceeded as the national stage of PCT/JP04/03665.

DISCUSSION

As is evident from the above recited facts, four sets of papers to enter the national stage were submitted for international application number PCT/JP04/03665 (United States application numbers 10/547,493, 10/547,565, 10/547,715 and 10/548,461). The end result for an international application designating the United States of America is a single U.S. national stage application. Therefore, the submission of four sets of national stage papers to enter the United States was improper.[1]

---

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

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

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

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

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

If applicant wishes that this application proceed as a utility application, applicant must file a petition under 37 CFR 1.182. In the absence of such petition, this application will be merged with 10/547,493.

Should applicant choose to have the instant application treated as a filing under 35 U.S.C. 111(a), applicant may wish to consider filing a petition under 37 CFR 1.78(a)(3) to accept a delayed claim for benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application. *See also* MPEP §1896.

CONCLUSION

A proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Such response should include a cover letter entitled "Petition Under 37 CFR 1.182." Failure to timely file the proper response will result in the merging of this application with 10/547,493.

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 PCT Legal Office.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Office of Patent Cooperation Treaty
Legal Administration

Telephone: (571) 272-3286
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28 APR 2006

#3

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WORKMAN NYDEGGER AND SEELEY
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1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

In re Application of
TOYODA et al.
Application No.: 10/548,461
Filing Date: 31 August 2005
Attorney Docket No.:14321.70.1
For: OPTICAL SWITCH, OPTICAL MODULATOR AND VARIABLE WAVELENGTH FILTER

NOTIFICATION

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

BACKGROUND

On 18 March 2004, applicant filed international application PCT/JP04/03665, which claimed a priority date of 19 March 2003. The thirty month period for paying the basic national fee expired at midnight on 19 September 2005.

On 31 August 2005, applicant filed four transmittal letters for entry into the national stage in the United States which were accompanied by, *inter alia*, the U.S. Basic National Fee. The files were assigned serial numbers 10/547,493, 10/547,565, 10/547,715 and 10/548,461. Application 10/547,493 proceeded as the national stage of PCT/JP04/03665.

DISCUSSION

As is evident from the above recited facts, four sets of papers to enter the national stage were submitted for international application number PCT/JP04/03665 (United States application numbers 10/547,493, 10/547,565, 10/547,715 and 10/548,461). The end result for an international application designating the United States of America is a single U.S. national stage application. Therefore, the submission of four sets of national stage papers to enter the United States was improper.[1]

---

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

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

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

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

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

If applicant wishes that this application proceed as a utility application, applicant must file a petition under 37 CFR 1.182. In the absence of such petition, this application will be merged with 10/547,493.

Should applicant choose to have the instant application treated as a filing under 35 U.S.C. 111(a), applicant may wish to consider filing a petition under 37 CFR 1.78(a)(3) to accept a delayed claim for benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application. *See also* MPEP §1896.

CONCLUSION

A proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Such response should include a cover letter entitled "Petition Under 37 CFR 1.182." Failure to timely file the proper response will result in the merging of this application with 10/547,493.

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 PCT Legal Office.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Office of Patent Cooperation Treaty
Legal Administration

Telephone: (571) 272-3286
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28 APR 2006

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WORKMAN NYDEGGER AND SEELEY
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1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

In re Application of
TOYODA et al.
Application No.: 10/547,715
Filing Date: 31 August 2005
Attorney Docket No.:14321.70.2
For: OPTICAL SWITCH, OPTICAL MODULATOR AND VARIABLE WAVELENGTH FILTER

NOTIFICATION

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

BACKGROUND

On 18 March 2004, applicant filed international application PCT/JP04/03665, which claimed a priority date of 19 March 2003. The thirty month period for paying the basic national fee expired at midnight on 19 September 2005.

On 31 August 2005, applicant filed four transmittal letters for entry into the national stage in the United States which were accompanied by, *inter alia*, the U.S. Basic National Fee. The files were assigned serial numbers 10/547,493, 10/547,565, 10/547,715 and 10/548,461. Application 10/547,493 proceeded as the national stage of PCT/JP04/03665.

DISCUSSION

As is evident from the above recited facts, four sets of papers to enter the national stage were submitted for international application number PCT/JP04/03665 (United States application numbers 10/547,493, 10/547,565, 10/547,715 and 10/548,461). The end result for an international application designating the United States of America is a single U.S. national stage application. Therefore, the submission of four sets of national stage papers to enter the United States was improper.[1]

---

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

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

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

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

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

If applicant wishes that this application proceed as a utility application, applicant must file a petition under 37 CFR 1.182. In the absence of such petition, this application will be merged with 10/547,493.

Should applicant choose to have the instant application treated as a filing under 35 U.S.C. 111(a), applicant may wish to consider filing a petition under 37 CFR 1.78(a)(3) to accept a delayed claim for benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application. *See also* MPEP §1896.

CONCLUSION

A proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Such response should include a cover letter entitled "Petition Under 37 CFR 1.182." Failure to timely file the proper response will result in the merging of this application with 10/547,493.

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 PCT Legal Office.

Cynthia M. Kratz
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Legal Administration

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Stittsville, Ontario K2S 1E9
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OFFICE OF PETITIONS

In re Application of :
Falle, et al. :
Application No. 10/547,502 : ON PETITION
Filed: August 31, 2005 :
Attorney Docket No. 030301-CDN :
For: CANDLE RESHAPER

This is a decision on the petition under 37 CFR 1.137(b), filed November 9, 2007, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioner is advised that this is not a final agency decision.

This application became abandoned for failure to timely reply to the final Office action, mailed April 19, 2007, which set an extendable three month period for reply. No extensions of time being obtained and no reply being filed, the application became abandoned on July 20, 2007. A Notice of Abandonment was mailed on October 26, 2007.

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

(1) the required reply, unless previously filed.;

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

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

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

The instant petition does not satisfy requirement (2) above.

The small entity fee for filing a petition to revive an unintentionally abandoned application under 37 CFR 1.137(b) is set forth in 37 CFR 1.17(m) as $770.00. A review of Office records indicates that petitioners have paid only $650.00 towards the $770.00 owed.

The payment of the full petition fee is a prerequisite to the filing of a petition to revive under 37 CFR 1.137(b). This requirement cannot be waived. MPEP 711.03(c)(III)(B). Therefore, consideration of the merits of the petition before receipt of the petition fee is prohibited.

Petitioners should submit the $120.00 balance due promptly.

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

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

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

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

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

Shirene Willis Brantley.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Global Intellectual Strategies
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Stittsville, Ontario K2S 1E9
CANADA

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OFFICE OF PETITIONS

In re Application of :
Falle, et al. :
Application No. 10/547,502 : ON PETITION
Filed: August 31, 2005 :
Attorney Docket No. 030301-CDN :
For: CANDLE RESHAPER

This is a decision on the reconsideration petition under 37 CFR 1.137(b), filed February 5, 2008, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely reply to the final Office action, mailed April 19, 2007, which set an extendable three month period for reply. No extensions of time being obtained and no reply being filed, the application became abandoned on July 20, 2007. A Notice of Abandonment was mailed on October 26, 2007.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 11/979,853, filed November 9, 2007.

After the mailing of this decision, the application will be returned to Files Repository.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford CT 06103

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AUG 25 2008

OFFICE OF PETITIONS

In re Application of :
Magill, et al. :
Application No. 10/547,515 : ON PETITION
Filed: March 9, 2006 :
Attorney Docket No. ETF-0030 :
For: ACTIVATION AND PRODUCTION
OF RADIOLABELED PARTICLES

This is a decision on the petition under 37 CFR 1.181, filed June 2, 2008, to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 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. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the Restriction Requirement, mailed October 18, 2007, which set a one month or thirty day (whichever was longer) shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on November 19, 2007. A Notice of Abandonment was mailed on May 2, 2008.

Petitioners request withdrawal of the holding of abandonment because petitioners did not receive an expected Office action in this application.

A Restriction Requirement was mailed on October 18, 2007. Applicants noticed flaws in the October 18, 2007 Office action and allegedly contacted the examiner of record on some unspecified date soon after receiving and reviewing the October 18, 2007 Office action. The examiner of record allegedly informed applicants to expect a replacement Office action. Unfortunately, a replacement Office action was never issued.

Applicants are reminded that official communication with the Office must be carried out in writing. 37 CFR 1.2. Oral advice from Office employees is not binding. See In re Sivertz, 227 USPQ 255,256 (Comm'r Pat. 1985). An Office employee's alleged statements made during a telephone conversation cannot nullify the October 18, 2007 Restriction Requirement, which required timely reply to avoid abandonment of the application. The failure to reply within the set or extended period for reply resulted in the abandonment of the application ***by statute***. 35 U.S.C. 133.

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

Given the facts and circumstances of this case, petitioners are encouraged to file a petition to revive under the unavoidable standard of 37 CFR 1.137(a). The reply should not be an election because the October 18, 2007 Office action did not address the proper claims. The reply can be remarks pointing out the mistakes with the October 18, 2007 Office action and a request for a new Office action addressing the proper claims.

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

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

By hand:
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Alexandria, VA 22314

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

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford CT 06103

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DEC 18 2008

In re Application of :
Magill, et al. :
Application No. 10/547,515 : ON PETITION
Filed: March 9, 2006 :
Attorney Docket No. ETF-0030 :
For: ACTIVATION AND PRODUCTION
OF RADIOLABELED PARTICLES

This is a decision on the petition under 37 CFR 1.137(a), filed November 25, 2008, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the Restriction Requirement, mailed October 18, 2007, which set a one month or thirty day (whichever was longer) shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on November 19, 2007. A Notice of Abandonment was mailed on May 2, 2008.

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of remarks; (2) the petition fee of $540.00; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable.

This application is being referred to Technology Center AU 3663 for consideration of the remarks filed on November 25, 2008.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

31 MAY 2006

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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Charles Berman
Greenberg Traurig, LLP
2450 Colorado Avenue, Suite 400E
Santa Monica, CA 90404

In re Application of :
FUKUI et al. :
Application No.: 10/547,531 : DECISION ON REQUEST
PCT No.: PCT/US03/06601 :
Int. Filing Date: 04 March 2003 :
Priority Date: None :
Attorney Docket No.: 75772-010500/US :
For: HIGH ELECTRIC FIELD
ELECTROLYSIS CELL

This decision is issued in response to the "Petition to Correct Inventorship" filed 27 February 2006, which is being treated as a request under 37 CFR 1.497(d) to correct the inventorship of the present national stage application. Deposit Account No. 50-2638 will be charged the required processing fee.

BACKGROUND

On 04 March 2003, applicants filed international application PCT/US03/06601 which claimed no priority date. The published international application identified three applicant/inventors for the United States: Kenji Fukai; Kazunari Naya; and Tim M. Itamura. The deadline for submission of the basic national fee was thirty months from the international filing date, i.e., 04 September 2005.

On 31 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 27 February 2006, applicants filed the present request under 37 CFR 1.497(d) to remove inventor Tim M. Itamura as an inventor.

DISCUSSION

The present submission seeks to correct the inventorship so as to remove inventor Tim M. Itamura from the application. Where, as here, the inventorship in the national stage declaration is not consistent with the inventorship in the international application, applicants must correct the inventorship pursuant to 37 CFR 1.497(d), which states the following:

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

With respect to the removal of Tim M. Itamura from the application, applicants' 27 February 2006 submission satisfies requirements (1) and (2).

However, item (3) has not been satisfied. Specifically, applicants have not submitted a statement of consent from the purported assignee, FRS Waterware (dba Waterwave, Inc.). Further, the assignee has not established its ownership to the application in accordance with 37 CFR 3.73. (See Manuel of Patent Examining Procedure (MPEP) §324 and Statement under 37 CFR 3.73(b). Therefore, applicants must provide a copy of the assignment or a specific reference to its recorded lociation in the United States Patent and Trademark Office (e.g., reel and frame number).

As to item (4), an oath or declaration by the actual inventors as required by 37 CFR 1.497(a) has not been submitted.

Because applicants have not satisfied all the requirements of 37 CFR 1.497(d), inventor Tim M. Itamura cannot be removed from the application on the present record.

CONCLUSION

Applicants' request to remove inventor Tim M. Itamura under 37 CFR 1.497(d) is **DISMISSED** without prejudice. The inventors of record remain the inventors named on the international application.

Applicants must file a proper response to this decision within **TWO (2) MONTHS** from the mail date indicated above. A proper response must include a declaration in compliance with 37 CFR 1.497(a)-(b) and a written consent of assignee in compliance with

37 CFR 3.73(b). Failure to file a timely and proper response will result in abandonment of the application. Extensions of time may be obtained under 37 CFR 1.136(a).

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

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

29 SEP 2006

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Charles Berman
Greenberg Traurig, LLP
2450 Colorado Avenue, Suite 400E
Santa Monica, CA 90404

In re Application of	:	DECISION ON
FUKUI et al	:	
Int. Application: PCT/US03/06601	:	
Application No.: 10/547,531	:	
Int. Filing Date: 04 March 2003	:	REQUEST UNDER
Priority Date: None	:	
Attorney's Docket No.: 75772-010500/US	:	
For: HIGH ELECTRIC FIELD ELECTROLYSIS CELL	:	37 CFR 1.497(d)

This is a decision on petitioner's "RESPONSE TO DECISION ON REQUEST" filed on 31 July 2006, which is being treated as a request under 37 CFR 1.497(d) to delete joint inventor Tim M. Itamura in the executed declaration.

BACKGROUND

In a decision from this Office mailed on 31 May 2006, the decision indicated that the request was dismissed because the request did not satisfy items (3) and (4) of 37 CFR 1.497(d).

On 31 July 2006, applicants filed the current communication, which included, *inter alia*, a copy of the assignment of the patent application to FRS Waterware, Inc..

DISCUSSION

A review of the renewed request reveals that applicant has satisfied item (3) of 37 CFR 1.497(d). In regard to item (3), FRS Waterware, Inc. has submitted a copy of the assignment showing that FRS Waterware, Inc. is the assignee of the above application and has establish its right to take action under 37 CFR §3.73(b), and has consented to remove Itamura as an inventor.

Applicants have also submitted a properly executed declaration.

Accordingly, applicant is deemed to satisfy requirements (1), (2), and (3) under 37 CFR 1.497(d).

CONCLUSION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing consistent with this decision. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **31 July 2006**.

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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Alexandria, Virginia 22313-1450
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RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE, PA 19482

Mail Date: 04/28/2010

Applicant	: Hiroshi Kawatake	: DECISION ON REQUEST FOR
Patent Number	: 7622004	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/547,534	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1092** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Adolphson, LLP
Bradford Green, Building 5
755 Main Street, P.O. Box 224
Monroe, CT 06468

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MAY 12 2008

In re Application of	:	
Paul J. Plishner	:	
Application No. 10/547,558	:	DECISION ON PETITION
Filed: January 25, 2006	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 2-603.009-4	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 7, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a declaration the applicant Paul J. Plishner. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3618 action on the merits commensurate with this decision.

Kimberly Inabinet
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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FEB 15 2007

DAVIS WRIGHT TREMAINE, LLP
2600 CENTURY SQUARE
1501 FOURTH AVENUE
SEATTLE WA 98101-1688

In re Application of	:
Michael F. Pelly et al	:
Serial No.: 10/547,574	: PETITION TO MAKE SPECIAL
Filed: August 31, 2005	:
Attorney Docket No.: 69332-7	:

This is in response to the petition filed August 31, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(c). It is unclear what provision of M.P.E.P. 708.02applicants are requesting special status under, however it appears to be either environmental quality or energy.

The delay in acting on this petition is regretted. It appears that the petition was submitted with the application papers filed when entering the National Stage as evidenced by the fee for the petition having been paid at that time. However the petition papers, if submitted at that time, have been misplaced and applicant's submission of copies thereof filed December 12, 2006, will be used.

Applicant petitions on the basis that the invention will enhance the quality of the environment. M.P.E.P. 708.02, Part V, gives guidance in this matter, as follows:

> The Patent and Trademark Office will accord "special" status to all patent applications for inventions which materially enhance the quality of the environment of mankind **by contributing to the restoration or maintenance of the basic life - sustaining natural elements - air, water, and soil.**
>
> All applicants desiring to participate in this program should petition that their applications be accorded "special" status. Such petitions should be accompanied by verified statements under 37 CFR 1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the PTO ** explaining how the inventions contribute to the restoration or maintenance of one of these life - sustaining elements. No fee is required for such a petition, 37 CFR 1.102(c).

Applicant's claims are directed to biodiesel fuels and their manufacture. Although such fuels may be important applicant has failed to show that their use will **materially enhance** the quality of the environment. While use of applicant's fuels may improve to a small degree environmental quality, in view of other factors the improvement would appear to be minimal. In addition, any benefit would directly depend utilization of the fuel, not its manufacture, and there is no indication that such fuel would or could be used effectively.

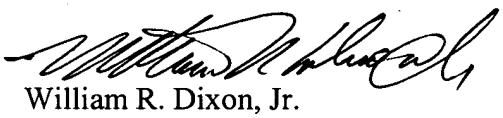
If applicant is petitioning under M.P.E.P. 708.02, Part VI, the following guidance applies:

> The U.S. Patent and Trademark Office will, on petition, accord "special" status to all patent applications for inventions which materially contribute to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), hydrogen fuel technologies, nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances, etc. All applicants desiring to participate in this program should petition that their applications be accorded "special" status. The petition under 37 CFR 1.102 must state that special status is sought because the invention materially contributes to category (A) or (B) set forth above. No fee is required for such a petition, 37 CFR 1.102(c). If the application disclosure is not clear on its face that the claimed invention materially contributes to category (A) or (B), the petition must be accompanied by a statement under 37 CFR 1.102 by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. The materiality standard does not permit an applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that could materially contribute to category (A) or (B). Nor does such standard permit an applicant to enjoy the benefit of advanced examination merely because some minor aspect of the claimed invention may be directed to category (A) or (B).

Applicant does not clearly state that the invention qualifies under either (A) or (B) above and does not indicate any materiality with respect to energy conservation or efficient utilization.

Applicant's petition is **DENIED**.

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, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the general Office facsimile number.



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

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Alexandria, VA 22313-1450
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02 APR 2007

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

In re Application of	:	DECISION
MCSHANE	:	
Application No.: 10/547,599	:	
PCT No.: PCT/US2004/006713	:	
Int. Filing Date: 05 March 2004	:	
Priority Date: 05 March 2003	:	
Attorney Docket No.: 04520/035002	:	
For: COMPOSITIONS AND METHODS FOR TREATING ENDOTOXIN-RELATED DISEASES AND CONDITIONS	:	

This decision is in response to applicant's "PETITION TO CORRECT FILING RECEIPT" filed in the United States Patent and Trademark Office (USPTO) on 26 October 2006, which has been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 05 March 2004, applicant filed international application PCT/US2004/006713 which designated the US and claimed a priority date of 05 March 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 16 September 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 06 September 2005 (05 September 2005 being a Federal holiday).

On 01 September 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee and an unexecuted declaration of the inventor.

On 03 November 2005, applicants filed a submission including an executed declaration of the inventor.

On 29 June 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AN 37 CFR 1.495 (Form PCT/DO/EO/903) according the application a 35 U.S.C. § 371(c)(1), (c)(2), and (c)(4) date and a 35 U.S.C. 371 date of 01 September 2005.

On 26 October 2006, applicant submitted the instant "PETITION TO CORRECT FILING RECEIPT" which has been treated as a petition under 37 CFR 1.181.

DISCUSSION

The NOTICE OF ACCEPTANCE OF APPLICATION mailed 29 June 2006 contained the incorrect international 35 U.S.C. § 371(c)(1), (c)(2), and (c)(4) and 35 U.S.C. 371 date. (The 35 U.S.C. § 371(c)(1), (c)(2), and (c)(4) and 35 U.S.C. 371 dates were indicated as 01 September 2005 rather than as 03 November 2005.) Accordingly, the 29 June 2006 NOTICE OF ACCEPTANCE is hereby VACATED.

CONCLUSION

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for processing in accordance with this decision, that is for (1) mailing of a corrected NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495 (Form PCT/DO/EO/903) indicating both the 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) and the 35 U.S.C. 371 dates as **03 November 2005**.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

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JAN 14 2008
OFFICE OF PETITIONS

Applicant: McChane
Appl. No.: 10/547,599
International Filing Date: March 5, 2004
Title: COMPOSITIONS AND METHODS FOR PREVENTING AND TREATING ENDOTOXIN-RELATED DISEASES AND CONDITIONS
Attorney Docket No.: 04520/035002
Pub. No.: 2006/0222655 A1
Pub. Date: October 5, 2006

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on December 8, 2006, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark O. Polutta at (703) 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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YAMAHA
C/O KEATING & BENNETT, LLP
1800 Alexander Bell Drive
SUITE 200
Reston, VA 20191

Mail Date: 04/20/2010

Applicant	: Yousuke Ishida	: DECISION ON REQUEST FOR
Patent Number	: 7648435	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/547,614	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/15/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **801** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

20 SEP 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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PFIZER INC
150 EAST 42ND STREET
5TH FLOOR - STOP 49
NEW YORK NY 10017-5612

In re Application of	:	
HANDFIELD et al.	:	
Application No.: 10/547,619	:	SUPPLEMENTAL
PCT No.: PCT/IB2004/000152	:	
Int. Filing Date: 08 January 2004	:	DECISION
Priority Date: 15 January 2003	:	
Attorney Docket No.: PC23272A	:	
For: PROCESS FOR THE PREPARATION	:	
OF ARYL-FUSED POLYCYCLIC LACTAMS	:	

This decision is supplemental to the decision mailed 13 September 2006. The earlier decision is hereby VACATED. The Deposit Account Number given in the papers filed 31 August 2005 could not be found (Deposit Account Number 16-1442).

BACKGROUND

On 08 January 2004, applicants filed international application PCT/IB2004/000152 which designated the U.S. and claimed a priority date of 15 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 15 July 2005.

On 31 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, an unexecuted declaration of inventors, and a petition under 37 CFR 1.137(b) to revive the application.

On 13 September 2006, a decision was mailed granting applicants' petition under 37 CFR 1.137(b).

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant has not submitted the U.S. Basic National Fee. As noted above, the Deposit Account Number given in the papers filed 31 August 2005 could not be found.

As to item (2), applicant has not submitted the petition fee. Again, the Deposit Account Number given in the papers filed 31 August 2005 could not be found.

As to item (3), a grantable petition has not yet been submitted.

CONCLUSION

The petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice, for the reasons set forth above.

The decision mailed 13 September 2006 is VACATED.

Applicant is hereby given the time limit of **TWO (2) MONTHS** from the mail date of this communication in order to file a proper response.

Failure to timely file a proper response to this decision in a timely manner will result in abandonment of the application with regards to national stage prosecution in the United States.

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

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

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13 SEP 2006

PFIZER INC
150 EAST 42ND STREET
5TH FLOOR - STOP 49
NEW YORK NY 10017-5612

In re Application of	:	
HANDFIELD et al.	:	
Application No.: 10/547,619	:	DECISION ON
PCT No.: PCT/IB2004/000152	:	
Int. Filing Date: 08 January 2004	:	PETITION UNDER
Priority Date: 15 January 2003	:	
Attorney Docket No.: PC23272A	:	37 CFR 1.137(b)
For: PROCESS FOR THE PREPARATION	:	
OF ARYL-FUSED POLYCYCLIC LACTAMS	:	

This decision is in response to applicant's submission filed 31 August 2005.

BACKGROUND

On 08 January 2004, applicant filed international application PCT/IB2004/000152 which designated the U.S. and claimed a priority date of 15 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 15 July 2005.

On 31 August 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the Basic National Fee, an unexecuted declaration of inventors, and a petition under 37 CFR 1.137(b) to revive the application.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee on 31 August 2005.

As to item (2), applicant submitted the petition fee on 31 August 2005.

As to item (3), the required statement has been provided.

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

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an executed oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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0 2 NOV 2006

PFIZER INC
150 EAST 42ND STREET
5TH FLOOR - STOP 49
NEW YORK NY 10017-5612

In re Application of :
HANDFIELD et al. :
Application No.: 10/547,619 :
PCT No.: PCT/IB2004/000152 :
Int. Filing Date: 08 January 2004 : DECISION
Priority Date: 15 January 2003 :
Attorney Docket No.: PC23272A :
For: PROCESS FOR THE PREPARATION :
OF ARYL-FUSED POLYCYCLIC LACTAMS :

This decision is in response to applicants' "COMMUNICATION FORWARDING SUPPLEMENTAL PETITION FOR REVIVAL UNDER 37 C.F.R. § 1.137(b)" filed 29 September 2006.

BACKGROUND

On 08 January 2004, applicants filed international application PCT/IB2004/000152 which designated the U.S. and claimed a priority date of 15 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 15 July 2005.

On 31 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, an unexecuted declaration of inventors, and a petition under 37 CFR 1.137(b) to revive the application.

On 13 September 2006, a decision was mailed granting applicants' petition under 37 CFR 1.137(b).

On 20 September 2006, a supplemental decision was mailed vacating the decision mailed 13 September 2006. The supplemental decision dismissed the petition under 37 CFR 1.137(b) because the Deposit Account Number given in the papers filed 31 August 2005 could not be found.

On 29 September 2006, applicants filed the instant "COMMUNICATION

FORWARDING SUPPLEMENTAL PETITION FOR REVIVAL UNDER 37 C.F.R. § 1.137(b)".

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the U.S. Basic National Fee on 29 September 2006.

As to item (2), applicant submitted the petition fee 29 September 2006.

As to item (3), the required statement has been provided.

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

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an executed oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage.

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

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REINHART BOERNER VAN DEUREN P.C.
2215 PERRYGREEN WAY
ROCKFORD, IL 61107

Mail Date: 04/20/2010

Applicant	: Luigi P Tozzi	: DECISION ON REQUEST FOR
Patent Number	: 7659655	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/547,623	: 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 **1016** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Alexandria, VA 22313-1450
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MAGINOT, MOORE & BECK, LLP
CHASE TOWER
111 MONUMENT CIRCLE
SUITE 3250
INDIANAPOLIS IN 46204

MAILED

JUL 15 2009

OFFICE OF PETITIONS

In re Application of	:	
Blenkiron et al.	:	DECISION NOTING PETITION
Application No. 10/547,636	:	UNDER 37 CFR 1.47(a)
Filed: June 26, 2006	:	
Attorney Docket No. 1781-0021	:	

This is in response to the petition under 37 CFR 1.47(a), filed May 13, 2009.

The petition is **DISMISSED AS MOOT**.

The declaration was objected to in the Office action of June 24, 2008. However, the objection was not maintained in the final rejection mailed February 23, 2009. This petition was then filed May 13, 2009 in response to the objection made in the June 24, 2008 Office action.

Neither a new declaration nor a petition under 37 CFR 1.47 is necessary in this instance. *See* MPEP 602.05. The objection to the declaration is withdrawn.

The petition fee of $200.00, charged to Deposit Account 13-0014, will be refunded to that Deposit Account.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-6692. Inquiries regarding the examination of the above noted application should be directed to Technology Center Art Unit 1795.

Christopher Bottorff
Petitions Examiner
Office of Petitions

04 MAY 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Aaron Waxler
Corporate Patent Counsel
Phillips Electronics North America Corp.
P.O. Box 3001
Briarcliff Manor, NY 10510

In re Application of	:	
GOSTEIN	:	
Application No.: 10/547,637	:	
PCT No.: PCT/IB03/05876	:	DECISION ON PETITION
Int. Filing Date: 10 December 2003	:	
Priority Date: 13 December 2002	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: PHUS020571	:	
For: METHOD OF DETERMINING PROPERTIES	:	
OF PATTERNED THIN FILM METAL	:	
STRUCTURES USING TRANSIENT THERMAL	:	
RESPONSE	:	

The petition to revive under 37 CFR 1.137(b) filed 30 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" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

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

The application has an international filing date of 10 December 2003 under 35 U.S.C. 363 and will be given a date of **30 August 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/547,638	09/01/2005	Miharu Ogura	053673-0024	8142

20277 7590 09/02/2009
MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

EXAMINER	
BROOKS, KRISTIE LATRICE	

ART UNIT	PAPER NUMBER
1616	

MAIL DATE	DELIVERY MODE
09/02/2009	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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SEP 02 2009

MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

In re Application of: :
Ogura et al. :
Serial No.: 10/547,638 : PETITION DECISION
Filed: September 1, 2005 :
Attorney Docket No.: **053673-0024** :

This is in response to the petition under 37 CFR § 1.181, filed August 13, 2009, requesting that the finality of the Office action of May 26, 2009 be withdrawn.

It is noted that applicants have also requested a new non-final Office action and reset period for reply.

BACKGROUND

On October 7, 2008, a non-final Office action was mailed to applicants. At the time of this Office action, claims 1-13 were pending and claims 1-13 were indicated as rejected on Form PTOL-326. Specifically, claim 6 was rejected under 35 USC 112, second paragraph as indefinite; claims 1-2, 4, 6, 8, and 11 were rejected under 35 USC 102 (b) as anticipated by Sawano et al.; and claims 3, 7, 12, and 13 were rejected under 35 USC 103 (a) as being unpatentable over Sawano et al. in view of Hasegawa.

In reply to the non-final Office action of October 7, 2008, applicants filed a response on February 6, 2009. The response submitted by applicants included remarks, arguments traversing the rejections made in the non-final Office action and claim amendments. Applicants also pointed out that claim 5 was not addressed in the non-final Office action of October 7, 2008.

On May 26, 2009, the examiner mailed a final Office action setting a three month statutory limit for reply. The examiner again noted that claims 1-13 were pending and claims 1-13 were rejected on Form PTOL-326. Specifically, claims 1-2, 4, 6, 8, and 11 were rejected under 35 USC 103 (a) as being unpatentable over Sawano et al. in view of Duan et al.; and claims 3, 7, 12 and 13 were rejected under 35 USC 103 (a) as being unpatentable over Sawano et al. in view of

Duan et al., further in view of Hasegawa. The examiner noted that applicants' amendment necessitated the new ground(s) of rejection.

On June 25, 2009, applicants submitted a letter requesting a new non-final Office action and reset period for reply based on the fact that claim 5 has never been addressed in an Office action.

On August 13, 2009, applicants submitted the petition under consideration herein.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition, applicants argue that there were no grounds of rejection given for claim 5 in the non-final Office action of October 7, 2008 nor in the final Office action of May 26, 2009.

Applicants' arguments are found persuasive that claim 5 has never been specifically addressed. Accordingly, the non-final Office action of October 7, 2008 and the final Office action of May 26, 2009 are both considered improper.

DECISION

The petition is subsequently **GRANTED**.

The non-final Office action of October 7, 2008 and the final Office action of May 26, 2009 are hereby vacated. The application is being returned to the examiner to issue a new and complete non-final Office action with a reset period for reply.

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

Remy Yucel, Director
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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Margaret J. Sampson
Vinson & Elkins, L.L.P.
2801 Via Fortuna
Suite 100
Austin, Texas 78746-7588

In re Application of :
BAKER et al. :
U.S. App. No. 10/547,644 : DECISION ON PETITION
PCT No.: PCT/GB03/05496 : UNDER 37 CFR 1.181
Int. Filing Date: 16 December 2003 : &
Priority Date: 16 December 2002 : NOTIFICATION OF
Attorney Docket No.: INV850/4-31US/58008 : ABANDONMENT
For: POLYFUNCTIONAL REAGENTS

This decision is in response to applicants' "Petition to Request Serial Number and Filing Date" filed 26 August 2005 to reconstruct the application and accord a filing date of 16 June 2005 to the above-identified national stage application under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 16 December 2003, applicants filed international application PCT/GB03/05496 which claimed a priority date of 16 December 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 01 July 2004. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 16 June 2005.

On 26 August 2005, applicants filed the present petition forwarding copies of papers filed on 16 June 2005. These papers consisted of: 1) a transmittal requesting entry into the national stage in the United States; 2) a copy of the Customer Receipt of the "Express Mail" mailing label #EV258029887US; 3) a copy of published PCT application for PCT/GB03/05496; 4) a copy of the front page of the published application WO 2004/055213 AI; and 5) a copy of a postcard receipt dated 16 June 2005. The submission was assigned 10/547,644 and given a receipt date of 26 August 2005.

DISCUSSION

A. Petition to Reconstruct under 37 CFR 1.181

Applicants state in their present petition that a U.S. National Stage application was received at the United States Patent and Trademark Office on 16 June 2005. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

> A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

As stated above, the best evidence of what was actually received by the Office on a particular date is a copy of a stamped postcard receipt that was filed with papers in question and contains a specific itemization of all items being submitted. In the present instance, applicants have provided a post card receipt dated 16 June 2005 which shows the following papers being filed: a transmittal requesting entry into the national stage in the United States (1 sheet) and a copy of published PCT application for PCT/GB03/05496 (42 sheets. The papers filed 26 August 2005 are accepted as the contents of application number 10/547,644 and will be used to reconstruct the PTO application file. The papers will be given a receipt date of 16 June 2005.

B. Notification of Abandonment

Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 16 June 2005. The transmittal letter filed 16 June 2005 states, "please note that this national stage application is filed without an Inventor's Declaration, a Power of Attorney, or filing fees." Pursuant to 37 CFR 1.495(b)(2), applicant shall furnish the basic national fee not later than the expiration of thirty-months from priority date. Therefore, the above-identified application is abandoned.

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

CONCLUSION

Applicants' petition requesting that the application papers filed on 26 August 2005 be accorded a receipt date of 16 June 2005 is **GRANTED**.

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

Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to pay the basic national fee by the expiration of thirty-months from the priority date.

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

27 OCT 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Margaret J. Sampson
VINSON & ELKINS, LLP
2801 Via Fortuna
Suite 100
Austin, Texas 78746-7588

In re Application of:	:	
BAKER, et al.	:	DECISION ON PETITION FOR
U.S. Application No.: 10/547,644	:	REVIVAL OF ABANDONED
PCT No.: PCT/GB03/05496	:	APPLICATION UNDER
International Filing Date: 16 December 2003	:	37 CFR 1.137(b)
Priority Date: 16 December 2002	:	
Attorney's Docket No.: INV850/4-31US/58008	:	
For: POLYFUNCTIONAL REAGANTS	:	

The petition for revival under 37 CFR 1.137(b) filed 13 October 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that 'the entire delay in paying the required filing fees for U.S. Serial No. 10/547,644 from June 16, 2005 until the date of this Petition to Revive was unintentional" is construed as the statement required under 37 CFR 1.137(b)(3), that is, a statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." If this is not a correct interpretation of applicants' statements, applicants **must** inform this Office immediately. Based on the above interpretation of applicants' statements, 37 CFR 1.137(b)(3) is considered satisfied.

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

This application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Missing Requirements (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 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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VINSON & ELKINS, LLP
1001 FANNIN STREET
2300 FIRST CITY TOWER
HOUSTON, TX 77002-6760

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OFFICE OF PETITIONS

In re Application of :
BAKER, et al. :
Application No. 10/547,644 : DECISION ON PETITION
Filed: June 13, 2006 : TO WITHDRAW
Attorney Docket No. **IVGN 463** : 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 15, 2007.

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

A review of the file record indicates that the power of attorney to **VINSON & ELKINS, LLP** has been revoked by the assignee of the patent application on November 20, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **INVITROGEN CORPORATION**
C/O INTELLEVATE
P.O. BOX 52050
MINNEAPOLIS, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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11 JUL 2006

David P. Gordon
Gordon & Jacobson, PC
60 Long Ridge Road
Suite 407
Stamford, CT 06902

In re Application of	:	
CLOUSTON	:	DECISION ON PETITION
U.S. Application No.: 10/547,647	:	
PCT No.: PCT/AU04/00258	:	UNDER 37 CFR 1.497(d)
Int. Filing Date: 27 February 2004	:	
Priority Date: 04 March 2003	:	
Atty Docket No.: HAC-043	:	
For: GROUND TENDING DEVICE	:	

This decision is in response to applicant's "Petition to Correct Inventorship Pursuant to 1.48" filed 26 May 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 27 February 2004, applicant filed international application PCT/AU04/00258, which claimed priority of an earlier application filed 04 March 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 16 September 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 04 September 2005.

On 01 September 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a preliminary amendment and an unsigned declaration.

On 31 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 inventor, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 26 May 2006, applicant responded with the present petition.

DISCUSSION

A request under 37 CFR 1.497(d) [formally, 37 CFR 1.48] to correct an error in naming

inventorship requires:

(1) a petition including a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part;

(2) an oath or declaration by the actual inventor(s) as required by 37 CFR 1.63;

(3) the fee set forth in 37 CFR 1.17(h); and

(4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b).

As to Item (1), applicant has provided statements from Walter Raymond Fowler and John Gannon Clouston declaring that the errors in inventorship occurred without deceptive intent.

Regarding Item (2), applicant has filed a combined declaration and power of attorney executed by John Gannon Clouston as the sole inventor.

As Item (3), applicant has provided payment of the $130.00 petition fee.

Item (4) does not apply in the present case.

As such, applicant has satisfied all four items detailed above and it is proper to grant applicant's petition at this time.

CONCLUSION

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

A review of the application papers reveals that applicant has now completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application will be given an international application filing date of 27 February 2004 and a date of **26 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
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/10/09

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10547648 Patent No.: 7531650 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: _____

1624

11 JUN 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

BASELL USA INC.
DELAWARE CORPORATE CENTER II
2 RIGHTER PARKWAY, SUITE #300
WILMINGTON, DE 19803

In re Application of BUSICO et al :
U.S. Application No.: 10/547,658 :
PCT Application No.: PCT/EP2004/001847 :
Int. Filing Date: 24 February 2004 : DECISION
Priority Date Claimed: 06 March 2003 :
Attorney Docket No.: FE 6092 (US) :
For: CATALYST SYSTEM FOR THE :
POLYMERIZATION OF OLEFINS :

This is in response to applicant's "Petition Under 37 CFR 1.43 to Correct Official Filing Receipt" filed 07 April 2008, which is being treated as a petition under 37 CFR 1.181. The submitted $130.00 petition fee will be refunded to Deposit Account No. 08-2336.

BACKGROUND

On 24 February 2004, applicant filed international application PCT/EP2004/001847, which claimed priority of an earlier European Patent Office application filed 06 March 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 16 September 2004. The thirty-month period for paying the basic national fee in the United States expired on 06 September 2005.

On 01 September 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 February 2008, the DO/EO/US mailed a Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903), which indicated 13 November 2006 as the date of receipt of the 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements.

On 07 April 2008, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

A review of the application file reveals that a declaration was filed under PCT Rule 4.17(iv) in the international application on the international filing date. Accordingly, the Notice of Acceptance indicated an incorrect date of receipt of the 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements.

CONCLUSION

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

The Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903) mailed 29 February 2008 is hereby VACATED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a corrected Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903), which should indicate 01 September 2005 as the date of receipt of the 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements, and a corrected Filing Receipt, which should indicate 01 September 2005, as the "Filing or 371(c) Date".

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

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Haynes and Boone, LLP
901 Main Street, Suite 3100
Dallas, TX 75202

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OFFICE OF PETITIONS

In re Application of :
Mark Shuster et al. :
Application No. 10/547,686 : DECISION ON PETITION
Filed: June 30, 2006 : TO WITHDRAW
Attorney Docket No. 2579.241.05 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 19, 2007.

The request is **NOT APPROVED**.

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

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

A courtesy copy of this decision is being mailed to the first named signing inventor. A courtesy copy will be mailed to the address noted in the request. If the attorneys with this firm desires to receive future communication concerning this application, proper power of attorney documents should be submitted.

There are no outstanding office action at this time.

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 Kimberly Inabinet at 571-272- 4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Mark Schuster
19115 Prospect Ridge Lane
Houston, TX 77094

cc: King & Spalding, LLP
1100 Louisiana Street, Suite 4000
Houston, TX 77002

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Fanelli Strain & Haag PLLC
1455 Pennsylvania Ave., N.W., Suite 400
Washington DC 20004

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OFFICE OF PETITIONS

In re Application of :
Graham Charles Bloomfield et al. :
Application No. 10/547,691 : DECISION ON PETITION
Filed: October 12, 2005 :
Attorney Docket No. 999100-0134 :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 16, 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 March 17, 2009. A Notice of Abandonment was mailed on June 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 an amendment, (2) the petition fee of $1,620 and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

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.

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 December 2, 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 Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 1626 for appropriate action by the Examiner in the normal course of business on the reply received December 2, 2009.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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13 FEB 2008

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

In re Application of:	:	
OHMI, Tadahiro	:	DECISION
U.S. Application No.: 10/547,694	:	
PCT No.: PCT/JP2004/002360	:	
International Filing Date: 27 February 2004	:	
Priority Date: 03 March 2003	:	
Atty Docket No.: 039262-0135	:	
For: VACUUM PUMP	:	

This decision is issued in response to the "Request For Corrected Filing Receipt" filed 22 June 2006, treated herein as a petition under 37 CFR 1.181 to correct the 35 U.S.C. 371(c) date. No petition fee is required.

BACKGROUND

On 27 February 2004, applicant filed international application PCT/JP2004/002360. The international application claimed a priority date of 03 March 2003, and it designated the United States. On 16 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 submitting the basic national fee was thirty months from the priority date, i.e., 03 September 2005.

On 02 September 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 the surcharge for filing the declaration later than thirty months after the priority date, and a translation into English of the international application.

On 20 October 2005, applicant filed an executed declaration in compliance with 37 CFR 1.497.

On 17 May 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 02 September 2005 and the "Date Of Completion Of All U.S.C. 371 Requirements" as 03 September 2005. Also on 17 May 2006, a filing receipt was issued that identified the 35 U.S.C. 371(c) date as 02 September 2005.

On 22 June 2006, applicant filed the "Request For Corrected Filing Receipt" treated herein as a petition under 37 CFR 1.181. The petition asserts that the correct date under 35

U.S.C. 371(c) is 20 October 2005, the date on which the executed declaration was filed. The petition includes a copy of the previously filed declaration, as well as a copy of a return postcard itemizing the declaration and bearing a USPTO receipt stamp dated 20 October 2005.

On 12 December 2006, the DO/EO/US mailed a second Notification Of Acceptance (Form PCT/DO/EO/905) that identifies the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements " and the "Date Of Completion Of All U.S.C. 371 Requirements" as 02 September 2006, as well as a "Withdrawal Of Previously Sent Notice" indicating that the Notice mailed on 19 October 2006 was sent in error and should be disregarded.[1] Also on 12 December 2006, a corrected filing receipt was issued that identified the 35 U.S.C. 371(c) date as 02 September 2006.

DISCUSSION

In view of applicant's statements in the present petition, the copy of the return postcard itemizing the executed declaration and bearing a USPTO receipt stamp dated 20 October 2005, and a review of the application file, it is concluded that the executed declaration completing the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) was filed herein on 20 October 2005.

Based on the above, the Notification Of Acceptance and filing receipt mailed 17 May 2006, both of which identified the 35 U.S.C. 371(c) date as 02 September 2005, are appropriately vacated. In addition, the replacement Notification Of Acceptance and filing receipt mailed 12 December 2006, both of which identified the 35 U.S.C. 371(c) date as 02 September 2006, are also appropriately vacated.

A corrected Notification Of Acceptance and filing receipt will be issued which properly identify the 35 U.S.C. 371(c) date as 20 October 2005.

CONCLUSION

The petition under 37 CFR 1.181 to correct the 35 U.S.C. 371(c) date is **GRANTED**.

The executed declaration completing the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) was filed herein on 20 October 2005.

The Notification Of Acceptance and filing receipt mailed 17 May 2006, both of which identified the 35 U.S.C. 371(c) date as 02 September 2005, are hereby **VACATED**.

The Notification Of Acceptance and filing receipt mailed 12 December 2006, both of which identified the 35 U.S.C. 371(c) date as 02 September 2006, are hereby **VACATED**.

This application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the issuance

[1] It is not clear what Notice this form was directed to, as the application file does not include a Notice mailed on 19 October 2006.

of a corrected Notification of Acceptance (Form PCT /DO/EO/903) and filing receipt which properly identify the date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) as 20 October 2005.

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

08 MAY 2006

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Corporate Patent Counsel
PHILLIPS ELECTRONICS NORTH AMERICA CORPORATION
P.O. Box 3001
Briarcliff Manor, NY 10510

In re Application of: LI, Qiong, et al.
U.S. Application No.: 10/547,714
PCT No.: PCT/IB2003/003853
International Filing Date: 01 September 2003
Priority Date: 10 September 2002
Atty Docket No.: PHUS020074
For: REAL-TIME RETRY LIMIT – A SYSTEM AND METHOD TO MAXIMIZE THROUGHPUT AND MINIMIZE PACKET LOS OF WIRELESS LOCAL AREA NETWORKS

DECISION ON PETITION

The petition for revival under 37 CFR 1.137(b) filed 30 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 submitted the basic national fee, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

It is noted that the petition was accompanied by declarations executed by the two inventors. However, the declaration executed by inventor Mihaela VAN DE SCHAAR executes a different application and therefore is not acceptable herein. Specifically, the declaration (which was executed before international application PCT/IB2003/003853 was filed) expressly executes application number 60/409,670, that is, the priority application.

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 requiring: (1) an oath or declaration from inventor

Mihaela VAN DE SCHAAR that executes the present application and complies with 37 CFR 1.497; and (2) 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

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Corporate Patent Counsel
PHILLIPS ELECTRONICS NORTH AMERICA CORPORATION
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Briarcliff Manor, NY 10510

In re Application of: LI, Qiong, et al.
U.S. Application No.: 10/547,714
PCT No.: PCT/IB2003/003853
International Filing Date: 01 September 2003
Priority Date: 10 September 2002
Atty Docket No.: PHUS020074
For: REAL-TIME RETRY LIMIT – A SYSTEM AND METHOD TO MAXIMIZE THROUGHPUT AND MINIMIZE PACKET LOS OF WIRELESS LOCAL AREA NETWORKS

DECISION ON PETITION

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The petition for revival under 37 CFR 1.137(b) filed 30 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 submitted the basic national fee, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

It is noted that the petition was accompanied by declarations executed by the two inventors. However, the declaration executed by inventor Mihaela VAN DE SCHAAR executes a different application and therefore is not acceptable herein. Specifically, the declaration (which was executed before international application PCT/IB2003/003853 was filed) expressly executes application number 60/409,670, that is, the priority application.

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 requiring: (1) an oath or declaration from inventor

MAY 10 2006

05/12/06

Mihaela VAN DE SCHAAR that executes the present application and complies with 37 CFR 1.497; and (2) 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

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Grand Rapids MI 49501

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OFFICE OF PETITIONS

In re Patent No. 7,479,189

Issue Date: January 20, 2009

Application No. 10/547,718

Filed: August 31, 2005

Attorney Docket No. APP10-P-304

ON PETITION

This is a decision on the petition filed March 3, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

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

The file is being forwarded to Technology Center 1700, GAU 1792 for consideration of the additional corrections to the patent requested. Thereafter, the file will be directed to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

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WILSON, SONSINI, GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

Mail Date: 04/21/2010

Applicant	: Jack Roos	: DECISION ON REQUEST FOR
Patent Number	: 7645588	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/547,720	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/18/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **26** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

In re Application of	:	
Ralph Michael Bohmer	:	
Application No. 10/547,721	:	DECISION ON PETITION
Filed: June 13, 2006	:	PURSUANT TO
Attorney Docket No.: 5517-30-PUS	:	37 C.F.R. § 1.137(B)
Title: IDENTIFICATION OF FETAL DNA AND FETAL CELL MARKERS IN MATERNAL PLASMA OR SERUM	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed February 3, 2009, on revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed June 20, 2008, which set a shortened statutory period to reply of one month. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 21, 2008. A Notice of abandonment was mailed on March 23, 2009, subsequent to the filing of this petition.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 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 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee, an election of species, and the proper statement of unintentional delay.

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission that was received on February 3, 2009 can be processed.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries

1 See Rule 1.137(d).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

06 APR 2006
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Charles Berman
Greenberg Traurig, LLP
2450 Colorado Avenue, Suite 400E
Santa Monica, CA 90404

In re Application of :
FUKUI et al. :
Application No.: 10/547,722 : DECISION ON REQUEST
PCT No.: PCT/US03/06600 :
Int. Filing Date: 04 March 2003 :
Priority Date: None :
Attorney Docket No.: 75772-010400/US :
For: FREE RADICAL SOLUTION WATER

This decision is issued in response to the "Petition to Correct Inventorship" filed 27 February 2006, which is being treated as a request under 37 CFR 1.497(d) to correct the inventorship of the present national stage application. Deposit Account No. 50-2638 will be charged the required processing fee.

BACKGROUND

On 04 March 2003, applicants filed international application PCT/US03/06600 which claimed no priority date. The published international application identified three applicant/inventors for the United States: Kenji Fukai; Kazunari Naya; and Tim M. Itamura. The deadline for submission of the basic national fee was thirty months from the international filing date, i.e., 04 September 2005.

On 31 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 27 February 2006, applicants filed the present request under 37 CFR 1.497(d) to remove inventor Tim M. Itamura as an inventor.

DISCUSSION

The present submission seeks to correct the inventorship so as to remove inventor Tim M. Itamura from the application. Where, as here, the inventorship in the national stage declaration is not consistent with the inventorship in the international application, applicants must correct the inventorship pursuant to 37 CFR 1.497(d), which states the following:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:

(1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;

(2) The processing fee set forth in § 1.17; and

(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees (see § 3.73(b) of this chapter).

(4) any new oath or declaration required by paragraph (f) of this subsection.

With respect to the removal of Tim M. Itamura from the application, applicants' 27 February 2006 submission satisfies requirements (1) and (2).

However, item (3) has not been satisfied. Specifically, applicants have not submitted a statement of consent from the purported assignee, FRS Waterware (dba Waterwave, Inc.). Further, the assignee has not established its ownership to the application in accordance with 37 CFR 3.73. (See Manuel of Patent Examining Procedure (MPEP) §324 and Statement under 37 CFR 3.73(b). Therefore, applicants must provide a copy of the assignment or a specific reference to its recorded lociation in the United States Patent and Trademark Office (e.g., reel and frame number).

As to item (4), an oath or declaration by the actual inventors as required by 37 CFR 1.497(a) has not been submitted.

Because applicants have not satisfied all the requirements of 37 CFR 1.497(d), inventor Tim M. Itamura cannot be removed from the application on the present record.

CONCLUSION

Applicants' request to remove inventor Tim M. Itamura under 37 CFR 1.497(d) is **DISMISSED** without prejudice. The inventors of record remain the inventors named on the international application.

Applicants must file a proper response to this decision within **TWO (2) MONTHS** from the mail date indicated above. A proper response must include a declaration in compliance with 37 CFR 1.497(a)-(b) and a written consent of assignee in compliance with 37 CFR 3.73(b).

Failure to file a timely and proper response will result in abandonment of the application. Extensions of time may be obtained under 37 CFR 1.136(a).

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

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

06 JUN 2006

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Charles Berman
Greenberg Traurig, LLP
2450 Colorado Avenue, Suite 400E
Santa Monica, CA 90404

In re Application of :
FUKUI et al. :
Application No.: 10/547,722 : DECISION ON REQUEST
PCT No.: PCT/US03/06600 :
Int. Filing Date: 04 March 2003 :
Priority Date: None :
Attorney Docket No.: 75772-010400/US :
For: FREE RADICAL SOLUTION WATER

This decision is issued in response to the Renewed Petition to Correct Inventorship filed 30 May 2006, which is being treated as a request under 37 CFR 1.497(d) to correct the inventorship of the present national stage application.

BACKGROUND

On 04 March 2003, applicants filed international application PCT/US03/06600 which claimed no priority date. The published international application identified three applicant/inventors for the United States: Kenji Fukai; Kazunari Naya; and Tim M. Itamura. The deadline for submission of the basic national fee was thirty months from the international filing date, i.e., 04 September 2005.

On 31 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 27 February 2006, applicants filed a request under 37 CFR 1.497(d) to remove inventor Tim M. Itamura as an inventor. In a decision dated 06 April 2006, applicants' request was dismissed without prejudice.

On 30 May 2006, applicants filed the present renewed request under 37 CFR 1.497(d) to remove inventor Tim M. Itamura as an inventor.

DISCUSSION

The present submission seeks to correct the inventorship so as to remove inventor Tim M. Itamura from the application. Where, as here, the inventorship in the national stage declaration is not consistent with the inventorship in the international application,

applicants must correct the inventorship pursuant to 37 CFR 1.497(d), which states the following:

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

With respect to the removal of Tim M. Itamura from the application, applicants' 27 February 2006 submission satisfied requirements (1) and (2). Item (4) has been satisfied with the present submission.

Regarding item (3) above, the written consent by assignee is not acceptable. Firstly, the "Written Consent By Assignee" does not list the name of the individual signing on behalf of FRS WATERWARE, INC. (dba, Waterware, Inc.). Secondly, the assignee has not established its ownership to the application in accordance with 37 CFR 3.73. Therefore, applicants must provide a copy of the assignment or a specific reference to its recorded location in the United States Patent and Trademark Office (e.g., reel and frame number). See Manuel of Patent Examining Procedure (MPEP) §324 and Statement under 37 CFR 3.73(b) (Form PTO/SB/96).

Because applicants have not satisfied all the requirements of 37 CFR 1.497(d), inventor Tim M. Itamura cannot be removed from the application on the present record.

CONCLUSION

Applicants' request to remove inventor Tim M. Itamura under 37 CFR 1.497(d) is **DISMISSED** without prejudice. The inventors of record remain the inventors named on the international application.

Applicants must file a proper response to this decision within **TWO (2) MONTHS** from the mail date indicated above. A proper response must include a declaration in compliance with 37 CFR 1.497(a)-(b) and a written consent of assignee in compliance with 37 CFR 3.73(b).

Failure to file a timely and proper response will result in abandonment of the application. Extensions of time may be obtained under 37 CFR 1.136(a).

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

Anthony Smith
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02 AUG 2006

Charles Berman
Greenberg Traurig, LLP
2450 Colorado Avenue, Suite 400E
Santa Monica, CA 90404

In re Application of :
FUKUI et al. :
Application No.: 10/547,722 : DECISION ON REQUEST
PCT No.: PCT/US03/06600 :
Int. Filing Date: 04 March 2003 :
Priority Date: None :
Attorney Docket No.: 75772-010400/US :
For: FREE RADICAL SOLUTION WATER

This decision is issued in response to the "Response to Decision on Request" filed 31 July 2006, which is being treated as a request under 37 CFR 1.497(d) to correct the inventorship of the present national stage application.

BACKGROUND

On 04 March 2003, applicants filed international application PCT/US03/06600 which claimed no priority date. The published international application identified three applicant/inventors for the United States: Kenji Fukai; Kazunari Naya; and Tim M. Itamura. The deadline for submission of the basic national fee was thirty months from the international filing date, i.e., 04 September 2005.

On 31 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 27 February 2006, applicants filed a request under 37 CFR 1.497(d) to remove inventor Tim M. Itamura as an inventor. In a decision dated 06 April 2006, applicants' request was dismissed without prejudice.

On 30 May 2006, applicants filed a renewed request under 37 CFR 1.497(d) under 37 CFR 1.497(d)) to remove inventor Tim M. Itamura as an inventor. In a decision dated 06 June 2006, applicants' request was dismissed without prejudice.

On 31 July 2006, applicants filed the present renewed request under 37 CFR 1.497(d).

DISCUSSION

The present submission seeks to correct the inventorship so as to remove inventor Tim M. Itamura from the application. Where, as here, the inventorship in the national stage declaration is not consistent with the inventorship in the international application, applicants must correct the inventorship pursuant to 37 CFR 1.497(d), which states the following:

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

Items (1), (2) and (3) have been satisfied.

In regards to item (4), applicants have submitted a written consent of assignee to the correction in inventorship in compliance with 37 CFR 3.73(b).

CONCLUSION

The request under 37 CFR 1.497(d) is **GRANTED**.

A review of the application papers reveals that applicants have completed all the requirements of 35 U.S.C. 371 for entry into the national stage.

This application will be given an international application filing date of 04 March 2003 and a date of **30 May 2006** under 35 U.S.C. 371. The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.

Anthony Smith

Anthony Smith
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25 SEP 2006

CONNOLLY BOVE LODGE & HUTZ LLP
P.O. BOX 2207
WILMINGTON DE 19899-2207

In re Application of	
STRÖFER et al.	
Application No.: 10/547,733	DECISION ON
PCT No.: PCT/EP04/02122	
Int. Filing: 03 March 2004	PETITION UNDER
Priority Date: 04 March 2003	
Attorney Docket No.: 13156-00020-US1	37 CFR 1.181
For: METHOD FOR SEPARATING LIQUID SUBSTANCE MIXTURES IN A FILM EVAPORATOR	

This is a decision on applicant's "PETITION" filed in the United States Patent and Trademark Office (USPTO) via facsimile on 19 June 2006, treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 02 September 2005, applicant filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO 1390) along with, *inter alia*, the basic national fee.

On 18 April 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant indicating that an English translation of the international application and the processing fee for filing the English translation after the thirty month period were required.

On 19 June 2006, in response to the Notification of Missing Requirements, applicant filed the instant response with a copy of an itemized USPTO date-stamped postcard indicating that an English translation of the international application was filed on 02 September 2005.

DISCUSSION

The original English translation of the international application allegedly filed on 02 September 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 English translation of the international application (16 pages) was deposited with the USPTO on 02 September 2005. While applicant states that the present papers are a copy of the papers originally filed on 02 September 2005 and provided a copy of the date-stamped postcard receipt, the copy of the English translation of the international application was not found among the petition papers. Thus, the evidence is insufficient, at this time, to establish that the English translation of the international application was received in the USPTO on 02 September 2005. Accordingly, the Office does not have a copy of the English translation of the international application to accept as a replacement for the missing original English translation of the international application with a deposit date of 02 September 2005.

Applicant has not provided evidence of the submission of the English translation of the international application, which was required in response to the Notification of Missing Requirements.

CONCLUSION

The petition under 37 CFR 1.181 is **DISMISSED WITHOUT PREJUDICE**. The application will be held in the Office of PCT Legal Administration to await applicant's further response.

Applicant may furnish a response within ONE (1) month or the time period remaining under the 18 April 2006 Notification of Missing Requirements. The proper response is evidence of the submission of the English translation of the international application, which was required in response to the Notification of Missing Requirements, accompanied by a copy of the English translation of the international application.

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

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

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29 DEC 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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CONNOLLY BOVE LODGE & HUTZ LLP
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WILMINGTON DE 19899-2207

In re Application of	
STRÖFER et al.	
Application No.: 10/547,733	DECISION ON
PCT No.: PCT/EP04/02122	
Int. Filing: 03 March 2004	PETITION UNDER
Priority Date: 04 March 2003	
Attorney Docket No.: 13156-00020-US1	37 CFR 1.181
For: METHOD FOR SEPARATING LIQUID SUBSTANCE MIXTURES IN A FILM EVAPORATOR	

This is a decision on applicant's "PETITION" filed in the United States Patent and Trademark Office (USPTO) via facsimile on 19 June 2006, treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 02 September 2005, applicant filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO 1390) along with, *inter alia*, the basic national fee.

On 18 April 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant indicating that an English translation of the international application and the processing fee for filing the English translation after the thirty month period were required.

On 19 June 2006, in response to the Notification of Missing Requirements, applicant filed a response with a copy of an itemized USPTO date-stamped postcard indicating that an English translation of the international application was filed on 02 September 2005.

On 25 September 2006, a decision dismissing applicant's petition was mailed indicating that there was insufficient evidence to demonstrate that applicant had filed the English translation on 2 September 2005.

DISCUSSION

The original English translation of the international application allegedly filed on 02 September 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.

Applicant has stated that the present papers are a copy of the papers originally filed on 02 September 2005 and has provided a copy of the date-stamped postcard receipt. The postcard identifies the application by title, applicants and docket number. Among the items listed on the receipt is the English translation of the international application. The postcard is stamped "OIPE SEP 02 2005." The evidence is sufficient to establish that the English translation of the international application was received in the USPTO on 02 September 2005 and that the postcard receipt indicating a date of 02 September 2005 was mailed by the USPTO.

A review of the USPTO date-stamped, itemized postcard receipt indicates that the English translation of the international application (16 pages) was deposited with the USPTO on 02 September 2005. Applicant has now presented a copy of the papers originally filed on 02 September 2005 and provided a copy of the date-stamped postcard receipt. Thus, the evidence is now sufficient to establish that the English translation of the international application was received in the USPTO on 02 September 2005. Accordingly, the Office accepts the copy of the English translation of the international application as a replacement for the missing original English translation of the international application with a deposit date of 02 September 2005.

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED**. The processing fee of $130 previously charged to applicant's deposit account will be refunded.

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 **2 September 2005.**

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

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Adjustment date: 12/28/2006 SBASHEIR
06/23/2006 GFREY1 00000143 032775 10547733
01 FC:1618 130.00 CR

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

JUL 17 2009

In re Application of:
Ozaki et al.
Serial No.: 10/547,747
Filed: June 11, 2007
Attorney Docket No.: **14875-171US1 C1-A0404P-US**

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed July 14, 2009, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that information submitted to the Patent Office on July 14, 2009, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Petitioner may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

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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31 JUL 2007

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

In re Application of	:	
OSHIMA, Yasuhiro et al.	:	DECISION ON
Application No.: 10/547,784	:	
PCT No.: PCT/JP04/02243	:	PETITION UNDER
Int. Filing Date: 26 February 2004	:	
Priority Date: 04 March 2003	:	37 CFR 1.47(a)
Attorney's Docket No.: 276524US26PCT	:	
For: Method Of Forming Thin Film, Thin Film Forming Apparatus, Program And Computer-Readable Information Recording Medium	:	

This is a decision on applicant's "Petition Under 37 C.F.R. 1.47(a)," filed in the United States Patent and Trademark Office on 07 May 2007, to permit the applicants to file the above-captioned application on behalf of the non-signing inventor, Hiroshi Kannan.

BACKGROUND

On 26 February 2004, applicants filed international application PCT/JP04/02243, claiming a priority date of 04 March 2003. The thirty-month for paying the basic national fee in the United States expired at midnight on 04 September 2005.

On 06 September 2005, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the requisite basic national fee.

On 06 March 2007, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 07 May 2007, applicants filed a response to the Notification of Missing Requirements including, an executed declaration, the instant petition under 37 CFR 1.47(a) requesting acceptance of the declaration on behalf of the non-signing inventor Hiroshi Kannan and a declaration by Mr. Fumio Okamata.

DISCUSSION

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

As to items (1) and (2), applicants have submitted the correct petition fee of $200.00 under 37 CFR 1.17(g) and a statement of the last known address of the non-signing inventor.

With regard to item (3), applicants have filed a declaration executed by the other cooperating inventors and containing an unsigned signature block for the non-signing inventor. This declaration complies with 37 CFR 1.497(a)-(b) and is accepted. Hence, item (3) is satisfied.

With regard to item (4), the declaration of Mr. Fumio Okamata indicates that a copy of the entire application (specification, claims, drawings and declaration) was sent to non-signing inventor Hiroshi Kannan on 17 August 2005. However, Mr. Fumio Okamata is not "a person who presented the inventor with the application papers" (see MPEP §409.03(d)).

The declaration of Mr. Fumio Okamata further states that non-signing inventor Hiroshi Kannan expressly refused to execute the declaration on at least two occasions. In the letter dated 04 July 2005, Mr. Hiroshi Kannan states that he has not executed the declaration because he does not consent to the title change. However, at that time non-signing inventor Hiroshi Kannan had not been presented with a complete copy of the application. On the second occasion, in the letter of 18 August 2005, after receiving a complete copy of the application, Mr. Hiroshi Kannan did not execute the application because "[c]laims 9 and 14 include matters that was not contained in the original application." However, this statement does not necessarily imply that Mr. Hiroshi Kannan is refusing to sign the declaration, as petitioner states, but rather an inquiry as to why the application has been changed. 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 such that the inventor understands what exactly he is being asked to sign. Furthermore, a full translation into the English language of all documents filed in a language different than the English language is required. Therefore, item (4) has not been satisfied.

CONCLUSION

Applicants' petition filed under 37 C.F.R. 1.47(a) 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(a)." No additional petition fee is required.

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

Leonard Smith
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Stefan Staicovici
PCT Legal Examiner
Office of PCT Legal Administration
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25 FEB 2008

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

In re Application of	:	
OSHIMA *et al*	:	
Application No.: 10/547,784	:	
PCT No.: PCT/JP04/02243	:	CORRECTED
Int. Filing Date: 26 February 2004	:	DECISION
Priority Date: 04 March 2003	:	
Atty. Docket No.: 276524US26PCT	:	
For: METHOD OF FORMING THIN FILM, THIN FILM FORMING...	:	

On 20 November 2007, this Office mailed a decision in response to applicants' "RENEWED PETITION UNDER 37 CFR 1.47(a)." Unfortunately, the decision misidentified the application to which the decision was directed (the application no. was incorrectly set forth as 10/547,7**48**). The below decision is identical to that mailed 20 November 2007.

This is a decision on applicants' "RENEWED PETITION UNDER 37 CFR 1.47(a)" filed in the U.S. Patent and Trademark Office (USPTO) on 01 October 2007, which requests that the application be accepted without the signature of missing joint inventor Hiroshi Kannan. The petition is **GRANTED** as discussed below.

On 31 July 2007, this Office mailed a decision on applicants' initial petition. The petition was dismissed on the grounds that applicants had not submitted an acceptable statement of facts.

A review of the application file reveals that the present renewed petition was accompanied by, *inter alia*, an acceptable statement of facts. Therefore the requirements of 37 CFR 1.47(a) have now been satisfied.

A further review of the application file reveals that the requirements for entry into the national stage in the U.S. under 35 U.S.C. 371 have also now been satisfied.

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 the last known address of record as set forth in the papers filed

07 May 2007, and a notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

The application has an international filing date of 26 February 2004, under 35 U.S.C. 363 and a date of **07 May 2007**, under 35 U.S.C. 371(c).

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing in accordance with this decision.

Richard R. Cole
PCT Legal Examiner
Office of PCT Legal Administration

(571) 272-3281
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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 07/12/2010

Applicant	: David Farrington	: DECISION ON REQUEST FOR
Patent Number	: 7641129	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/547,785	: 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 **769** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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United States Patent and Trademark Office
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FAY SHARPE/LUCENT
1228 Euclid Avenue, 5th Floor
The Halle Building
Cleveland, OH 44115-1843

Mail Date: 04/21/2010

Applicant	: Julien Michelon	: DECISION ON REQUEST FOR
Patent Number	: 7580381	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/547,788	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **981** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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JUL 15 2010

OFFICE OF PETITIONS

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

In re Patent No. 7,608,625 :
Issue Date: October 27, 2009 :
Application No. 10/547,796 : DECISION ON PETITION
Filed: September 6, 2005 :
Attorney Docket No. 1089.0570000/MAC :

This is a decision on the Request For Certificate Of Correction Under 37 C.F.R. §1.323, filed June 3, 2010, which is being treated as a Petition Under 37 CFR 3.81(b) to accept the omission of the second and third assignees' names. A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

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

Petitioner requests that the present Petition was submitted to correct the omission of the second and third assignees' names on the previously submitted PTOL-85B. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB/44) be issued to add the omitted second and third assignees' names 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), has been submitted. However, the $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), was accompanied deposit account authorization to charge any required fees. As such, the fee has been charged as authorized. 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 submitted with the 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. 7,608,625.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

11 APR 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON DC 20005-1209

In re Application of :
WEDBERG, Dan :
Application No.: ~~11/817,860~~ 10/547,800 :
PCT No.: PCT/SE2004/000277 :
Int. Filing Date: 02 March 2004 : DECISION
Priority Date: 04 March 2003 :
Attorney Docket No.: 047113-0008 :
For: SHANK ADAPTER FOR ROCK DRILLING MACHINES :

This decision is in response to applicant's petition under 37 CFR 1.182, filed in the United States Patent and Trademark Office on 31 January 2008.

BACKGROUND

On 06 September 2005, applicants filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The transmittal letter indicated the submission was a naitonal phase of PCT/SE2004/000297, while other papers indicated the submission was a national phase of PCT/SE2004/000277.

On 04 May 2006, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497(a)-(b).

On 19 July 2006, the Office mailed Notification of Acceptance (Form PCT/DO/EO/903) indicating that this application was a national phase of PCT/SE2004/000297 and listing the 35 USC 371 (c)(1), (c)(2) and (c)(4) dates as 30 June 2006.

On 31 January 2008, applicants submitted a petition under 37 CFR 1.182 to correct the national stage information in the above application to indicate it is a 371 filing of PCT/SE2004/000277.

DISCUSSION

Applicants have explained that the paperwork was intended as a national stage entry of PCT/SE2004/000277. The indications will be corrected in the file and the file will be processed as a national stage entry of PCT/SE2004/000277.

CONCLUSION

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

This application is being forwarded to the National Stage Processing Division of the Office of the

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PCT Operations for continued processing, including mailing of a corrected Notification of Acceptance and filing receipt indicating that this application is a national phase of PCT/SE2004/000277.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

Copied from 11817860 on 06/04/2008

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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HOWSON & HOWSON LLP
501 OFFICE CENTER DRIVE
SUITE 210
FORT WASHINGTON, PA 19034

Mail Date: 06/03/2010

Applicant	: Hideo Hosono	: DECISION ON REQUEST FOR
Patent Number	: 7635440	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/547,815	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/02/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **654** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

25 AUG 2006

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GAINESVILLE FL 32614-2950

In re Application of	:	
Mendoza et al.	:	
Application No. 10/547,866	:	
PCT No.: PCT/EP04/50248	:	
Int. Filing Date: 03 March 2004	:	COMMUNICATION
Priority Date: 04 March 2003	:	
Atty. Docket No.: ARS-116	:	
For: Method For The Identification Of Syntenic Regions	:	

This is in response to the declaration of the inventors filed on 22 June 2006.

BACKGROUND

This international application was filed on 03 March 2004, claimed an earliest priority date of 04 March 2003, and designated the U.S. The International Bureau communicated a copy of the published international application to the USPTO on 16 September 2004. The 30 month time period for paying the basic national fee in the United States expired at midnight on 05 September 2005 (since 04 September 2005 was a Sunday). Applicants filed, *inter alia*, the basic national fee on 02 September 2005.

On 24 April 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring an oath or declaration compliant with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(h).

DISCUSSION

The signed declaration of the inventors filed on 22 June 2006 names an inventor, "Dennis Prickett," whose name does not appear in the published international application, while the published international application nominates "Pricket, Denis," whose name does not appear on executed declaration filed on 22 June 2006. The record includes no indication or showing as to whether this discrepancy represents a mere typographic error. Moreover, the alteration to the declaration has been signed by "Michael Dennis Prickett," rather than by "Dennis Prickett" or "Denis Pricket." To the extent that this discrepancy represents more than a mere typographic error or phonetic misspelling of applicant's name, a petition and fee under 37 CFR 1.182 (or a newly executed oath or declaration nominating the same inventive entity as the published international application) is required. *See* MPEP § 605.04(b) and MPEP § 201.03(b).

CONCLUSION

The declaration is **NOT ACCEPTED**, without prejudice.

Applicant is required to file a response within **ONE (1) MONTH** of the mailing date of this decision. Extensions of time under 37 CFR 1.136(a) are **NOT** available. Failure to timely reply will result in **ABANDONMENT**.

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

Boris Milef
PCT Legal Examiner
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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In re Application of
Mendoza et al.
Application No. 10/547,866
PCT No.: PCT/EP04/50248
Int. Filing Date: 03 March 2004
Priority Date: 04 March 2003
Atty. Docket No.: ARS-116
For: Method For The Identification Of Syntenic Regions

COMMUNICATION

This is in response to the petition under 37 CFR 1.182 filed on 26 September 2006.

DISCUSSION

In a Communication mailed on 25 August 2006, it was indicated that

> The signed declaration of the inventors filed on 22 June 2006 names an inventor, "Dennis Prickett," whose name does not appear in the published international application, while the published international application nominates "Pricket, Denis," whose name does not appear on executed declaration filed on 22 June 2006. The record includes no indication or showing as to whether this discrepancy represents a mere typographic error. Moreover, the alteration to the declaration has been signed by "Michael Dennis Prickett," rather than by "Dennis Prickett" or "Denis Pricket." To the extent that this discrepancy represents more than a mere typographic error or phonetic misspelling of applicant's name, a petition and fee under 37 CFR 1.182 (or a newly executed oath or declaration nominating the same inventive entity as the published international application) is required. *See* MPEP § 605.04(b) and MPEP § 201.03(b).

In response, applicants have filed the instant petition under 37 CFR 1.182 which "requests that his name be amended from 'Dennis Prickett' to his given name of 'Michael Dennis Prickett' in this matter. As set forth in the declaration, Dr. Prickett indicates that he uses the name 'Dennis Prickett' in the course of his daily life; however, his given name is Michael Dennis Prickett and he requests that the inventorship of this application be amended to reflect his given name." However, review of the electronic application file reveals that no copy of such a "declaration" including the described statements by Dr. Prickett is present (though a declaration of inventorshio is present). In the absence of the declaration by Dr. Prickett referenced by petitioner, it would not be appropriate to grant the requested relief at this time.

Petitioner has paid $130.00 toward the $400.00 fee for the petition under 37 CFR 1.182. The $270.00 remainder is being charged to counsel's Deposit Account No. 19-0065 per the authorization included in the petition.

CONCLUSION

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

Applicant is required to file a response within **TWO (2) MONTHS** of the mailing date of this decision, extendable under 37 CFR 1.136(a). No further petition fee is required. Any such renewed submission should be entitled "Renewed Petition Under 37 CFR 1.182." Failure to timely reply 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
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Tel: (571) 272-3283
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01/08/2007 SBASHEIR 00000007 190065 10547866
01 FC:1462 400.00 DA

Adjustment Date: 01/08/2007 SBASHEIR
10/02/2006 AKAYPAGH 00000164 190065 10547866
01 FC:1617 130.00 CR

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In re Application of
Mendoza et al.
Application No. 10/547,866
PCT No.: PCT/EP04/50248
Int. Filing Date: 03 March 2004
Priority Date: 04 March 2003
Atty. Docket No.: ARS-116
For: Method For The Identification Of Syntenic Regions

COMMUNICATION

This is in response to the renewed petition under 37 CFR 1.182 filed on 30 January 2007.

DISCUSSION

In a Communication mailed on 08 January 2007, it was indicated that

> ... applicants have filed the instant petition under 37 CFR 1.182 which "requests that his name be amended from 'Dennis Prickett' to his given name of 'Michael Dennis Prickett' in this matter. As set forth in the declaration, Dr. Prickett indicates that he uses the name 'Dennis Prickett' in the course of his daily life; however, his given name is Michael Dennis Prickett and he requests that the inventorship of this application be amended to reflect his given name." However, review of the electronic application file reveals that no copy of such a "declaration" including the described statements by Dr. Prickett is present (though a declaration of inventorship is present). In the absence of the declaration by Dr. Prickett referenced by petitioner, it would not be appropriate to grant the requested relief at this time.

The instant renewed petition argues that "the Declaration of Michael Dennis Prickett was filed with the other accompanying documents on September 21, 2006." In support of this position, petitioner has provided a "true copy of the itemized return receipt postcard filed with that response." Inspection of the copy of the return postcard receipt reveals that it is stamped as "Rec'd PCT/PTO 26 SEP 2006," and that it itemizes *inter alia* a "Declaration of Michael Dennis Prickett." MPEP 503 states in part that "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Following that practice, it would be appropriate to conclude that a document entitled "Declaration of Michael Dennis Prickett" was filed on 26 September 2006. However, it is noted that the renewed petition does not explicitly state whether the accompanying Declaration of Michael Dennis Prickett is a copy of the "Declaration of Michael Dennis Prickett" itemized on the return postcard receipt. Therefore, it would not be appropriate on the basis of the present record to regard the "Declaration of Michael Dennis Prickett" accompanying the present petition as a copy of the "Declaration of

Michael Dennis Prickett" filed on 26 September 2006. Instead, it is regarded as filed on its actual date of receipt - i.e., 30 January 2007.

The "Declaration of Michael Dennis Prickett" filed on 30 January 2007 states *inter alia* that "I am a co-inventor of the above-referenced patent application," that "during the preparation of the International Patent Application, it appears that [Serono International, S.A.] used the French spelling of my name when International Application No. PCT/EP2004/050248 was filed and was unaware that my given name is 'Michael Dennis Prickett'," and that "I... prefer to use my complete name of 'Michael Dennis Prickett' for listing as an inventor in this application and for the execution of the declaration and power of attorney documents that are related to the subject application." In view of these assertions by Mr. Prickett, it would be appropriate to accept his name as "Michael Dennis Prickett" *in lieu* of the name "PRICKET, Denis" as it appeared on the published international application. However, inspection of the declaration filed on 22 June 2006 reveals that it nominates and is signed by "Dennis Prickett" rather than Michael Dennis Prickett (although an alteration to the citizenship is signed by "Michael Dennis Prickett"). Based on the facts of this case, including Mr. Prickett's stated intention "to use my complete name of 'Michael Dennis Prickett' for listing as an inventor in this application and for the execution of the declaration...," it would be appropriate to provide a new declaration document nominating and signed in the name of Michael Dennis Prickett.

CONCLUSION

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

Applicant is required to file a response within **TWO (2) MONTHS** of the mailing date of this decision, extendable under 37 CFR 1.136(a). No further petition fee is required. Any such renewed submission should be entitled "Renewed Petition Under 37 CFR 1.182." Failure to timely reply 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
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Michael Dennis Prickett
Institute For Animal Health
Compton, NR Newbury
Berkshire RG20 7NN
UNITED KINGDOM

In re Application of :
Mendoza et al. :
Application No. 10/547,866 :
PCT No.: PCT/EP04/50248 :
Int. Filing Date: 03 March 2004 : COMMUNICATION
Priority Date: 04 March 2003 :
Atty. Docket No.: ARS-116 :
For: Method For The Identification :
Of Syntenic Regions :

This is in response to the renewed petition under 37 CFR 1.182 filed on 27 February 2007.

DISCUSSION

In a Communication mailed on 09 February 2007, it was indicated that

> The instant renewed petition argues that "the Declaration of Michael Dennis Prickett was filed with the other accompanying documents on September 21, 2006." In support of this position, petitioner has provided a "true copy of the itemized return receipt postcard filed with that response." Inspection of the copy of the return postcard receipt reveals that it is stamped as "Rec'd PCT/PTO 26 SEP 2006," and that it itemizes *inter alia* a "Declaration of Michael Dennis Prickett." MPEP 503 states in part that "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Following that practice, it would be appropriate to conclude that a document entitled "Declaration of Michael Dennis Prickett" was filed on 26 September 2006. However, it is noted that the renewed petition does not explicitly state whether the accompanying Declaration of Michael Dennis Prickett is a copy of the "Declaration of Michael Dennis Prickett" itemized on the return postcard receipt. Therefore, it would not be appropriate on the basis of the present record to regard the "Declaration of Michael Dennis Prickett" accompanying the present petition as a copy of the "Declaration of Michael Dennis Prickett" filed on 26 September 2006. Instead, it is regarded as filed on its actual date of receipt - i.e., 30 January 2007.
>
> The "Declaration of Michael Dennis Prickett" filed on 30 January 2007 states *inter alia* that "I am a co-inventor of the above-referenced patent application," that "during the preparation of the International Patent Application, it appears that [Serono International, S.A.] used the French spelling of my name when International Application No. PCT/EP2004/050248 was filed and was unaware

that my given name is 'Michael Dennis Prickett'," and that "I... prefer to use my complete name of 'Michael Dennis Prickett' for listing as an inventor in this application and for the execution of the declaration and power of attorney documents that are related to the subject application." In view of these assertions by Mr. Prickett, it would be appropriate to accept his name as "Michael Dennis Prickett" *in lieu* of the name "PRICKET, Denis" as it appeared on the published international application. However, inspection of the declaration filed on 22 June 2006 reveals that it nominates and is signed by "Dennis Prickett" rather than Michael Dennis Prickett (although an alteration to the citizenship is signed by "Michael Dennis Prickett"). Based on the facts of this case, including Mr. Prickett's stated intention "to use my complete name of 'Michael Dennis Prickett' for listing as an inventor in this application and for the execution of the declaration...," it would be appropriate to provide a new declaration document nominating and signed in the name of Michael Dennis Prickett.

In response, applicants have indicated that a declaration nominating and signed by Michael Dennis Prickett was filed on 26 September 2006. Review of the Image File Wrapper (IFW) for this application reveals that said declaration is now present in the file. This declaration is suitable for purposes of 37 CFR 1.497(a) and (b), in view of the petition under 37 CFR 1.182.

CONCLUSION

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

The $130.00 surcharge under 37 CFR 1.492(h) filed on 26 September 2006 was refunded to counsel's Deposit Account No. 19-0065 on 08 January 2007 (at the time the $400.00 petition fee under 37 CFR 1.182 was processed). Therefore, the surcharge is again being charged to said Deposit Account.

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 **26 September 2006**.

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

cc: SALIWANCHIK LLOYD & SALIWANCHIK
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MOORE & VAN ALLEN, PLLC
P.O. BOX 13706
RESEARCH TRIANGLE PARK, NC 27709

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JUN 26 2008

OFFICE OF PETITIONS

Applicant: El-Gasseir
Appl. No.: 10/547,867
International Filing Date: March 5, 2003
Title: ELECTRICALLY MARKET-ORIENTED DC-SEGMENTATION DESIGN AND OPTIMAL SCHEDULING FOR ELECTRICAL POWER TRANSMISSION
Attorney Docket No.: 012861-00025US
Pub. No.: US 2007/0067065-A1
Pub. Date: March 22, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on May 22, 2007, for the above-identified application

The request is dismissed.

Applicant requests that the application be republished because the patent application publication contains material errors, wherein the amendments filed with WIPO on July 22, 2005 were 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 error noted by requestor with respect to the amendment is not an Office error. The patent application publication does not include a mistake regarding the failure to include the preliminary amendment n the publication by the Office because patent application publications are not required to include preliminary amendments, according to 37 CFR 1.215(a), [2] which says the following, in part:

---

[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).

[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).

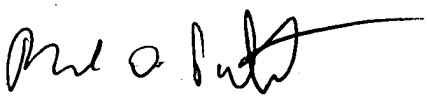
> (a) . . . The patent application publication will be based upon the specification and drawings deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application. **The patent application publication may also be based upon amendments** 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).

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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MOORE & VAN ALLEN PLLC
P.O. BOX 13706
Research Triangle Park, NC 27709

Mail Date: 04/21/2010

Applicant	: Mohamed M. El-Gasseir	: DECISION ON REQUEST FOR
Patent Number	: 7620482	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/547,867	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/24/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

12 JUN 2006

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Greenberg & Lieberman
2141 Wisconsin Ave N W
Suite C2
Washington DC 20007

In re Application of	:	
GILL	:	
Application No.: 10/547,869	:	DECISION ON
PCT No.: PCT/US2003/030494	:	
Int. Filing Date: 29 September 2003	:	PETITION UNDER
Priority Date: 27 September 2002	:	
Attorney Docket No.: 213203272005C	:	37 CFR 1.137(b)
For: AUTOMATED CLEANING SYSTEM	:	

This decision is in response to applicant's submission filed 02 September 2005.

BACKGROUND

On 29 September 2003, applicant filed international application PCT/US2003/030494 which designated the U.S. and claimed a priority date of 27 September 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 08 April 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 28 March 2005 (27 March 2005 being a Sunday).

On 02 September 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the Basic National Fee, 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 02 September 2005.

As to item (2), applicant submitted the petition fee on 02 September 2005.

As to item (3), the required statement has been provided.

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

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
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COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

Mail Date: 04/21/2010

Applicant	: Burghard Brink	: DECISION ON REQUEST FOR
Patent Number	: 7631667	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/547,876	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/25/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **904** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

06 SEP 2006

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LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6780

In re Application of:
SAITO, Toru, et al.
U.S. Application No.: 10/547,884
PCT No.: PCT/JP2004/002796
Int'l Filing Date: 05 March 2004
Priority Date: 06 March 2003
Atty Docket No.: 238454
For: HYDROPHILIZING AGENT COMPOSITION AND PROCESS FOR FORMATION OF HYDROPHILIC PROTECTIVE FILMS

DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is issued in response to applicants' petition under 37 CFR 1.47(a), purportedly filed 09 February 2006. Applicants have submitted the required $200 petition fee.

BACKGROUND

On 06 March 2003, applicants filed international application PCT/JP2004/002796. The international application claimed a priority date of 06 March 2003, and it designated the United States. On 16 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., 06 September 2005.

On 02 September 2005, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and a translation of the international application into English.

On 09 February 2006, applicants filed a second Transmittal Letter, which states that is accompanied by: (1) a declaration "other than non-signing Masahiro MAKINO; (2) a "Petition by Joint Inventors filing on behalf of other joint inventor who refuses to join in application; Statement in Support Of Petition Under 37 CFR 1.47(a); Exhibits 1-12 to Statement" (hereinafter "Petition, Statement, and Exhibits"); and (3) payment of $200 as the petition fee and $130 as the surcharge for filing the declaration later than thirty months after the priority date.

The application file includes the partially executed declaration and fee payment referred to in the Transmittal Letter filed 09 February 2006; however, the application file does not contain the Petition, Statement, and Exhibits referred to in such Transmittal Letter.

DISCUSSION

A grantable petition under 37 CFR 1.47(a) for acceptance of an application without the signature of an inventor must include: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the non-signing inventor; (3) an oath or declaration executed by the other inventors on behalf of themselves and the non-signing inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

Applicants here have submitted the required petition fee. Item (1) is therefore satisfied.

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

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

Here, applicants have filed a declaration executed by three of the four named inventors and including an unsigned signature block for the non-signing inventor, Masahiro MAKINO. This declaration is acceptable as having been executed by the inventors on their own behalf and on behalf of the non-signing inventor. Item (3) is therefore satisfied.

Regarding items (2) and (4) (i.e., a statement of the last known address of the non-signing inventor and factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort), as noted above, the application file does not include the Petition, Statement and Exhibits purportedly filed 09 February 2006. These materials would presumably address items (2) and (4) of a grantable petition; however, because they are not present in the application file, it cannot be concluded on the present record that items (2) and (4) of a grantable petition have been satisfied.

Based on the above, the application file does not include all the requirements for a grantable petition. Acceptance of the application without the signature of applicant Masahiro MAKINO would therefore be inappropriate at this time.

CONCLUSION

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

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)"

and must include the materials required to satisfy items (2) and (4) of a grantable petition (see MPEP section 409.03(d) for a discussion of the evidence required to demonstrate the refusal of an inventor to execute the application materials).

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

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

Richard M. Ross
Attorney Advisor
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Facsimile: (571) 273-0459

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15 NOV 2006

LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6780

In re Application of:
SAITO, Toru, et al.
U.S. Application No.: 10/547,884
PCT No.: PCT/JP2004/002796
Int'l Filing Date: 05 March 2004
Priority Date: 06 March 2003
Atty Docket No.: 238454
For: HYDROPHILIZING AGENT COMPOSITION AND PROCESS FOR FORMATION OF HYDROPHILIC PROTECTIVE FILMS

DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

In a decision mailed by this Office on 06 September 2006, applicants' petition under 37 CFR 1.47(a) filed 09 February 2006 was dismissed without prejudice for failing to satisfy all the requirements of a grantable petition. Specifically, the petition materials present in the application file lacked a statement of the last known address of the non-signing inventor and factual proof that the inventor has refused to execute the application or cannot be reached after diligent effort. The decision noted that the "Petition, Statement and Exhibits" referred to in applicants' 09 February 2006 transmittal letter (which presumably included the missing petition requirements) were not present in the application file.

On 27 September 2006, applicants filed the renewed petition considered herein. The renewed petition includes a copy of the "Petition, Statement and Exhibits" that was purportedly filed with the original application materials on 09 February 2006, as well as a copy of a return postcard that itemizes these materials and bears a USPTO receipt stamp dated 09 February 2006. Based on applicants' statements herein and the stamped return postcard, it is concluded that the "Petition, Statement & Exhibits" accompanying the renewed petition were included with the original petition filed on 09 February 2006.

The renewed petition includes a statement of the non-signing inventor's last known address, and it includes the required firsthand and documentary evidence confirming that the non-signing inventor has been presented with a copy of the application papers and has refused to execute the declaration. These materials satisfy the remaining requirements for a grantable petition under 37 CFR 1.47(a).

Based on the above, the renewed petition under 37 CFR 1.47(a) is **GRANTED**.

The application is accepted without the signature of non-signing inventor Masahiro MAKINO.

A notice of the acceptance of the application will be published in the Official Gazette, and a letter informing the non-signing inventor of the application will be forwarded to the inventor's last-known address, as set forth in the petition.

The application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 09 February 2006.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
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LORUSSO & ASSOCIATES
PO BOX 21915
PORTSMOUTH NH 03801

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OFFICE OF PETITIONS

In re Application of	:	
Matteo ZOPPAS et al.	:	
Application No. 10/574,889	:	DECISION ON PETITION
Filed: April 07, 2006	:	
Attorney Docket No. NBG-113	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 15, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 29, 2008 which set a shortened statutory period for reply of three (3) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 30, 2009.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment (2) the petition fee of $1620.00 and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the restriction requirement of October 29, 2008 has been accepted as having been unintentionally delayed.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

10 MAY 2006

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Commissioner for Patents
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Alexandria, VA 22313-1450
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KONSTANTINE J. DIAMOND
4010 E. 26TH STREET
LOS ANGELES CA 90023

In re Application of	:	
WILLIAM P. APPS	:	
Serial No.: 10/547,893	:	DECISION ON
PCT App. No.: PCT/US04/03247	:	
Int'l Filing Date: 04 February 2004	:	PETITION UNDER
Priority Date: 04 February 2003	:	
Attorney Docket No.: 2070 PUSA	:	37 CFR 1.137(b)
For: REINFORCED PALLET	:	

The petition to revive under 37 CFR 1.137(b) filed 07 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 $300 has been provided. The required petition fee of $1500 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

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

Cynthia M. Kratz
Attorney Advisor
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WASHINGTON DC 20005

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DEC 15 2009

OFFICE OF PETITIONS

In re Patent No. 7,484,624
Issued: February 3, 2009
Application No. 10/547,894
Filed: September 2, 2005
Dkt. No.: 0666.2540000

: PATENT TERM ADJUSTMENT

This is a decision on the "Request for Reconsideration of Patent Term Adjustment Determination Under 37 C.F.R. § 1.705(d)," filed March 25, 2009. Patentees request correction of the patent term adjustment from 487 days to 641 days. Patentees request this correction on the sole basis that the Office took in excess of three years to issue the above-referenced patent. This matter is being properly treated under 37 CFR 1.705(d).

The application for patent term adjustment (PTA) under 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,484,624 on February 3, 2009. The patent issued with a patent term adjustment of 487 days. The instant application of patent term adjustment is timely filed pursuant to 37 CFR 1.705(d). Patentees argue 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 is entitled to an adjustment of 641 days (501 days pursuant to 35 USC 154(b)(1)(A) *plus* 154 days pursuant to 35 USC 154(b)(1)(B) *less* 14 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 February 3, 2009, the application was pending three years and 154 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 501 days pursuant to 37 CFR 1.702(a)(1) is correct. At issue is whether patentees should accrue 154 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 501 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 154 days of delay in issuance of the patent under 37 CFR 1.702(b) overlaps with the period of 501 days of examination delay under 37 CFR 1.702(a)(1). Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

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

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after national stage commence, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in

---

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

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

corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the date that national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, September 2, 2005, and ending on the date that the patent issued, February 3, 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 501 days prior to the issuance of the non-final Office action on March 17, 2008. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), the application was pending three years and 154 days prior to the issuance of the patent on February 3, 2009.

The 154 days of delay in issuance of the patent under 37 CFR 1.702(b) overlap with the 501 days of patent term adjustment under 37 CFR 1.702(a). Entry of both the 154 days and the 501 days is neither permitted nor warranted given that 501 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, having considered the 154 days of Office delay under the three-year pendency provision in conjunction with the 501 days of examination delay, reduced 14 days for applicant delay, the Office properly entered 487 days of patent term adjustment.

In view thereof, no adjustment to the patent term will be made.

Receipt is hereby acknowledged of the required patent term adjustment application fee of $200.00.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

31 MAR 2008

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Alexandria, VA 22313-1450
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FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK NY 10103-3198

In re Application of :
Pfreundschuh :
Application No.: 10/547,896 :
PCT No.: PCT/US04/06341 :
Int. Filing Date: 01 March 2004 : DECISION
Priority Date: 04 March 2003 :
Attorney Docket No.: NY-LUD-5816-US :
For: NY-ESO-1 PEPTIDES WHICH BIND TO CLASS II MOLECULES AND USES THEREOF :

This is in response to the request to withdraw the holding of abandonment filed on 17 January 2008.

BACKGROUND

This international application was filed on 01 Mar2004, claimed an earliest priority date of 04 March 2003, and designated the United States. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 04 September 2005. On 01 September 2005, applicants filed *inter alia* the basic national fee.

On 30 May 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).

On 15 January 2008, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this international application had become abandoned with respect to the national stage in the United States for failure to timely reply to the Notification of Missing Requirements mailed on 30 May 2006.

DISCUSSION

Petitioner requests withdrawal of the holding of abandonment because a response allegedly was filed on 28 July 2006. Petitioner refers to "the attached copy of the response, as well as the stamped, return receipt postcard..." Inspection of the copy of the return postcard receipt which accompanies the petition reveals that it references the instant application number, that it itemizes a "Response to Notification of Missing Requirements," an "Executed DEC/POA Form" and "Part 2 of Notice dated May 30, 2006," and that it is stamped as "Rec'd PCT/PTO 28 JUL 2006." MPEP 503 states in part that

> 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.

Following the policy described at MPEP 503, the copies of the documents received on 17 January 2008 (accompanying the petition) and itemized on the postcard receipt, including the declaration document, are being regarded as copies of the respective documents (including the declaration) originally filed on 28 July 2006, and itemized on the postcard receipt. Therefore, applicants are regarded as having filed a timely, *bona fide* response to the Notice of Missing Requirements mailed on 30 May 2006. As such, the Notification of Abandonment mailed on 15 January 2008 is hereby **VACATED**.

Review of the declaration reveals that it appears to have been compiled by aggregating sheets from separate declaration documents. MPEP 201.03 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.

DECISION

The petition is **GRANTED**.

This application is being returned to the Office of Patent Application Processing for further processing, including the preparation and mailing of a Notification of Defective Response (Form PCT/DO/EO/916) requiring the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b).

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

SCANI **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/1/08

TO SPE OF : ART UNIT 1795 Hamilton, Cynthia

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/547907 Patent No.: 7374862

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:

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

HENRY RANDALL
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: _____

M903 mailed 02/23/06 shows date to be 11/07/2005 so correction should be approved.
/Cynthia Hamilton/ Primary Examiner Art Unit 1795, July 8, 2008

Cynthia Hamilton
SPE

1795
Art Unit

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Clifford Mass
Ladas & Parry LLP
26 West 61st Street
New York, NY 10023

In re Application of: Kamins, et al.
Application No. 10/547911
Attorney Docket No. U 015929-9
Filed: May 24, 2007
For: System for Securing Access to Data Streams

DECISION ON PETITION TO WITHDRAW RESTRICTION REQUIREMENT UNDER 37 CFR §1.144

This is a decision on the petition filed September 14, 2009 under 37 C.F.R. §1.144 and 37 C.F.R. §1.181 to withdraw an outstanding restriction requirement.

The petition is **Granted**.

RELEVANT PROSECUTION HISTORY

March 11, 2009 — A restriction requirement of subcombinations useable together grouping claims 1, 3-13 and 15-24 in one group and in the second group claims 25-47 was mailed out.

March 24, 2009 — A provisional election with traverse was made to Group 1 and arguments were made about burden on the examiner were made as the claims had twice already been examined.

September 14, 2009 — The restriction was made final as the arguments for no burden were not found persuasive.

REGULATIONS AND PRACTICE

37 C.F.R. § 1.143 states:

> If the applicant disagrees with the requirement for restriction, he may request reconsideration and withdrawal or modification of the requirement, giving the reasons therefor. (See § 1.111). In requesting reconsideration the applicant must indicate a provisional election of one invention for prosecution, which invention shall be the one elected in the event the requirement becomes final. The requirement for restriction will be

reconsidered on such a request. If the requirement is repeated and made final, the examiner will at the same time act on the claims to the invention elected.

37 C.F.R. § 1.144 states:

After a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Commissioner to review the requirement ... A petition will not be considered if reconsideration of the requirement was not requested (see § 1.181).

37 C.F.R. § 1.145 states:

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

37 C.F.R. § 1.181 states:

(a) Petition may be taken to the Commissioner:

(1) From any action or requirement of any examiner in the ex parte prosecution of an application, or in ex parte or inter partes prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

(2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Commissioner; and

(3) To invoke the supervisory authority of the Commissioner in appropriate circumstances. For petitions in interferences, see § 1.644.

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.

(c) When a petition is taken from an action or requirement of an examiner in the ex parte prosecution of an application, or in the ex parte or inter partes prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Commissioner to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

MPEP § 803 states:

> Under the statute an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 806.04 - § 806.04(i)) or distinct (MPEP § 806.05 - § 806.05(i)).
> If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.
>
> CRITERIA FOR RESTRICTION BETWEEN PATENTABLY DISTINCT INVENTIONS
> There are two criteria for a proper requirement for restriction between patentably distinct inventions:
> (A) The inventions must be independent (see MPEP § 802.01, § 806.04, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(i)); and
> (B) There must be a serious burden on the examiner if restriction is required (see MPEP § 803.02, § 806.04(a) - § 806.04(i), § 808.01(a), and § 808.02).... For purposes of the initial requirement, a serious burden on the examiner may be *prima facie* shown if the examiner shows by appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in MPEP § 808.02....

MPEP § 821.01 states:

> Where the initial requirement is traversed, it should be reconsidered. If, upon reconsideration, the examiner is still of the opinion that restriction is proper, it should be repeated and made final in the next Office action. (See MPEP § 803.01.) In doing so, the examiner should reply to the reasons or arguments advanced by applicant in the traverse. Form paragraph 8.25 should be used to make a restriction requirement final.

DECISION

37 C.F.R. § 1.181(c) requires that an action by an examiner, to be properly petitionable, must be followed by a request for reconsideration, and a repeated action by the examiner. 37 C.F.R. § 1.144 states that the applicant may petition the Commissioner after a final requirement for the restriction has been made.

In the above-identified application, applicant filed several requests for reconsideration prior to the petition.

The issue presented in the petition is whether the restriction based on original presentation under 37 C.F.R. § 1.145 is proper under the current regulations and practice.

MPEP § 803 sets forth two criteria for a proper restriction requirement between patentably distinct inventions: (A) the inventions must be independent or distinct as claimed and (B) there must be a serious burden on the examiner.

A review of the claims from each group indicates that that the subcombinations are not distinct as they have overlap and that no serious burden is placed on the examiner as the claims have been repeatedly been searched and examined already, therefore, the restriction is improper.

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

The restriction requirement is hereby **WITHDRAWN**.

The application will be forwarded to the examiner for consideration on the merits of claims 1, 3-13 and 15-47.

/Tod Swann/

Tod Swann
Special Programs Examiner
Technology Center 2400

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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.
10/547,911	05/24/2007	Josh Kamins	U 015929-9	7548

140 7590 10/27/2009

LADAS & PARRY LLP
26 WEST 61ST STREET
NEW YORK, NY 10023

EXAMINER
TABOR, AMARE F

ART UNIT	PAPER NUMBER
2434	

NOTIFICATION DATE	DELIVERY MODE
10/27/2009	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):

nyuspatactions@ladas.com

09 MAY 2006

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Rene A. Vazquez
Fleshner & Kim, LLP
2325 Dulles Corner Boulevard, Suite 1100
Herndon, VA 20171

In re Application of	:	
VAHDAT, et al.	:	
U.S. Application No.: 10/547,927	:	DECISION ON PETITION
PCT No.: PCT/US02/04172	:	
Int. Filing Date: 13 February 2002	:	UNDER 37 CFR 1.137(b)
Priority Date: 13 February 2001	:	
Attorney Docket No.: DUKE-0224	:	
For: SYSTEM AND METHOD FOR OPTIMIZING EFFICIENCY OF REPLICATED NETWORK SERVICES	:	

The petition to revive under 37 CFR 1.137(b) filed 08 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 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 a compliant, 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

15 AUG 2006

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SEED INTELLECTUAL PROPERTY LAW GROUP, PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE, WA 98104-7092

In re Application of: HAMILTON et al.	:	
Application No.: 10/547,929	:	
PCT Application No.: PCT/US03/37812	:	DECISION ON
Int. Filing Date: 28 November 2003	:	PETITION UNDER
Priority Date Claimed: 27 November 2002	:	37 CFR 1.137(b)
Attorney Docket No.: 480102.446USPC	:	
For: COMPOUNDS WITH MIXED PDE-INHIBITORY AND BETA-ADRENERGIC ANTAGONIST OR PARTIAL AGONIST ACTIVITY FOR TREATMENT OF HEART FAILURE	:	

This is a decision on the "Petition for Revival of Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)" filed on 08 September 2005.

BACKGROUND

On 28 November 2003, applicant filed international application PCT/US03/37812. The international application claims a priority date of 27 November 2002 and designates the United States. Accordingly, the thirty-month period for commencement of the national stage in the United States and paying the basic national fee expired at midnight on 27 May 2005.

On 08 September 2005, applicant filed the instant petition for revival accompanied by, *inter alia*, a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) concerning a Filing under 35 U.S.C. 371 (Form PTO-1390), the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and the petition fee of $750.

DISCUSSION

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

became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) the required reply, (2) the petition as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Petitioner's statement that "the entire delay in filing the required reply, from the due date for the reply until the filing of this petition, was unintentional" satisfies the requirement of 37 CFR 1.137(b)(3). The submission of the national fee satisfies the requirement of 37 CFR 1.137(b)(1). The payment of the petition fee satisfies the requirement under 37 CFR 1.137(b)(2). A terminal disclaimer is not required because the application was filed on or after 08 June 1995. Therefore, the requirements for a grantable petition under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

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

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

John Chapman
PCT Legal Administration Detailee
Telephone: 571-272-6095
Facsimile: 571-273-0459

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

22 MAY 2006

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Dr. Carol Laherty,
Seed Intellectual Property Law Group, PLLC
701 Fifth Avenue, Suite 6300
Seattle, Washington 98104

In re Application of	:	
HAMILTON, Gregory S. et al.	:	
Application No.: 10/547,930	:	DECISION
Int. Application No.: PCT/US03/41031	:	
Int. Filing Date: 23 December 2003	:	ON PETITION UNDER
Priority Date: 23 December 2002	:	
Attorney Docket No.: 023597-0159	:	37 CFR 1.137(b)
For: CARDIOTONIC COMPOUNDS ...	:	
PHOSPHODIESTERASE	:	

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 08 September 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 paid. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

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

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Facsimile: 571-273-0459

22 MAY 2006

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Foley & Lardner LLP
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Washington, DC 20007

In re Application of	:	
HAMILTON, Gregory S. et al.	:	
Application No.: 10/547,930	:	DECISION
Int. Application No.: PCT/US03/41031	:	
Int. Filing Date: 23 December 2003	:	ON
Priority Date: 23 December 2002	:	
Attorney Docket No.: 023597-0159	:	PETITION
For: CARDIOTONIC COMPOUNDS ...	:	
PHOSPHODIESTERASE	:	

This is in response to applicant's "Withdrawal of Attorney of Record and Change of Correspondence Address," filed 23 December 2005, requesting permission to withdraw as agents of record in regard to 10/547,930. Request is **GRANTED**.

As set forth in 37 CFR 1.36, a registered attorney or agent may withdraw, upon application to and approval by the Commissioner, so long as sufficient time remains for applicant to respond to any pending action. In the present case, the request to withdraw filed 23 December 2005, is signed by Stephen A. Bent on behalf of the attorneys associated with customer number 22428.

Currently no action is required on this application within the next 30 days, so the requirement of "at least 30 days between *approval* of withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a)," is satisfied.

For the reasons above, the request to withdraw as agents of record is **GRANTED** as to the attorneys associated with customer number 22428.

A copy of this communication and all future communication will be directed to Dr. Carol Laherty, Seed Intellectual Property Law Group, PLLC, 701 Fifth Avenue, Suite 6300, Seattle, Washington 98104.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

cc: Dr. Carol Laherty,
Seed Intellectual Property Law Group, PLLC
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Seattle, Washington 98104

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FALLS CHURCH VA 22040-0747

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OFFICE OF PETITIONS

In re Application of	:	
IKEGAMI et al.	:	LETTER REGARDING PATENT
Application No. 10/547,938	:	TERM ADJUSTMENT
Filed: September 8, 2005	:	
Attorney Docket No. 4633-0144PUS1	:	

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed January 25, 2008. Applicants request that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the determination of patent term adjustment (PTA) is **dismissed**.

On October 29, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 202 days. On January 25, 2008, applicants submitted the instant comment. Applicants did not state any basis for the request for review of the patent term adjustment.

A review of the application history confirms that the period of adjustment of 224 days for Office delay and 22 days of reduction for applicant delay are correct.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance remains 202 days.

As this letter was submitted as an advisement to the Office of an error in applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

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

Enclosure: PAIR screen for U.S. Application No. 10/547,938

10/547,938	HUMIDITY CONTROLLER APPARATUS	07-09-2008::16:57:31

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 10/547,938

Filing or 371(c) Date:	09-08-2005	USPTO Delay (PTO) Delay (days):	224
Issue Date of Patent:	-	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL) Delay (days):	22
Post-Issue Petitions (days):	+0	Total PTA (days):	202
USPTO Adjustment(days):	+0	Explanation Of Calculations	

Patent Term Adjustment History

Date	Contents Description	PTO(Days)	APPL(Days)
10-29-2007	Mail Notice of Allowance		
10-24-2007	Document Verification		
10-23-2007	Notice of Allowance Data Verification Completed		
10-18-2007	Paralegal TD Accepted		
10-12-2007	Terminal Disclaimer Filed		22
09-27-2007	Date Forwarded to Examiner		↑
09-20-2007	Response after Ex Parte Quayle Action		↑
09-20-2007	Request for Extension of Time - Granted		
09-20-2007	New or Additional Drawing Filed		
06-23-2007	Electronic Review		
06-22-2007	Email Notification		
06-20-2007	Mail Ex Parte Quayle Action (PTOL - 326)	224	
06-14-2007	Ex Parte Quayle Action	↑	
09-08-2005	Information Disclosure Statement considered	↑	
07-21-2006	IFW TSS Processing by Tech Center Complete	↑	
07-21-2006	Case Docketed to Examiner in GAU	↑	
09-08-2005	Request for Foreign Priority (Priority Papers May Be Included)	↑	
09-08-2005	Information Disclosure Statement (IDS) Filed	↑	
09-08-2005	Information Disclosure Statement (IDS) Filed	↑	
09-08-2005	Preliminary Amendment	↑	
09-08-2005	371 Completion Date	↑	
04-28-2006	Application Dispatched from OIPE	↑	
04-28-2006	Notice of DO/EO Acceptance Mailed	↑	
04-01-2006	Cleared by OIPE CSR	↑	
09-08-2005	Initial Exam Team nn	↑	

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10 APR 2008

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ERIE, CO 80516

In re Application of HUDNUT et al :
U.S. Application No.: 10/547,958 :
PCT Application No.: PCT/US2004/006938 :
Int. Filing Date: 05 March 2004 :
Priority Date Claimed: 05 March 2003 : DECISION
Attorney Docket No.: 007184-28 :
For: OXYTOCIN CONTROLLED RELEASE :
FORMULATIONS AND METHODS OF :
USING SAME :

This is in response to applicant's "Supplemental Response to Notice of Abandonment and Petition Requesting Withdrawal of a Holding of Abandonment Per 37 CFR § 1.181" filed 21 March 2008.

BACKGROUND

On 05 March 2004, applicant filed international application PCT/US2004/006938, which claimed priority of an earlier United States application filed 05 March 2003. The thirty-month period for paying the basic national fee in the United States expired on 06 September 2005 (05 September 2005 was a holiday).

On 06 September 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 May 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 27 June 2006, applicant purportedly filed an executed declaration.

On 15 January 2008, 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 21 March 2008, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The petition includes a copy of a USPTO-generated auto-reply facsimile transmission which sufficiently demonstrates that the declaration was filed on the date alleged.

CONCLUSION

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

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 15 January 2008 is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 05 March 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 27 June 2006.

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

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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01 NOV 2006

Palaiyur S Kalyanaraman
Schering-Plough Corporation
2000 Galloping Hill Road
Kenilworth NJ 07033

In re Application of	:	DECISION
SIDDIQUI et al.	:	
Application No.: 10/547,959	:	
PCT No.: PCT/US2004/007286	:	
Int. Filing Date: 10 March 2004	:	
Priority Date: 10 March 2003	:	
Attorney Docket No.: NE06325US01	:	
For: HETEROCYCLIC KINASE INHIBITORS:	:	
METHODS OF USE AND SYNTHESIS	:	

This decision is in response to applicants' submission filed in the United States Patent and Trademark Office (USPTO) on 29 August 2006. The submission has been treated under 37 CFR 1.181 and 37 CFR 1.137(b).

BACKGROUND

On 10 March 2004, applicants filed international application PCT/US2004/007286, which designated the U.S. and claimed a priority date of 10 March 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 12 September 2005 (10 September 2005 being a Saturday).

On 07 September 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and an unexecuted declaration of inventors.

On 16 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 applicant must provide an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b). The NOTIFICATION set a two-month extendable period for reply.

On 10 August 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 16 December 205 within the time period set therein.

On 29 August 2006, applicants filed the instant submission.

DISCUSSION

Petition Under 37 CFR 1.181

If applicant can establish nonreceipt of the NOTIFICATION OF MISSING REQUIREMENTS, then the application was never abandoned. In such case, the holding of abandonment will be withdrawn pursuant to 37 CFR 1.181. See MPEP § 711.03(c), para. I.A.

The showing required to establish nonreceipt of an Office communication must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Items (1) and (2) have not been satisfied.

Item (3) has not been satisfied. As to item (3), MPEP § 711.03(c)), para. I.A. states that "[f]or example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action." Such a docket report has not been provided. Rather, the docket report provided shows the date the mailing would have been entered into the database.

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), an executed oath or declaration of the inventors has not been filed.

As to item (2), the petition fee has not yet been charged.

As to item (3), a grantable petition has not yet been filed.

CONCLUSION

The petition under 37 CFR 1.181 is **DISMISSED**, without prejudice, for the reasons set

forth above.

The petition under 37 CFR 1.137(b) is **DISMISSED**, without prejudice, for the reasons set forth above.

The application remains abandoned.

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

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

01 FEB 2007

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Palaiyur S Kalyanaraman
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In re Application of	:	
SIDDIQUI et al.	:	
Application No.: 10/547,959	:	DECISION
PCT No.: PCT/US2004/007286	:	
Int. Filing Date: 10 March 2004	:	
Priority Date: 10 March 2003	:	
Attorney Docket No.: NE06325US01	:	
For: HETEROCYCLIC KINASE INHIBITORS	:	
METHODS OF USE AND SYNTHESIS	:	

This decision is in response to applicants' "PETITION UNDER 37 CFR 1.181 (ESTABLISHMENT OF NON-RECEIPT)" filed in the United States Patent and Trademark Office (USPTO) on 16 November 2006.

BACKGROUND

On 10 March 2004, applicants filed international application PCT/US2004/007286, which designated the U.S. and claimed a priority date of 10 March 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 12 September 2005 (10 September 2005 being a Saturday).

On 07 September 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and an unexecuted declaration of inventors.

On 16 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 applicant must provide an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b). The NOTIFICATION set a two-month extendable period for reply.

On 10 August 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 16 December 205 within the time period set therein.

On 29 August 2006, applicants filed a submission which was properly treated as a petition under 37 CFR 1.181 and a petition under 37 CFR 1.137(b).

On 11 November 2006, a decision was mailed dismissing without prejudice applicants' petitions under 37 CFR 1.181 and 37 CFR 1.137(b).

On 16 November 2006, applicants submitted the instant "PETITION UNDER 37 CFR 1.181 (ESTABLISHMENT OF NON-RECEIPT)" which was accompanied by a docket list generated for the time period between 16 December 2006 and 16 March 2006.

DISCUSSION

If applicants can establish nonreceipt of the NOTIFICATION OF MISSING REQUIREMENTS, then the application was never abandoned. In such case, the holding of abandonment will be withdrawn pursuant to 37 CFR 1.181. See MPEP § 711.03(c), para. I.A. The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Items (1) and (2) have been met.

As to item (3), MPEP § 711.03(c), para. I.A. states that "[f]or example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action." The docket report provided shows both the day correspondence was received from the USPTO (e.g., page 2 of report, second item) as well as the day that a reply would be do (e.g., page 11 of report, fifth item). The docket report is sufficient. Thus, item (3) has been met as well. Accordingly, the NOTIFICATION OF MISSING REQUIREMENTS mailed 16 December 2005 and the NOTIFICATION OF ABANDONMENT mailed 10 August 2006 are hereby VACATED.

CONCLUSION

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

The NOTIFICATION OF MISSING REQUIREMENTS mailed 16 December 2005 is VACATED.

The NOTIFICATION OF ABANDONMENT mailed 10 August 2006 is VACATED.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an executed oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage.

Daniel Stemmer
PCT Legal Examiner
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Office of Patent Cooperation Treaty
Legal Administration
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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	: Hubert Stier	: DECISION ON REQUEST FOR
Patent Number	: 7635093	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/547,962	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/06/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **149** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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In re Application of LAVALLEE	:	
U.S. Application No.: 10/547,998	:	
PCT Application No.: PCT/FR04/50103	:	
Int. Filing Date: 11 March 2004	:	DECISION
Priority Date Claimed: 11 March 2003	:	
Attorney Docket No.: BEAUMONT-23	:	
For: INSTRUMENT FOR FIXING THE POSITION OF A CUTTING PLANE	:	

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 29 September 2005.

BACKGROUND

On 11 March 2004, applicant filed international application PCT/FR04/50103, which claimed priority of an earlier France application filed 11 March 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 30 September 2004. The thirty-month period for paying the basic national fee in the United States expired on 11 September 2005.

On 09 September 2005, applicant filed purported national stage papers in the United States Designated/Elected Office (DO/EO/US). However, the submission was not accompanied by the basic national fee required by 35 U.S.C. 371(c)(1).

International application PCT/FR04/50103 became abandoned as to the United States for failure to timely pay the basic national fee.

On 29 September 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.

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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18 MAY 2006

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Bozicevic Field & Francis
1900 University Avenue
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East Palo Alto CA 94303

In re Application of	:	
PORTNOY et al.	:	
Application No.: 10/547,999	:	DECISION ON
PCT No.: PCT/US03/13492	:	
Int. Filing Date: 29 April 2003	:	PETITION UNDER
Priority Date: 30 April 2002	:	
Attorney Docket No.: BERK-017CIP	:	37 CFR 1.137(b)
For: SITE SPECIFIC LISTERIA INTEGRATION	:	
VECTORS AND METHODS FOR USING SAME	:	

This decision is in response to applicants' submission filed 07 September 2005.

BACKGROUND

On 29 April 2003, applicants filed international application PCT/US03/13492 which designated the U.S. and claimed a priority date of 30 April 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 13 November 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 31 October 2004 (30 October 2004 being a Sunday).

On 07 September 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 07 September 2005.

As to item (2), applicant submitted the petition fee on 07 September 2005.

As to item (3), the required statement has been provided.

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

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(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.

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24 APR 2007

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BOULDER, CO 80301

In re Application of	:	
Yalkowsky, Samuel H., et al.	:	
Application No.: 10/548,000	:	DECISION
PCT No.: PCT/US04/07786	:	
Int. Filing Date: 12 March 2004	:	ON PETITION UNDER
Priority Date: 12 March 2003	:	
Docket No.: 8-04	:	37 CFR 1.181
For: WEAK BASE SALTS	:	

This decision is in response to applicant's "Petition Under 37 C.F.R. 1.10(c)," filed in the United States Patent and Trademark Office on 19 September 2006. It has been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 12 March 2004, applicant filed international application PCT/US04/07786, claiming a priority date of 12 March 2003. The deadline for payment of the basic national fee in the United States was 12 September 2005.

On 08 September 2005, applicant filed a transmittal letter accompanied by the basic national fee.

On 22 August 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) was required.

On 19 September 2006, applicant submitted this petition under 37 CFR 1.181, accompanied by a copy of a declaration, a postcard receipt for the declaration stamped 19 October 2005.

On 20 November 2006, the Office mailed Notice of Acceptance (Form PCT/DO/EO/903) indicating that the application had a 35 USC 371 (c)(1), (c)(2) and (c)(4) date of 19 September 2006, as did all of the 35 USC 371 requirements.

DISCUSSION

The declaration that applicants claim to have submitted on 14 December 2005, is not present in the application. A petition to accept a copy of what applicant claims was earlier submitted must be accompanied by a copy of the submission and proof of the earlier submission.

Applicants have provided a declaration, state that the declaration is a copy of the 14 December 2005 submission and have provided a postcard receipt date-stamped by the Office and listing the declaration. The copy of the declaration is accepted as having been received on 14 December 2005.

However, a review of the declaration indicates that it is not in compliance with 37 CFR 1.497(a)-(b) as it contains non-initialed, non-dated alterations. MPEP 605.04(a). A new oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required.

CONCLUSION

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

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 22 August 2006 is **VACATED**.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed 20 November 2006 is **VACATED**.

An oath or declaration of the inventors 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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18 JUL 2006

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Lewis J. Kreisler
Legal Department
930 Clopper Road
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In re Application of	:	
BAMAT, et al.	:	
Application No.: 10/548,057	:	
PCT No.: PCT/US04/06159	:	REQUEST FOR STATUS
Int. Filing Date: 02 March 2004	:	
Priority Date: 24 March 2003	:	UNDER 37 CFR 1.42
Attorney Docket No.: 18035-PCTUS	:	
For: NEWCASTLE DISEASE VIRUS ADMINISTRATION	:	

This decision is in response to applicant's declaration filed 09 June 2006 in the United States Patent and Trademark Office (USPTO). The declaration is being treated as a submission of papers pursuant to 37 CFR 1.42. No fee is required.

BACKGROUND

On 02 March 2004, applicant filed international application PCT/US04/06159 which claimed a priority date of 24 March 2003. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 24 September 2005.

On 02 September 2005, applicant filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the requisite basic national fee; an unexecuted combined declaration and power of attorney and a First Preliminary Amendment.

On 01 May 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 inventor, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date. Applicant was afforded two months to file the required response and advised that extensions of time were available pursuant to 37 CFR 1.136(a).

On 09 June 2006, applicant filed the declaration discussed herein executed joint inventors Bamat, Lorence, Major and Roberts and by Evelyn Rabin as the legal representative of the estate of deceased joint inventor Harvey Rabin.

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."

37 CFR 1.497 (a)(3) states that the filed declaration must identify each inventor and the country of citizenship of each inventor.

37 CFR 1.497 (b)(2) provides that 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 the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.

The filed declaration is executed by Evelyn Rabin as the legal representative of the estate of deceased joint inventor Harvey Rabin. However the declaration is not in compliance with 37 CFR 1.497 (a)-(b) in that the declaration sets forth the residence, citizenship and post office address for only one individual; presumably the legal representative, Evelyn Rabin. In order to comply with 37 CFR 1.497 (a)-(b), this information must be provided for the legal representative and at a minimum, the deceased inventor's citizenship must be given.

CONCLUSION

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

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

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

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21 DEC 2006

Lewis J. Kreisler
Legal Department
930 Clopper Road
Gaithersburg, MD 20878

In re Application of	:	
BAMAT, et al.	:	
Application No.: 10/548,057	:	
PCT No.: PCT/US04/06159	:	REQUEST FOR STATUS
Int. Filing Date: 02 March 2004	:	
Priority Date: 24 March 2003	:	UNDER 37 CFR 1.42
Attorney Docket No.: 18035-PCTUS	:	
For: NEWCASTLE DISEASE VIRUS ADMINISTRATION	:	

This decision is in response to applicant's renewed petition under 37 CFR 1.42 filed 18 December 2006 in the United States Patent and Trademark Office (USPTO). No fee is required.

BACKGROUND

On 18 July 2006, applicant was mailed a decision dismissing applicant's request for status under 37 CFR 1.42. Applicant was afforded two months to file any request for reconsideration and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 18 December 2006, applicant filed the present response accompanied by a petition for a three-month extension of time. With payment of the appropriate extension of time fee, applicant's renewed petition is considered timely filed.

DISCUSSION

As detailed in the decision mailed 18 July 2006,

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."

Applicant's originally filed declaration was held to be non-compliant as it provided only one set of information on the citizenship, residence, and mailing address for the deceased inventor and the legal representative. Applicant has presently provided newly executed

declarations which provide all of the required information and therefore it is appropriate to grant applicant's renewed petition at this time.

CONCLUSION

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

This application has an international application filing date of 13 October 2003 and will be given a date of **18 December 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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GREENBLUM & BERNSTEIN, P.L.C.
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RESTON, VA 20191

Mail Date: 04/20/2010

Applicant	: Chikara Gotanda	: DECISION ON REQUEST FOR
Patent Number	: 7596188	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/548,066	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/06/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **908** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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JUL 09 2007

OFFICE OF PETITIONS

In re Application of :
HEISS, Herbert et al. :
Application No. 10/548,107 : DECISION ON PETITION
Filed: September 06, 2005 : TO WITHDRAW
Attorney Docket No. **449122084100** : 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: **HERBERT HEISS**
LOCHHAUSERSTR. 94 B
PUCHHEIM, GERMANY 82178

cc: **KEVIN SPIVAK, BELL BOYD & LLOYD LLC**
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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
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In re Application of :
HEINE, Philippe :
U.S. Application No.: 10/548,129 :
PCT No.: PCT/FR2003/003620 :
Int. Filing Date: 08 December 2003 : DECISION
Priority Date: 04 March 2003 :
Attorney Docket No.: 80350-1390 :
For: LOSS REDUCTION DEVICE FOR :
THE PRODUCTION OF ICE :
CREAM :

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

BACKGROUND

On 28 September 2006, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905), indicating that an oath or declaration of the inventors was required.

On 28 November 2006, applicants filed a declaration of the inventors.

On 25 January 2007, a declaration for a different application was filed in this application.

On 05 April 2007, the Office mailed Notification of Acceptance (Form PCT/DO/EO/903) and a filing receipt indicating that the requirements under 35 USC 371(c)(1), (c)(2) and (c)(4) were satisfied on 25 January 2007. Further, filing receipt and Notice identified the inventors from the 25 January 2007 declaration.

DISCUSSION

The Notification of Acceptance mailed 05 April 2007, reflects an incorrect first named inventor and incorrectly identifies the date of receipt of the 35 USC 371(c)(1), (c)(2), and (c)(4) requirements and for all 35 USC 371 requirements as 25 January 2007.

Further the filing receipt lists two inventors neither of whom are inventors in this application.

CONCLUSION

The Notification of Acceptance (Form PCT/DO/EO/903) and Filing Receipt mailed 05 April 2007 are **VACATED**.

This application is being referred to the National Phase Processing Branch of the Office of Patent Application Processing for further action consistent with this decision.

/Erin P. Thomson/

Erin P. Thomson
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STE 1500
ATLANTA, GA 30339-5994

Mail Date: 04/21/2010

Applicant	: Philippe Heine	: DECISION ON REQUEST FOR
Patent Number	: 7647781	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/548,129	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/25/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **220** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ATLANTA GA 30339-5994

MAILED

APR 26 2010

OFFICE OF PETITIONS

In re Patent No. 7,524,674	:	
Issue Date: April 28, 2009	:	
Application No. 10/548,146	:	ON PETITION
Filed: August 15, 2006	:	
Attorney Docket No. 221907-1010	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed February 18, 2010 for the Extension of Time filed September 18, 2007. 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**.

Further, petitioner states "During the time period that this matter was licensed, an Extension of Time fee for $60.00 was paid." Petitioner also contends that the loss of Small Entity Status existed only from June 1, 2006 through March 23, 2008 and therefore currently remains a small entity. Accordingly, the above-identified patent will remain in small entity status.

Additionally, petitioner has submitted $60.00 towards the required current $65.00 extension of time fee, thus creating a $5.00 shortage. This shortage will be charged to petitioner's deposit account as authorized February 18, 2010.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Samlowski et al. :
Application No. 10/548,153 : ON PETITION
Filed: September 6, 2005 :
Attorney Docket Number: 007180-64 US :

This is a decision on the petition under 37 CFR §1.181 filed December 26, 2007 and supplemented on January 29, 2008 to withdraw the holding of abandonment.

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

This above-identified application became abandoned for failure to file a response to a restriction requirement mailed on March 13, 2007. The restriction requirement set an extendable one (1) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application was held abandoned on April 14, 2007. This decision precedes the mailing of a Notice of Abandonment.

Petitioner contends a reply to the restriction requirement was received in the Office on June 13, 2007. Petitioner states that the reply in the form of an amendment and request for two month extension of time were submitted on June 13, 2007. The amendment also included a certificate of transmission dated June 13, 2007.

A review of the record shows that a reply was received. However, the application number contained an incorrect application number. The reply did contain the correct art unit, filing date, examiner's name, applicant and title of invention.

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 application 10/548,133 rather than the correct application No. 10/548,**153**. The Office elects, in this instance, to treat applicants' listing of a transposed 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 June 13, 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.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

This application is being forwarded to the Art Unit 1646 for further processing of the reply submitted on June 13, 2007.

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

28 NOV 2006

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BOSTON MA 02210-2206

In re Application of	:	DECISION
MURRAY et al.	:	
Application No.: 10/548,159	:	
PCT No.: PCT/US2004/006392	:	
Int. Filing Date: 03 March 2004	:	
Priority Date: 03 March 2003	:	
Attorney Docket No.: B0801.70271US01	:	
For: BIOLOGICAL REPLACEMENT	:	
FOR FIBRIN CLOT	:	

This decision is in response to applicants' "PETITION TO CORRECT INVENTORSHIP UNDER 37 C.F.R. § 1.48 and 37 C.F.R. § 1.497" filed in the United States Patent and Trademark Office (USPTO) on 19 October 2006.

BACKGROUND

On 03 March 2004, applicants filed international application PCT/US2004/006392, which designated the United States and claimed a priority date of 03 March 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 16 September 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 06 September 2005 (03 September 2005 being a Saturday and 05 September 2005 being a Federal holiday).

On 06 September 2005, applicants filed a transmittal letter for entry in to 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 17 May 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) were required.

On 19 October 2006, applicants filed a submission including a petition/fee for a three-month extension of time, a declaration of inventors, the surcharge under 37 CFR 1.492(h), and

the instant "PETITION TO CORRECT INVENTORSHIP UNDER 37 C.F.R. §1.48 and 37 C.F.R. § 1.497".

DISCUSSION

Petition under 37 CFR 1.497(d)

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. No mention is made in the petition regarding whether an assignment has been executed. If an assignment has been executed, the written consent of the assignee is required. See MPEP § 324 for a proper showing under 37 CFR 3.73(b).

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

Petition Under 37 CFR 1.48(b))

37 CFR 1.41(a)(4) states:

> 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 change effected under PCT Rule 92bis. See § 1.497(d) and (f) for filing an oath or declaration naming an inventive entity different from the inventive entity named 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 declaration filed under PCT Rule 4.17(iv) (§ 1.48(f)(1) does not apply to an international application entering the national stage under 35 U.S.C. 371).

The declaration filed 19 October 2006 does not list the inventorship set forth in the international application. The declaration lists four inventors indicated on the international application and another inventor attempted to be added under 37 CFR 1.497(d) while the international application lists eight inventors. However, a Form PCT/IB/306 does not appear in the file for any of the remaining four inventors. Nor is there any other indication that a PCT Rule 92bis change has been made in the above-identified international application. Accordingly, the

inventorship in the national stage is the inventorship set forth in the international application and the declaration filed 19 October 2006 is not sufficient. A declaration listing all of the inventors in the international application as well as the inventor attempted to be added under 37 CFR 1.497(d) and executed by all of these inventors is required before a petition under 37 CFR 1.48(b) will be considered.

Declaration of Inventors

The declaration of inventors filed 19 October 2006 is not in compliance with 37 CFR 1.497(a)-(b). This reason is in addition to the problems noted above. The declaration includes three page twos and two page threes. Each declaration must be complete in and of itself. I.e., each declaration must identify, *inter alia*, each inventor. It is not clear from the declaration filed 19 October 2006 that each declaration presented to and signed by the inventors was complete. It appears that five inventors signed five separate declarations. However, only one declaration, which contains three page twos and two page threes was provided. Applicants must submit either a single declaration executed by all of the inventors, with the exception of any non-signing inventors, or in the alternative a copy of the entire declaration for each signed declaration.

CONCLUSION

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

For the reasons set forth above, the petition under 37 CFR 1.48(b) has not been considered.

If reconsideration on the merits of the petition under 37 CFR 1.497(d) 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.

Any proper reply must include a declaration which names the inventive entity named in the international application (in addition to the inventor attempted to be added under 37 CFR 1.497(d)), or a proper change of inventorship under 37 CFR 1.497(d) must be filed (for the four inventors listed on the international application but not on the declaration of inventors filed 19 October 2006), or Forms PCT/IB/306 indicating changes effected under PCT Rule 92bis corresponding to the declaration filed 19 October 2006 must be filed (for the four inventors listed on the international application but not on the declaration of inventors filed 19 October 2006).

Failure to timely file a proper reply 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
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12 FEB 2007

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BOSTON MA 02210-2206

In re Application of	:	DECISION
MURRAY et al.	:	
Application No.: 10/548,159	:	
PCT No.: PCT/US2004/006392	:	
Int. Filing Date: 03 March 2004	:	
Priority Date: 03 March 2003	:	
Attorney Docket No.: B0801.70271US01	:	
For: BIOLOGICAL REPLACEMENT FOR FIBRIN CLOT	:	

This decision is in response to applicants' "PETITION UNDER 37 CFR 1.47(a)" and applicants' "RENEWED PETITION TO CORRECT INVENTORSHIP UNDER 37 CFR 1.497 AND 37 CFR 1.48", both filed in the United States Patent and Trademark Office (USPTO) on 02 February 2007.

BACKGROUND

On 03 March 2004, applicants filed international application PCT/US2004/006392, which designated the United States and claimed a priority date of 03 March 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 16 September 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 06 September 2005 (03 September 2005 being a Saturday and 05 September 2005 being a Federal holiday).

On 06 September 2005, applicants filed a transmittal letter for entry in to 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 17 May 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) were required.

On 19 October 2006, applicants filed a submission including a petition/fee for a three-month extension of time, a declaration of inventors, the surcharge under 37 CFR 1.492(h), and a "PETITION TO CORRECT INVENTORSHIP UNDER 37 C.F.R. §1.48 and 37 C.F.R. § 1.497".

On 28 November 2006, a decision was mailed dismissing applicants' petition under 37 CFR 1.497(d) without prejudice and indicating that the petition under 37 CFR 1.48(b) had not been considered. The decision also indicated that a declaration which names the inventive entity named in the international application (in addition to the inventor attempted to be added under 37 CFR 1.497(d)) must be provided, or a proper change of inventorship under 37 CFR 1.497(d) must be filed (for the four inventors listed on the international application but not on the declaration of inventors filed 19 October 2006), or Forms PCT/IB/306 indicating changes effected under PCT Rule 92bis corresponding to the declaration filed 19 October 2006 must be filed.

On 02 February 2007, applicants submitted the instant "PETITION UNDER 37 CFR 1.47(a)" and "RENEWED PETITION TO CORRECT INVENTORSHIP UNDER 37 CFR 1.497 AND 37 CFR 1.48".

DISCUSSION

Petition Under 37 CFR 1.47(a)

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

As to item (1), the petition fee is $200. The balance of $70 has been charged to Deposit Account 23-2825. Thus, item (1) has been met.

Item (3) has also been met.

Item (2) has not been met. As noted in MPEP § 409.03(d), a statement of facts by a person having firsthand knowledge of the facts relied upon must be provided. Here, there is no statement of facts by the person having firsthand knowledge of the e-mails and letters sent to non-signing inventor Jennifer Marler. I.e., a statement from Melissa Lyons and Marie A. Aucoin should be provided.

As to item (4), the declaration of inventors filed 02 February 2007 signed by Andre Steinert is not in compliance with 37 CFR 1.497(a)-(b) because it fails to name all of the inventors. Page 2 of supplemental pages 1 and 2 is missing.

Petition under 37 CFR 1.497(d)

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.

As noted in the decision mailed 28 November 2006, applicants have satisfied items (1) and (2).

Item (3) still has not been satisfied. Statements from Children's Medical Center Corporation, The Brigham and Women's Hospital, Inc., and Vanderbilt University have been provided. However, no 37 CFR 3.73(b) showing has been made to establish that these are the assignees of the instant application. See MPEP § 324 for a proper showing under 37 CFR 3.73(b). Additionally, the persons signing on behalf of The Brigham and Women's Hospital, Inc. and Vanderbilt University do not have apparent authority to sign on behalf of their organizations. See MPEP § 324, item V.

As to item (4), as noted in the decision mailed 28 November 2006, a new declaration is not required by 37 CFR 1.497(f) in the instant situation.

Petition Under 37 CFR 1.48(b)

The petition under 37 CFR 1.48(b) will be decided by the primary examiner. See MPEP § 1002.02(e).

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

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

For the reasons set forth above, the petition under 37 CFR 1.48(b) has not been considered.

If reconsideration on the merits of the petition under 37 CFR 1.47(a) and/or 37 CFR 1.497(d) 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 1.47(a) [and/or 37 CFR 1.497(d), as appropriate]." No additional petition fee is required.

Failure to timely file a proper reply 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.

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02/12/2007 SBASHEIR 00000004 232025 10548159
01 FC:1463 70.00 DA 130.00 OP

Adjustment date: 02/12/2007 SBASHEIR
02/05/2007 RFEKADUI 00000003 10548159
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BOSTON MA 02210-2206

In re Application of	:	DECISION
MURRAY et al.	:	
Application No.: 10/548,159	:	
PCT No.: PCT/US2004/006392	:	
Int. Filing Date: 03 March 2004	:	
Priority Date: 03 March 2003	:	
Attorney Docket No.: B0801.70271US01	:	
For: BIOLOGICAL REPLACEMENT	:	
FOR FIBRIN CLOT	:	

This decision is in response to applicants' submission filed 12 April 2007 which includes a renewed petition under 37 CFR 1.47(a) and a renewed petition under 37 CFR 1.497(d).

BACKGROUND

On 03 March 2004, applicants filed international application PCT/US2004/006392, which designated the United States and claimed a priority date of 03 March 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 16 September 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 06 September 2005 (03 September 2005 being a Saturday and 05 September 2005 being a Federal holiday).

On 06 September 2005, applicants filed a transmittal letter for entry in to 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 17 May 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) were required.

On 19 October 2006, applicants filed a submission including a petition/fee for a three-month extension of time, a declaration of inventors, the surcharge under 37 CFR 1.492(h), and a "PETITION TO CORRECT INVENTORSHIP UNDER 37 C.F.R. §1.48 and 37 C.F.R. § 1.497".

On 28 November 2006, a decision was mailed dismissing applicants' petition under 37 CFR 1.497(d) without prejudice and indicating that the petition under 37 CFR 1.48(b) had not been considered. The decision also indicated that a declaration which names the inventive entity named in the international application (in addition to the inventor attempted to be added under 37 CFR 1.497(d)) must be provided, or a proper change of inventorship under 37 CFR 1.497(d) must be filed (for the four inventors listed on the international application but not on the declaration of inventors filed 19 October 2006), or Forms PCT/IB/306 indicating changes effected under PCT Rule 92bis corresponding to the declaration filed 19 October 2006 must be filed.

On 02 February 2007, applicants submitted a "PETITION UNDER 37 CFR 1.47(a)" and "RENEWED PETITION TO CORRECT INVENTORSHIP UNDER 37 CFR 1.497 AND 37 CFR 1.48".

On 12 February 2007, a decision was mailed dismissing without prejudice applicants' petition under 37 CFR 1.47(a) for failing to provide factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort and for failing to provide an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. The decision also dismissed applicants' petition under 37 CFR 1.497(d) for failing to provide a 3.73(b) showing establishing the assignees of the invention. The decision also indicated that the petition under 37 CFR 1.48(b) will be decided by the primary examiner, as per MPEP § 1002.02(e).

On 12 April 2007, applicants filed the instant renewed petitions under 37 CFR 1.47(a) and 1.497(d).

DISCUSSION

Petition Under 37 CFR 1.47(a)

The statement of fact by Melissa L.B. Lyons states that "Dr. Marler was in a hospital with a severe illness and [is] unable to sign her Declaration." MPEP § 409.03(d), item I, states that "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." Accordingly, the instant petition under 37 CFR 1.47(a) is inappropriate.

Petition under 37 CFR 1.497(d)

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.

As noted in the decision mailed 28 November 2006, applicants have satisfied items (1) and (2) and item (4) is not required.

Item (3) has now been satisfied.

CONCLUSION

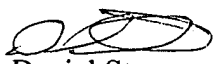
For the reasons set forth above, the petition under 37 CFR 1.47(a) is **DISMISSED** as inappropriate.

For the reasons set forth above, the petition under 37 CFR 1.497(d) is **GRANTED**.

A proper response must be filed within a time limit of ONE MONTH from the date of this decision or within the time remaining in the response set forth in the decision mailed 12 February 2007, whichever is longer. No extension of this time limit may be granted under 37 CFR 1.136, but the period for response set in the decision mailed 12 February 2007 may be extended under 37 CFR 1.136(a). A proper response must include a declaration in compliance with 37 CFR 1.497(a)-(b) signed by either Jennifer Marler or a legal representative of Jennifer Marler.

Failure to timely file a proper reply 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.



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25 JUN 2007

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In re Application of	:	DECISION
MURRAY et al.	:	
Application No.: 10/548,159	:	
PCT No.: PCT/US2004/006392	:	
Int. Filing Date: 03 March 2004	:	
Priority Date: 03 March 2003	:	
Attorney Docket No.: B0801.70271US01	:	
For: BIOLOGICAL REPLACEMENT	:	
FOR FIBRIN CLOT	:	

This decision is in response to applicants' submission filed 11 June 2007 which includes a "Renewed Petition under 37 CFR 1.47(a) and 37 CFR 1.497(d)" and a "Petition Under 37 CFR 1.183".

BACKGROUND

On 03 March 2004, applicants filed international application PCT/US2004/006392, which designated the United States and claimed a priority date of 03 March 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 16 September 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 06 September 2005 (03 September 2005 being a Saturday and 05 September 2005 being a Federal holiday).

On 06 September 2005, applicants filed a transmittal letter for entry in to 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 17 May 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) were required.

On 19 October 2006, applicants filed a submission including a petition/fee for a three-month extension of time, a declaration of inventors, the surcharge under 37 CFR 1.492(h), and a "PETITION TO CORRECT INVENTORSHIP UNDER 37 C.F.R. §1.48 and 37 C.F.R. § 1.497".

On 28 November 2006, a decision was mailed dismissing applicants' petition under 37 CFR 1.497(d) without prejudice and indicating that the petition under 37 CFR 1.48(b) had not been considered. The decision also indicated that a declaration which names the inventive entity named in the international application (in addition to the inventor attempted to be added under 37 CFR 1.497(d)) must be provided, or a proper change of inventorship under 37 CFR 1.497(d) must be filed (for the four inventors listed on the international application but not on the declaration of inventors filed 19 October 2006), or Forms PCT/IB/306 indicating changes effected under PCT Rule 92bis corresponding to the declaration filed 19 October 2006 must be filed.

On 02 February 2007, applicants submitted a "PETITION UNDER 37 CFR 1.47(a)" and "RENEWED PETITION TO CORRECT INVENTORSHIP UNDER 37 CFR 1.497 AND 37 CFR 1.48".

On 12 February 2007, a decision was mailed dismissing without prejudice applicants' petition under 37 CFR 1.47(a) for failing to provide factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort and for failing to provide an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. The decision also dismissed applicants' petition under 37 CFR 1.497(d) for failing to provide a 3.73(b) showing establishing the assignees of the invention. The decision also indicated that the petition under 37 CFR 1.48(b) will be decided by the primary examiner, as per MPEP § 1002.02(e).

On 12 April 2007, applicants filed a renewed petitions under 37 CFR 1.47(a) and 1.497(d).

On 10 May 2007, a decision was mailed granting applicants' petition under 37 CFR 1.497(d). Applicants' petition under 37 CFR 1.47(a) was dismissed as inappropriate because a statement of facts by Melissa L.B. Lyons indicated that the non-signing inventor Dr. Marler was in a hospital with illness and MPEP § 409.03(d), item I, states that "the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 CFR 1.47."

On 14 June 2007, applicants submitted the instant "Renewed Petition under 37 CFR 1.47(a) and 37 CFR 1.497(d)" and a "Petition Under 37 CFR 1.183". The renewed petition under 37 CFR 1.47(a) is accompanied by a statement of facts by Melissa L.B. Lyons and copies of supporting e-mails and correspondence.

DISCUSSION

Petition Under 37 CFR 1.47(a)

The statement of facts by Melissa L.B. Lyons and accompanying documentation have been considered but are not sufficient. Accordingly, the instant petition under 37 CFR 1.47(a) is still deemed inappropriate.

The statement by Ms. Lyons indicates that her earlier statement that non-signing inventor Dr. Marler was in a hospital with illness was based on an e-mail from Dr. Bachman dated 19 January 2007. In an e-mail dated 05 June 2007, Dr. Bachman states that she understood from Dr. Murray that the inventor could have been in the hospital prior to or during January 2007. An e-mail dated 05 June 2007 from Dr. Murray references Dr. Bachman's 05 June 2007 e-mail and states "[t]his correctly states the situation as I know it as well." However, these statements should be provided in a statement of facts by Dr. Bachman and Dr. Marler rather than in e-mails. Moreover, it is still not clear how Dr. Murray came under the impression, if indeed she did, that Dr. Marler was in the hospital. Also, the 05 June 2007 e-mail from Dr. Bachman states that Dr. Murray "did not know the inventor's whereabouts during January 2007 or the months prior, despite repeated attempts at contact." If this statement is correct, it should be provided in statement of facts by Dr. Murray.

Petition Under 37 CFR 1.183

The petition fee has been paid. The petition fails to specify what rule or rules or portion of a rule or rules petitioner wants waived or why waiver of such is required.

In a telephone conversation with the undersigned, petitioner indicated that a signed declaration by Dr. Marler for the same subject matter as the instant application may exist. If that is the case, one possibility is for petitioner to request waiver of the portion of 37 CFR 1.63(d)(1) that states "under § 1.51(b)(2) and § 1.53(f)". If this portion were to be waived, it might be sufficient to accept the earlier signed declaration of Dr. Marler, if it exists. Note that the suggestion to file such a petition is not an indication that such a petition would be granted.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.47(a) is **DISMISSED** as inappropriate.

For the reasons set forth above, the petition under 37 CFR 1.183 is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. **Failure to timely file the proper response will result in abandonment of this application.** Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a) [and/or 37 CFR 1.183, as appropriate]". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Failure to timely file a proper reply 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
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Facsimile: (571) 273-0459

DATE 9/17/07 APPLICATION NUMBER 10/548,159

DOC CODE Pet. Dec. DO/EO DOC DATE 9-17-07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN 8 WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN 16 WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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17 SEP 2007

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In re Application of	:	DECISION
MURRAY et al.	:	
Application No.: 10/548,159	:	
PCT No.: PCT/US2004/006392	:	
Int. Filing Date: 03 March 2004	:	
Priority Date: 03 March 2003	:	
Attorney Docket No.: B0801.70271US01	:	
For: BIOLOGICAL REPLACEMENT	:	
FOR FIBRIN CLOT	:	

This decision is in response to applicants' submission filed 02 August 2007 which includes a "Renewed Petition under 37 CFR 1.47(a) and 37 CFR 1.497(d)" and a "Petition Under 37 CFR 1.183".

BACKGROUND

On 03 March 2004, applicants filed international application PCT/US2004/006392, which designated the United States and claimed a priority date of 03 March 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 16 September 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 06 September 2005 (03 September 2005 being a Saturday and 05 September 2005 being a Federal holiday).

On 06 September 2005, applicants filed a transmittal letter for entry in to 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 17 May 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) were required.

On 19 October 2006, applicants filed a submission including a petition/fee for a three-month extension of time, a declaration of inventors, the surcharge under 37 CFR 1.492(h), and a "PETITION TO CORRECT INVENTORSHIP UNDER 37 C.F.R. §1.48 and 37 C.F.R. § 1.497".

On 28 November 2006, a decision was mailed dismissing applicants' petition under 37

CFR 1.497(d) without prejudice and indicating that the petition under 37 CFR 1.48(b) had not been considered. The decision also indicated that a declaration which names the inventive entity named in the international application (in addition to the inventor attempted to be added under 37 CFR 1.497(d)) must be provided, or a proper change of inventorship under 37 CFR 1.497(d) must be filed (for the four inventors listed on the international application but not on the declaration of inventors filed 19 October 2006), or Forms PCT/IB/306 indicating changes effected under PCT Rule 92bis corresponding to the declaration filed 19 October 2006 must be filed.

On 02 February 2007, applicants submitted a "PETITION UNDER 37 CFR 1.47(a)" and "RENEWED PETITION TO CORRECT INVENTORSHIP UNDER 37 CFR 1.497 AND 37 CFR 1.48".

On 12 February 2007, a decision was mailed dismissing without prejudice applicants' petition under 37 CFR 1.47(a) for failing to provide factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort and for failing to provide an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. The decision also dismissed applicants' petition under 37 CFR 1.497(d) for failing to provide a 3.73(b) showing establishing the assignees of the invention. The decision also indicated that the petition under 37 CFR 1.48(b) will be decided by the primary examiner, as per MPEP § 1002.02(e).

On 12 April 2007, applicants filed a renewed petition under 37 CFR 1.47(a) and 1.497(d).

On 10 May 2007, a decision was mailed granting applicants' petition under 37 CFR 1.497(d). Applicants' petition under 37 CFR 1.47(a) was dismissed as inappropriate because a statement of facts by Melissa L.B. Lyons indicated that the non-signing inventor Dr. Marler was in a hospital with illness and MPEP § 409.03(d), item I, states that "the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 CFR 1.47."

On 14 June 2007, applicants submitted a "Renewed Petition under 37 CFR 1.47(a) and 37 CFR 1.497(d)" and a "Petition Under 37 CFR 1.183". The renewed petition under 37 CFR 1.47(a) was accompanied by a statement of facts by Melissa L.B. Lyons and copies of supporting e-mails and correspondence.

On 25 June 2007, a decision was mailed again dismissing applicants' petition under 37 CFR 1.47(a) as inappropriate. It was noted that copies of e-mails from Dr. Bachman and Dr. Murray were provided but that the statements made in these e-mails should be provided in the form of a statement of facts. The petition under 37 CFR 1.183 was dismissed without prejudice.

On 02 August 2007, applicants submitted the instant "Renewed Petition under 37 CFR

1.47(a) and 37 CFR 1.497(d)" and a "Petition Under 37 CFR 1.183". The renewed petition under 37 CFR 1.47(a) is accompanied by a statement of facts by Dr. Bachman and by Dr. Murray.

DISCUSSION

Petition Under 37 CFR 1.47(a)

The statements of facts by Dr. Bachman and by Dr. Murray establish that neither of them knew whether Dr. Marler was actually in a hospital with illness. Accordingly, a petition under 37 CFR 1.47(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.

As noted in the decision mailed 12 February 2007, items (1) and (3) have been met.

Item (2) has now been met as well. The submission filed 02 August 2007 combined with the submission filed 21 April 2007 establish that non-signing inventor Dr. Marler cannot be reached after diligent effort.

Item (4) has been met as well. The declarations of inventors filed 02 February 2007 and 12 April 2007 are in compliance with 37 CFR 1.497(a)-(b).

Petition Under 37 CFR 1.497(d)

As noted in the decision mailed 10 May 2007, the petition under 37 CFR 1.497(d) has been granted.

Petition Under 37 CFR 1.48(b)

As noted in the decision mailed 12 February 2007, the petition under 37 CFR 1.48(b) will be decided by the primary examiner. See MPEP § 1002.02(e).

Petition Under 37 CFR 1.183

The petition under 37 CFR 1.183 is moot since the petition under 37 CFR 1.47(a) has been granted.

CONCLUSION

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

For the reasons set forth above, the petition under 37 CFR 1.183 is **DISMISSED** as **MOOT**.

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 April 2007** and processing the application in the names of Martha M. Murray, Christopher Evans, Andre F. Steinert, Arnulf Pascher, Steven Ghivizzani, Michael F. Murray, Jennifer Marler, Kurt P. Spindler, and Aenor J. Sawyer as inventors

Daniel Stemmer
PCT Legal Examiner
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0 1 MAY 2007

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780 NORTH WATER STREET
MILWAUKEE WI 53202

In re Application of	
VAN HAMMOND, Timothy J., et al.	
Application No.: 10/548,160	DECISION ON
PCT No.: PCT/US2004/006483	
Int. Filing Date: 03 March 2004	PETITION
Priority Date: 03 March 2003	
Attorney Docket No.: 070267-0004	UNDER 37 CFR 1.47(a)
For: SYSTEM AND METHOD FOR FACILITATING IP TELEPHONY APPLICATIONS	

This is a decision on applicants' "Petition Under 37 C.F.R. §1.47," filed in the United States Patent and Trademark Office (USPTO) on 30 November 2006.

BACKGROUND

On 03 March 2004, applicants filed international application PCT/US2004/006483, claiming a priority date of 03 March 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 06 September 2005 (03 September was a Saturday and 05 September 2005 was a holiday).

On 06 September 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 26 April 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 search fee, examination fee or oath or declaration were required.

On 28 November 2006, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application went abandoned for failure to timely reply to the Notification of Missing Requirements.

On 30 November 2006, applicants submitted a petition under 37 CFR 1.47(a), which was accompanied by, *inter alia*, a declaration of inventorship. The petition included a certificate of mailing indicating that it was deposited in the mail on 26 November 2006 and the fee for a five month extension of time.

On 30 January 2007, applicants submitted a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

DISCUSSION

This application is not abandoned. The response to the Notification of Missing Requirements was timely filed with a certificate of mailing. The Notification of Abandonment issued in error.

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(g), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the non-signing applicant.

Items (1) and (3) have been satisfied. The $200 petition fee will be charged to deposit account no. 07-1509, as authorized. Applicants list Scott Timmons' address as 3 Ash Grove Place, Kaukauna, WI 54130, Jeffrey P. Lang's address as 1783 Brighton Beach Road, Menasha, WI 54952 and Timothy J. Van Hammond's address as 816 N. Cambridge Drive, Appleton, WI 54915.

Item (2) has not been satisfied. Applicants have not furnished evidence of receipt of the complete copy of the application papers, including the declaration, by the non-signing inventor. Applicants indicate that only the declaration and assignment were sent to the non-signing inventors, not a complete copy of the application papers, as required. A refusal to sign in the absence of presentation with a complete copy of the application papers is not normally sufficient. MPEP 409.03(d). Additionally evidence that the application papers were actually received or that the address to which the papers were sent is current is normally required.

Item (4) has not been satisfied. The declaration contains two supplemental sheets listing the same inventors, but were separately executed. The first of these is labeled "1 of 2." While it is acceptable for inventors to execute separate copies of the oath or declaration, the complete copy of the oath or declaration as executed by the inventor must be furnished. It is not permissible to piece together separately executed declarations to create a single composite declaration. An oath or declaration in compliance with 37 CFR 1.497(a)-(b) is required.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

The Notification of Abandonment mailed 28 November 2006 is **VACATED**.

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

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

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Erin P. Thomson

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26 SEP 2007

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MILWAUKEE WI 53202

In re Application of	:	
VAN HAMMOND, Timothy J., et al.	:	
Application No.: 10/548,160	:	DECISION ON
PCT No.: PCT/US2004/006483	:	
Int. Filing Date: 03 March 2004	:	PETITION
Priority Date: 03 March 2003	:	
Attorney Docket No.: 070267-0004	:	UNDER 37 CFR 1.47(a)
For: SYSTEM AND METHOD FOR FACILITATING IP TELEPHONY APPLICATIONS	:	

This is a decision on applicants' "Renewed Petition Under 37 C.F.R. §1.47(a)," filed in the United States Patent and Trademark Office (USPTO) on 23 July 2007.

BACKGROUND

On 01 May 2007, the Office mailed Decision On Petition Under 37 CFR 1.47(a), dismissing applicants' petition without prejudice.

On 23 July 2007, applicants filed this renewed petition under 37 CFR 1.47(a).

On 20 August 2007, the Office mailed Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration submitted by applicants was defective as it was not signed by two of the inventors.

DISCUSSION

The Notification of Defective Response (Form PCT/DO/EO/916) mailed 20 August 2007 should not have issued. Applicants filed a declaration of the inventors accompanied by a petition under 37 CFR 1.47(a). This was a proper response to the Notification of Missing Requirements. The relevant period for response was the one set in the petition decision. The Notification of Defective Response is vacated.

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(g), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the non-signing applicant.

Items (1) and (3) were previously satisfied. The $200 petition fee was charged to deposit account no. 07-1509, as authorized. Applicants list Scott Timmons' address as 3 Ash Grove Place, Kaukauna, WI 54130, Jeffrey P. Lang's address as 1783 Brighton Beach Road, Menasha, WI 54952 and Timothy J. Van Hammond's address as 816 N. Cambridge Drive, Appleton, WI 54915.

Item (2) has not been satisfied. Applicants forwarded to the inventors copies of the international application and a defective declaration of the inventors. Namely, each declaration listed only one inventor, when the international application lists five. An inventor cannot be expected to execute a declaration listing an incorrect inventive entity under legal penalty for false statements.

Item (4) has not been satisfied. As explained above, the declaration of the inventors is defective. A new declaration from the two signing inventors and an explanation of why they signed a declaration stating that each was the sole inventor of the above application is required.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

The Notification of Defective Response (Form PCT/DO/EO/916) mailed 20 August 2007 is **VACATED**.

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

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

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18 MAR 2008

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In re Application of	:	
VAN HAMMOND, Timothy J., et al.	:	
Application No.: 10/548,160	:	DECISION ON
PCT No.: PCT/US2004/006483	:	
Int. Filing Date: 03 March 2004	:	PETITION
Priority Date: 03 March 2003	:	
Attorney Docket No.: 070267-0004	:	UNDER 37 CFR 1.47(a)
For: SYSTEM AND METHOD FOR FACILITATING IP TELEPHONY APPLICATIONS	:	

This is a decision on applicants' "Renewed Petition Under 37 C.F.R. §1.47(a)," filed in the United States Patent and Trademark Office (USPTO) on 19 December 2007.

BACKGROUND

On 26 September 2007, the Office mailed Decision On Petition Under 37 CFR 1.47(a), dismissing applicants' petition without prejudice.

On 19 December 2007, applicants filed this renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(g), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the non-signing applicant.

Items (1) and (3) were previously satisfied. The $200 petition fee was charged to deposit account no. 07-1509, as authorized. Applicants list Scott Timmons' address as 3 Ash Grove Place, Kaukauna, WI 54130, Jeffrey P. Lang's address as 1783 Brighton Beach Road, Menasha, WI 54952 and Timothy J. Van Hammond's address as 816 N. Cambridge Drive, Appleton, WI 54915.

Items (2) and (4) have now been satisfied. Applicants provided a complete copy of the application papers to the non-signing inventors and the non-signing inventors have not returned signed copies of the declaration. The declaration complies with 37 CFR 1.497(a)-(b) and 1.47.

CONCLUSION

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

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

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

This application is being forwarded to the National Stage Processing Branch of the Office of Patent Application Processing for continued national stage processing of the application, including accordation of a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of **19 December 2007**.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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18 MAR 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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Scott Timmons
3 Ash Grove Place
Kaukauna, WI 54130

In re Application of
VAN HAMMOND, Timothy J., et al.
Application No.: 10/548,160
PCT No.: PCT/US2004/006483
Int. Filing Date: 03 March 2004
Priority Date: 03 March 2003
Attorney Docket No.: 070267-0004
For: SYSTEM AND METHOD FOR FACILITATING IP TELEPHONY APPLICATIONS

Dear Mr. Timmons:

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

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

/Erin P. Thomson/

Erin P. Thomson
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18 MAR 2008

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Jeffrey P. Lang
1783 Brighton Beach Road
Menasha, WI 54952

In re Application of
VAN HAMMOND, Timothy J., et al.
Application No.: 10/548,160
PCT No.: PCT/US2004/006483
Int. Filing Date: 03 March 2004
Priority Date: 03 March 2003
Attorney Docket No.: 070267-0004
For: SYSTEM AND METHOD FOR FACILITATING IP TELEPHONY APPLICATIONS

Dear Mr. Lang:

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

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

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

GODFREY & KAHN S.C.
780 NORTH WATER STREET
MILWAUKEE WI 53202

18 MAR 2008

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Timothy J. Van Hammond
816 N. Cambridge Drive
Appleton, WI 54915

In re Application of
VAN HAMMOND, Timothy J., et al.
Application No.: 10/548,160
PCT No.: PCT/US2004/006483
Int. Filing Date: 03 March 2004
Priority Date: 03 March 2003
Attorney Docket No.: 070267-0004
For: SYSTEM AND METHOD FOR FACILITATING IP TELEPHONY APPLICATIONS

Dear Mr. Van Hammond:

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

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

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

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Paper No.

WILMERHALE/BOSTON
60 STATE STREET
BOSTON MA 02109

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OFFICE OF PETITIONS

In re Application of :
Graczyk et al. :
Application No. 10/548,162 : ON APPLICATION FOR
Filed: March 13, 2006 : PATENT TERM ADJUSTMENT
Atty Docket No. :
0102286.00161US1 :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT AND REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §§ 1.702-1.705 filed on September 2, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is 787 days, not 369 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). 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, 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).

Applicants state that the application is not subject to a terminal disclaimer.

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

---

[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 Douglas I. Wood at (571) 272-3231.

Christina Tartera Donnell for

Anthony Knight
Supervisor
Office of Petitions

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Paper No.

MAY 27 2010

OFFICE OF PETITIONS

WILMERHALE/BOSTON
60 STATE STREET
BOSTON MA 02109

In re Patent No. 7652137 : DECISION ON REQUEST
Graczyk et al. : FOR
Issue Date: 01/26/2010 : RECONSIDERATION OF
Application No. 10/548162 : PATENT TERM ADJUSTMENT
Filed: 03/13/2006 : and
Atty Docket No. : NOTICE OF INTENT TO ISSUE
0102286.00161US1 : CERTIFICATE OF CORRECTION

This is a decision on the petition filed on February 24, 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 eight hundred fifty-one (851) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by eight hundred fifty-one (851) 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 **eight hundred fifty-one (851)** days.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,652,137 B2

DATED : **January 26, 2009** **DRAFT**

INVENTOR(S) : Graczyk 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 450 days.

Delete the phrase "by 450 days" and insert – by 851 days--

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

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OFFICE OF PETITIONS

In re Application of :

VALAT, Christophe et al. :
Application No. 10/548,174 : DECISION ON PETITION
Filed: March 13, 2006 : TO WITHDRAW
Attorney Docket No. **BJS-3665-161** : 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 19, 2008.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that act (1) 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 Tredelle Jackson at 571-272- 2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **CHRISTOPHE VALAT**
10, RUE DU VERGER
VILLIERS SUR MARNE FRANCE 94350

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SEP 21 2006

IP GROUP OF DLA PIPER RUDNICK GRAY CARY US LLP
1650 MARKET ST
SUITE 4900
PHILADELPHIA PA 19103

In re Application of:
Jean Gabert et al.
Serial No.: 10/548,188
Filed: June 12, 2006
Docket No.: ARM-05-1708

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on September 5, 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) on or after August 25, 2006;
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 application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because the petition was filed under procedures in effect prior to August 25, 2006, and does not meet the above criteria, especially items 2 and 3.

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 William R. Dixon, Jr., Special Program Examiner in Technology 1600, at (571) 272-0519.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

OCT 12 2006

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Alexandria, VA 22313-1450
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IP GROUP OF DLA PIPER US LLP
ONE LIBERTY PLACE
1650 MARKET ST, SUITE 4900
PHILADELPHIA PA 19103

In re Application of	:
Jean Gabert et al	:
Serial No.: 10/548,188	: PETITION TO MAKE SPECIAL
Filed: June 12, 2006	:
Attorney Docket No.: ARM-05-1708	:

This is in response to applicants' petition filed September 5, 2006 (having a Certificate of Mailing dated august 24, 2006), to make the above-identified application special under the provisions of 37 CFR 1.102(d).

The petition decision mailed September 21, 2006, is hereby vacated pursuant to a telephone call from applicants pointing out the existence of a Certificate of mailing accompanying the petition which was not earlier considered.

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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Alexandria, VA 22313-1450
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23 FEB 2007

Young & Thompson
745 South 23rd Street
Arlington, VA 22202

In re Application of
AKUTO et al.
Application No.: 10/548,202
PCT No.: PCT/JP04/02969
Int. Filing: 08 March 2004
Priority Date: 07 March 2003
Attorney Docket No.: 80751013
For: VAPORIZER, FILM FORMING APPARATUS INCLUDING THE SAME, METHOD OF VAPORIZATION AND METHOD OF FORMING FILM

DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision in response to applicants' "Petition under 37 CFR 1.47(a)" filed 23 January 2007 to accept the application without the signature of joint inventors, Hisayoshi Yamoto, Kazuya Akuto, Ken Nagaoka, and Hitoshi Kobayashi. The $200 petition fee has been submitted.

BACKGROUND

On 08 March 2004, applicants filed international application PCT/JP04/02969 which claimed a priority date 07 March 2003. Pursuant to 37 CFR 1.495, the period for paying the basic national fee in the United States expired 30 months from the priority date, 07 September 2005.

On 06 September 2005, applicants filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; and an application data sheet.

On 23 June 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 23 January 2007, applicants filed a petition under 37 CFR 1.47(a) and an oath/declaration executed by Masafumi Shoji and Mitsuru Fukugawa. Additionally, applicants filed an English translation of the international application.

DISCUSSION

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

A review of the papers filed 23 January 2007 reveals that petitioner has paid the requisite petition fee, provided sufficient proof that the non-signing inventor (Hisayoshi Yamoto, Kazuya Akuto, Ken Nagaoka, and Hitoshi Kobayashi) refused to sign, stated the last known address of the non-signing inventor (Hisayoshi Yamoto, Kazuya Akuto, Ken Nagaoka, and Hitoshi Kobayashi), and provided an acceptable declaration. Accordingly, all of the requirements of items (1), (2), (3), and (4) above have been satisfied..

CONCLUSION

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

The application has an international filing date of 08 March 2004 under 35 U.S.C. 363, and will be given a date of 23 January 2007 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

Anthony Smith

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

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OFFICE OF PETITIONS

FOLEY & LARDNER LLP
111 HUNTINGTON AVENUE
26TH FLOOR
BOSTON MA 02199-7610

In re Application of :
Pierre Roy :
Application No. 10/548,210 : ON APPLICATION FOR
Filed: September 1, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. 079777-0584 (EGS-007 US)

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705" filed April 8, 2010. The petition is properly treated under 37 CFR 1.705(b). Applicants submit that the patent term adjustment to be indicated on the patent is five hundred and thirty-one (531) days, not two hundred and thirty-nine (239) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 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].

It is noted that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

---

[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.

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is further noted that a Request for Continued Examination (RCE) was filed in this application on June 18, 2009.

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

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

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

Telephone inquiries specific to this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

Mail Date: 04/21/2010

Applicant	: Gilles Bourbon	: DECISION ON REQUEST FOR
Patent Number	: 7592737	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/548,214	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/15/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **161** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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OSHA LIANG L.L.P.
1221 MCKINNEY STREET
SUITE 2800
HOUSTON TX 77010

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AUG 0 4 2008

Applicant: Wendling et al.
Appl. No.: 10/548,234
International Filing Date: March 23, 2004
Title: Processing a Data Stream Format For Mobile Audiovisual Reception
Attorney Docket No.: 11345/073001
Pub. No.: US 2007/0041399-A1
Pub. Date: February 22, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on April 23, 2007, for the above-identified application

Applicant requests that the application be republished because the patent application publication contains material errors wherein the wrong specification, claims, and abstract were published.

The request is granted.

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.

Inquiries relating to this matter may be directed to Mark O. 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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P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

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JAN 21 2009

In re Application of :
Wilhelmus Francisus Fontijn et al :
Application No. 10/548,248 : ON PETITION
Filed: September 6, 2005 :
Attorney Docket No. NL 030195 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 10, 2008, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 3, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 4, 2008.

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

This matter is being referred to Technology Center AU 3689 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

08 MAY 2006

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In re Application of	:	
ZENG et al.	:	
Application No.: 10/548,259	:	DECISION ON
PCT No.: PCT/IB03/05697	:	
Int. Filing Date: 02 December 2003	:	PETITION UNDER
Priority Date: 20 December 2002	:	
Attorney Docket No.: CN020024	:	37 CFR 1.137(b)
For: METHOD AND SYSTEM FOR DELIVERING	:	
DUAL LAYER HDTV SIGNALS THROUGH	:	
BROADCASTING AND STREAMING	:	

This decision is in response to applicants' submission filed 06 September 2005.

BACKGROUND

On 02 December 2003, applicants filed international application PCT/IB03/05697 which designated the U.S. and claimed a priority date of 20 December 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 08 July 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 20 June 2005.

On 06 September 2005, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee and a petition under 37 CFR 1.137(b) to revive the application.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicants submitted the basic national fee on 06 September 2005.

As to item (2), applicants submitted the petition fee on 06 September 2005.

As to item (3), the required statement has been provided.

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

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

25 JUL 2006

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

In re Application of :
FUTA *et al* :
Application No.: 10/548,265 :
PCT No.: PCT/JP2004/003201 :
Int. Filing Date: 11 March 2004 :
Priority Date: 11 March 2003 : **DECISION**
Attorney Docket No.: 2005_1375A :
For: CONTENT RECORDING/ :
REPRODUCING SYSTEM, :
DISTRIBUTION DEVICE, AND :
RECORDING DEVICE

This is a decision on the declaration filed on 12 January 2006 which has been treated as a petition under 37 CFR 1.42. No fee is required.

BACKGROUND

On 21 December 2005, the DO/EO/US mailed a Notification of Missing Requirements (PCT/DO/EO/905) requesting an oath or declaration in compliance with 37 CFR 1.497 and a surcharge fee. Applicants were given two months to respond with extensions of time available.

On 12 January 2006, applicants filed a declaration executed by four of the five named inventors and by three heirs on behalf of a deceased inventor and the surcharge fee.

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.

Three heirs signed for the deceased inventor, Yamamichi Masato. The citizenship, residence and address of each heir are recorded on the declaration pursuant to 37 CFR 1.497(b)(2). However, the required information for the deceased inventor is omitted. 37 CFR 1.497(a)(3) requires that the citizenship of each inventor

(including any deceased inventor) must be listed on the declaration.

In addition, it is not clear that all the heirs executed the declaration. A statement by either the heirs signing the declaration, or the attorney is required. This statement should establish that the persons signing the declaration are all the heirs of the deceased inventor and that no legal representative of the deceased's estate has been appointed, or is statutorily required to be appointed.

CONCLUSION

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

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

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

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19 DEC 2006

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

In re Application of :
FUTA *et al* :
Application No.: 10/548,265 :
PCT No.: PCT/US2004/003201 :
Int. Filing Date: 11 March 2004 :
Priority Date: 11 March 2003 : **DECISION**
Attorney Docket No.: 2005_1375A :
For: CONTENT RECORDING/ :
REPRODUCING SYSTEM, :
DISTRIBUTION DEVICE AND :
RECORDING DEVICE

This is a decision on the declaration filed on 25 October 2006 which has been treated as a renewed petition under 37 CFR 1.42. No fee is required.

BACKGROUND

On 25 July 2006, a decision dismissing applicants' petition under 37 CFR 1.42 was mailed. Applicants were given two months to respond with extensions available.

On 25 October 2006, applicants filed a one-month extension along with substitute declaration.

DISCUSSION

The original declaration submitted 12 January 2006 failed to provide the required information for the deceased inventor. Moreover, a statement declaring that all heirs signed the declaration is also required.

In the renewed petition, applicants have provided an acceptable declaration and made the required statement regarding the heirs. A review of the declaration shows that it is in compliance with 37 CFR 1.497(a) and (b).

CONCLUSION

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

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 11 March 2004, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 25 October 2006.

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

James Thomson
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Office of PCT Legal Administration

Tel.: (571) 272-3302

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OFFICE OF PETITIONS

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

In re Patent No. 7,534,571	:	
Mariani, et al.	:	
Issue Date: May 19, 2009	:	DECISION ON REQUEST FOR
Application No. 10/548,279	:	RECONSIDERATION OF
Filed: September 7, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 059718-0102	:	

This is in response to the "PETITION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705" filed July 17, 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 one hundred eighty-four (184) days to four hundred thirty-eight (438) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **DISMISSED.**

This application was filed on September 7, 2005. On May 19, 2009, the application matured into U.S. Patent No. 7,534,571, with a revised patent term adjustment of 184 days. The Office determined that the 249 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)[1] overlaps with the 329 days of

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

Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application

Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1)[2] accorded prior to the issuance of the patent. As such, the Office allowed only entry of the adjustment of 329 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 145 days, the patent issued with a revised patent term adjustment of 184 (329 - 145) days.

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees aver that the correct number of days of Patent Term Adjustment is 438 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). Patentee asserts that pursuant to Wyeth, a PTO delay under 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35 U.S.C. 154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that the total non-overlapping PTO delay under 35 U.S.C. 154(b)(1)(A) and (B) is 583 days as these periods do not occur on the same day. Further, given the applicant delay of 145 days, patentees assert entitlement to 438 (583 - 145) days of patent term adjustment.

At the outset, it is noted that patentees incorrectly calculated the period of delay under 37 CFR 1.703(b) as 254 days, based on the 371(c) date of February 7, 2005.

37 CFR 1.702(b) indicates that a patent is entitled to patent term adjustment if, subject to a number of limitations, the Office fails to issue a patent within three years of the actual filing date of the application (35 U.S.C. 154(b)(1)(B)). In the case of

---

[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;

an international application, the phrase "actual filing date of the application in the United States" means the date the national stage commenced under 35 U.S.C. 371(b) or (f). *See Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term*, 65 FR 56366, 56382-84, (Sept. 18, 2000), 1239 Off. Gaz. Pat. Office 14, 28-30 (Oct. 3, 2000).

Accordingly, the period of delay under 37 CFR 1.703(b) is 249 days, counting the number of days in the period beginning on the day after the date that is three years after the date on which the national stage commenced under 35 U.S.C. 371(b), September 13, 2008, and ending on the date the patent issued, May 19, 2009.

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

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

As explained in *Explanation of 37 CFR 1.703(f)*[3] *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

[3] 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.

> application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding 37 CFR 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period from the date the national stage commenced, September 12, 2005[4] to the date the patent issued, May 19, 2009 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

---

[4] It is noted that September 10, 2005, was a Saturday.

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 329 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), 249 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 249 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 329 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 329 days and the 249 days is neither permitted nor warranted. 329 days is the actual number of days issuance of the patent was delayed.

In view thereof, the Office properly entered no additional days of patent term adjustment.

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

The Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 184 days (329 days of Office delay - 145 days of applicant delay).

Telephone inquiries regarding this matter should be directed to Kenya A. McLaughlin, Petitions Attorney at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

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

In re Patent No. 7,534,571	:	DECISION ON REQUEST
Mariani, et al.	:	FOR
Issue Date: May 19, 2009	:	RECONSIDERATION OF
Application No. 10/548,279	:	PATENT TERM ADJUSTMENT
Filed: September 7, 2005	:	and
Atty Docket No.097633-0103	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 24, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by fur hundred and thirty-eight (438) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by four hundred and thirty-three (433) days[1] is **GRANTED to the extent indicated herein.**

[1] The "B" delay period is 249 days, not 254 days. Patentees calculated this period based on the date this application was filed in the United States of America. However, in an international application, this period is based on the failure of the Office to issue a patent within three years after the national stage commenced under 35 U.S.C. 371(b) or (f). See 1.702(b). The priority date of this application is March 10, 2003. The date that is 30 months from the priority date is Saturday September 10, 2005. As the national stage cannot commence on a weekend or federal holiday, the date the national stage commenced in this application is Monday September 12, 2005. Thus, "B" delay is 249 days, counting the number of days beginning on September 13, 2008, and ending on May 19, 2009, the date of issuance. See 1.703(b).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Deposit account 19-0741 will be charged $200.00 for the fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by four hundred and thirty-three **(433)** days.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,534,571 B2

DATED : May 19, 2009

INVENTOR(S) : Margherita 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 (184) days

Delete the phrase "184 days" and insert – by 433 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 400
MCLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of :
MURHAMMER, et al. :
Application No. 10/548,295 : DECISION ON PETITION
Filed: September 6, 2005 : TO WITHDRAW
Attorney Docket No. **449122082100** : 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 **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 31, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **BELL BOYD & LLOYD, LLP**
P.O. BOX 1135
CHICAGO, IL 60690

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
595 MINER ROAD
CLEVELAND OH 44143

9/5/08

In re Application of:
KRUGER, SASCHA et al
Serial No.: 10/548,334
Filed: Sep. 7, 2005
Docket: PHDE030064US
Title: DEVICE AND METHOD FOR LOCATING AN INSTRUMENT WITHIN A BODY

DECISION ON PETITION

This is a decision on the petition filed on Sep. 2, 2008 seeking withdrawal of the finality of the Office action mailed Apr. 8, 2008. This petition is being considered pursuant to 37 CFR §1.181. No fee is required.

The petition is granted.

It is noted that the record does not show the independent claim 11 was amended in the Rule 1.111 amendment filed on Jan. 23, 2008. Therefore, the rejection of at least claim 11 rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson et al. (US 2005/0070788) in view of Fontenot (US 5423321) was not necessitated by the amendment filed on Jan. 23, 2008. As such, the finality of the Office actions issued on Apr. 8, 2008 is premature and thus the finality of the action is hereby withdrawn. Since the finality is being withdrawn, the amendment filed on Sep. 2, 2008 in responding to the final Office action of Apr. 8, 2008 is hereby treated as a 37 CFR § 1.111 amendment. This amendment filed on Sep. 2, 2008 is hereby entered and a new Office action will be issued in due course. The requested relief is granted.

Any questions regarding this decision should be directed to Special Program Examiner, Henry Yuen, at 571-272-4856.

PETITION GRANTED.

Frederick R. Schmidt, Director
Technology Center 3700

05 JUN 2006

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SNELL & WILMER LLP
600 Anton Blvd., Suite 1400
Costa Mesa, CA 92626

In re Application of :
OHNISHI *et al* :
U.S. Application No.: 10/548,335 :
PCT No.: PCT/JP2003/016911 :
Int. Filing Date: 26 December 2003 : **DECISION**
Priority Date: 31 January 2003 :
Attorney's Docket No.: 42844-0900 :
For: INK SUPPLY MECHANISM FOR INK JET PRINTER :

Applicants' "Petition for Revival of an International Application for Patent Designating the United States Abandoned Unintentionally Under 37 CFR §1.137(b)" filed with the national stage papers on 07 September 2005 is hereby **GRANTED** as follows:

The basic national fee and petition fee for a small entity have been paid. Applicants' statement is sufficient to meet the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

The declaration submitted with the national stage papers was not executed.

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 surcharge fee pursuant to 37 CFR 1.492(h) are required.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

22 JUN 2006

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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Briarcliff Manor, NY 10510

In re Application of :
MAZNEV :
U.S. Application No.: 10/548,345 :
PCT No.: PCT/IB2003/005882 :
Int. Filing Date: 10 December 2003 : **DECISION**
Priority Date: 13 December 2002 :
Attorney's Docket No.: PHUS020541 :
For: MODEL AND APPARATUS FOR MEASURING THICKNESS OF THIN FILMS VIA TRANSIENT :

Applicant's "Petition for Revival of an International Application for Patent Designating the United States Abandoned Unintentionally Under 37 CFR §1.137(b)" filed with the national stage papers on 07 September 2005 is hereby **GRANTED** as follows:

The basic national fee and petition fee have been paid. Applicant's statement is sufficient to meet the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a) and (b) was submitted. The surcharge fee of $130.00 has been charged to Deposit Account No. 14-1270 as authorized.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 10 December 2003 under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 07 September 2005.

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

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UNITED STATES PATENT AND TRADEMARK OFFICE

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Suite 3300
MILWAUKEE WI 53202

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OFFICE OF PETITIONS

In re Application of :
Eppes et al. :
Application No. 10/548,349 : ON PETITION
Filed: April 13, 2007 :
Attorney Docket No. 023576-9126-01 :

This is a decision on the petition, filed October 27, 2008, under 37 CFR 1.47(a), which is being treated under 37 CFR 1.183 to waive 37 CFR 1.131 to the extent that it requires that all of the named inventors execute the declaration filed thereunder.

The petition is granted to the extent *infra*.

Petitioners assert that, while all of the named inventors contributed to the conception of the claimed invention which is under rejection, only inventors Eppes and Rahn have agreed to execute the attached declaration under 37 CFR 1.131 in support of establishing conception of the claimed invention prior to February 2002.

As noted in MPEP 715.04, an adequate showing may lead to acceptance of a declaration under 37 CFR 1.131 executed by less than all the named inventors of the claimed subject matter in question.[1] Under the facts presented, it is agreed that justice requires waiver of the rules to the extent that they require Eppes and Rahn to declare. However, the favorable decision herein does not relieve applicants from their burden to establish that the invention was completed before the date of the reference and that the claimed invention was the product of the joint inventors. See In re Carlson, 79 F.2d. 900, 27 USPQ 400 (CCPA 1935).

It should be noted a change of address and 3.73(b) statement have been filed. However the change of address will not be entered because there is a break in the assignment chain. The request to change the power of attorney and change of address was signed by Martha Boyd Secretary of Blaw-Knox Construction Equipment Corporation. However assignment records show there is a break in the conveyance between Blaw-Knox Construction Equipment Corporation and Ingersoll-Rand Company. Further it appears that Blaw-Knox Construction Equipment Corporation may no longer be the assignee of the above-identified application. Clarification of the assignment records to establish the assignee of the application is required

[1] If a petition under 37 CFR 1.47 was granted or the application was accepted under 37 CFR 1.42 or 1.43, the affidavit or declaration may be signed by the 37 CFR 1.47 applicant or the legal representative, where appropriate. *See* MPEP 715.04(C).

before the power of attorney and change of address will be entered. However, a courtesy copy of this decision is being forwarded.

This application is being referred to Technology Center AU 3671 for further examination on the merits.

Inquiries regarding this communication may be directed to the undersigned at (571) 272-3215.

Inquiries concerning the examination or status of the application should be directed to the Technology Center.

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: Martin Farrell
Volvo Corporate Patents
7825 National Service Road
Mail Stop AP1-3/41
Greensboro, North Carolina 27409

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Michael Best & Friedrich LLP
100 East Wisconsin Avenue
Suite 3300
Milwaukee, WI 53202

Mail Date: 04/21/2010

Applicant	: Michael S. Eppes	: DECISION ON REQUEST FOR
Patent Number	: 7651295	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/548,349	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/13/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **301** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Michael Best & Friedrich LLP
100 East Wisconsin Avenue
Suite 3300
Milwaukee, WI 53202

Mail Date: 05/18/2010

Applicant : Michael S. Eppes
Patent Number : 7651295
Issue Date : 01/26/2010
Application No: 10/548,349
Filed : 04/13/2007

: 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 **372** 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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MOORE & VAN ALLEN PLLC
P.O. BOX 13706
Research Triangle Park NC 27709

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FEB 0 2 2009

OFFICE OF PETITIONS

In re Application of :
Harel, et al. :
Application No. 10/548,363 : ON PETITION
Filed: December 20, 2006 :
Attorney Docket No. 026086.071.26US

This is a decision on the petition under 37 CFR 1.137(a), filed January 7, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply to the final Office action mailed June 6, 2008, which set a shortened statutory period for reply of three (3) months from its mailing date. No response was believed to have been received within the allowable period, and the application became abandoned on September 7, 2008.

Petitioner has established that the final Office action was mailed to a defunct address, notwithstanding petitioner's effort to provide the Office with a timely notification of the change of correspondence address.

The request for an extension of time within the third month filed January 7, 2009, is noted, but cannot be granted because the request was made outside the maximum statutory period for reply to the final Office. Petitioner is advised that the extension of time is not necessary because the application was in an abandoned status when the request for extension of time was made. The amount of $555.00 will be refunded in due course.

The file is now being forwarded to Technology Center 1600, GAU 1612 for further processing including review of the Request for Continued Examination filed January 7, 2009.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Shigehiro Matsuno	: DECISION ON REQUEST FOR
Patent Number	: 7600373	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/548,395	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/548,402	04/24/2006	Mitsuhiro Koseki	403493	7967

7590 10/30/2007

LEYDIG VOIT & MAYER, LTD
700 THIRTEENTH ST. NW
SUITE 300
WASHINGTON, DC 20005-3960

EXAMINER	
HO, HA DINH	

ART UNIT	PAPER NUMBER
3681	

MAIL DATE	DELIVERY MODE
10/30/2007	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.

Tammy J. Kamke

Patent Publication Branch
Office of Data Management

18 APR 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

In re Application of	:	
KOMATSUBARA et al.	:	
Application No.: 10/548,409	:	DECISION ON
PCT No.: PCT/JP04/02720	:	
Int. Filing Date: 04 March 2004	:	PETITION UNDER
Priority Date: 07 March 2003	:	
Attorney Docket No.: 053077	:	37 CFR 1.137(b)
For: METHOD FOR DRYING COATING FILM, AND OPTICAL FILM	:	

This decision is in response to applicants' submission filed 08 September 2005.

BACKGROUND

On 04 March 2004, applicants filed international application PCT/JP04/02720 which designated the U.S. and claimed a priority date of 07 March 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 16 September 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 07 September 2005.

On 08 September 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 inventors, and a petition under 37 CFR 1.137(b) to revive the application.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee on 08 September 2005.

As to item (2), applicant submitted the petition fee on 08 September 2005.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

Declaration of Inventors

The declaration of inventors filed 08 September 2005 is not in compliance with 37 CFR 1.69(b); specifically applicants have not used one of the pre-approved foreign language forms nor have applicants furnished the requisite statement attesting to the accuracy of the translation.

The surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date has been charged to Deposit Account 50-2866.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Regarding the declaration, applicants are required to file either a pre-approved foreign language declaration in compliance with 37 CFR 1.497(a)-(b) or the requisite statement under 37 CFR 1.69(b) that the translation is accurate. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper reply 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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01 NOV 2006

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

In re Application of	:	
KOMATSUBARA et al.	:	
Application No.: 10/548,409	:	NOTIFICATION
PCT No.: PCT/JP04/02720	:	
Int. Filing Date: 04 March 2004	:	
Priority Date: 07 March 2003	:	
Attorney Docket No.: 053077	:	
For: METHOD FOR DRYING COATING FILM, AND OPTICAL FILM	:	

This notification is in response to applicants' submission filed 26 April 2006.

BACKGROUND

On 04 March 2004, applicants filed international application PCT/JP04/02720 which designated the U.S. and claimed a priority date of 07 March 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 16 September 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 07 September 2005.

On 08 September 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 inventors, and a petition under 37 CFR 1.137(b) to revive the application.

On 18 April 2006, a decision was mailed granting applicants' petition to revive under 37 CFR 1.137(b). The decision also indicated that the declaration of inventors filed 08 September 2005 was not in compliance with 37 CFR 1.69(b).

On 26 April 2006, applicants filed the instant submission which included a statement attesting to the accuracy of the translation of the declaration of inventors filed 08 September 2005

DISCUSSION

The statement by Ken Hattori included with the instant submission satisfies 37 CFR 1.69(b).

CONCLUSION

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

17 MAR 2008

COMMISSIONER FOR PATENTS
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DRINKER BIDDLE & REATH LLP
1500 K Street, N.W. Suite 1100
Washington, DC 2005-1209

In re Application of	:	DECISION ON
SATO et al	:	
PCT No.: PCT/JP2005/002895	:	
Application No.: 10/548,411	:	PAPERS FILED
Int. Filing Date: 05 March 2004	:	
Priority Date: 10 March 2003	:	
Attorney's Docket No.: 046124-5420	:	UNDER 37 CFR 1.42
For: SCINTILLATOR ELEMENT... THE SAME	:	

This is a decision on the declaration filed 02 January 2008, which has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 08 September 2005, applicants filed in the United States Patent and Trademark Office (PTO) a Transmittal Letter (Form PTO-1390) accompanied by, *inter alia*, the basic national fee, but no executed declaration or oath filed at such time.

On 07 December 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. " The notice also indicated that all of the items set forth above must be submitted within two (2) months from the date of this notice or by 32 months from the priority date for the application, whichever is later. Failure to properly respond will result in abandonment.

In response to Notice mailed on 07 December 2007, applicants filed on 02 January 2008 the instant executed declaration under 37 CFR 1.42 indicating that Mayumi OKUMURA is the legal representative of the deceased inventor, Kazuaki OKUMURA.

DISCUSSION

The declaration is accepted under 37 CFR 1.42 because it includes the citizenship and mailing addresses of both Mayumi OKUMURA and Kazuaki OKUMURA(legal representatives).

Accordingly, applicants have satisfied the requirements under 37 CFR 1.42.

CONCLUSION

For the above reasons, the submission of the declaration under 37 CFR 1.42 is **ACCEPTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations until commencement of national stage processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) is **02 January 2008**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

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TIMOTHY J. MARTIN, P.C.
9250 WEST 5TH AVE.
LAKEWOOD, CO 80226

MAILED

JAN 23 2009

OFFICE OF PETITIONS

In re Application of :
Philip W. Wyers :
Application No. 10/548,450 : ON PETITION
Filed: June 30, 2006 :
Attorney Docket No. 2042 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 5, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 16, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 17, 2007.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3673 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: John Wray Carpenter
555 17th Street Suite 3200
Denver, CO 80202

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0 9 AUG 2007

JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON, DC 20004

In re Application of	:	
HALL, Michael Patrick et al.	:	DECISION ON
Application No.: 10/548,454	:	
PCT No.: PCT/NZ04/00049	:	PETITION UNDER
Int. Filing Date: 09 March 2004	:	
Priority Date: 12 March 2003	:	37 CFR 1.181
Attorney's Docket No.: P70836US0	:	
For: Produce Shaping Apparatus Therefor And Uses Thereof	:	

This decision is in response to applicants' facsimile communication filed 13 July 2007. Applicants' submission has been treated as a petition under 37 CFR 1.181 requesting that the Notification of Abandonment (Form PCT/DO/EO/909), mailed 03 July 2007, be withdrawn.

BACKGROUND

On 09 March 2004, applicants filed international application PCT/NZ04/00049. The thirty-month period for paying the basic national fee in the United States expired at midnight on 12 September 2005.

On 12 September 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied, *inter alia*, by the requisite basic national fee.

On 13 December 2005, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 (a)-(b) and the surcharge for late filing of the oath or declaration are required.

On 25 April 2006, applicants filed a "Petition Under 37 CFR 1.47(a)" to permit the applicants to file the above-captioned application on behalf of the non-signing inventor, Stephen Ham and the surcharge for late filing of the declaration.

On 20 July 2006, the Office mailed "Decision on Petition under 37 CFR 1.47(a)" dismissing applicants' petition without prejudice.

On 17 November 2006, applicants purportedly filed a "Response To Decision On Petition" ("Response") mailed 20 July 2006. In the Response, Applicants' purportedly allege that inventor Stephen Ham had been located and a new declaration executed by all inventors was also submitted, hence concluding that the "Petition Under 37 CFR 1.47(a)" was moot. However, the U.S. Patent and Trademark Office records do not appear to show that the Office has received such a Response.

On 29 May 2007, applicants filed by facsimile a "Request For Reinstatement" ("Request") including, a copy of the Response mailed 17 November 2006 and, a copy of the postcard receipt that itemizes a "Response To Decision On Petition" and bears a stamped date of 17 November 2006. However, the U.S. Patent and Trademark Office records do not appear to show that the Office has received such a Request.

On 27 June 2007, the Office mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the instant application is abandoned for failure to respond to the Notification of Missing Requirements mailed 13 December 2005.

On 13 July 2007, applicants submitted the instant facsimile communication including, a copy of the Request filed 29 May 2007 showing the Auto-Reply Facsimile Transmission cover-sheet bearing a date of 29 May 2007 and, a copy of the postcard receipt that itemizes a "Response To Decision On Petition" and bears a stamped date of 17 November 2006.

DISCUSSION

Applicants have provided sufficient evidence to establish that on 17 November 2006 applicants filed a proper response to the "Decision on Petition under 37 CFR 1.47(a)" mailed 20 July 2006. The evidence is in the form of the copy of the postcard receipt that itemizes a "Response To Decision On Petition" and bears a stamped date of 17 November 2006, and identifies the above-captioned application number and docket number.

Further noted is that the newly submitted declaration is executed by all the inventors. Hence, the "Petition Under 37 CFR 1.47(a)" is moot and the declaration of inventors filed 17 November 2006 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the reasons stated above, the petition under 37 C.F.R. 1.181 is **GRANTED.**

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 27 June 2007 is **VACATED.**

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

A Notification of Acceptance (Form PCT/DO/EO/903) will be mailed and the application will be given a date of 17 November 2006 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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
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

#8

UNITED STATES PATENT AND TRADEMARK OFFICE

20 JUL 2006

Commissioner for Patents
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www.uspto.gov

JACOBSON HOLMAN PLLC
400 7th Street, N.W., Suite 600
Washington, D.C. 20004

In re Application of:	:	
HALL, Michael, Patrick, et al.	:	DECISION ON PETITION UNDER
U.S. Application No.: 10/548,454	:	37 CFR 1.47(a)
PCT No.: PCT/NZ2004/000049	:	
Int'l Filing Date: 09 March 2004	:	
Priority Date: 12 March 2003	:	
Atty Docket No.: P70836US0	:	
For: PRODUCE SHAPING, APPARATUS THEREFOR AND USES THEREOF	:	

This decision is issued in response to applicants' petition under 37 CFR 1.47(a) filed 25 April 2006. Applicants have submitted $130 as the petition fee; however, the appropriate petition fee is $200. Deposit Account No. 06-1358 will be charged the additional $70 needed to complete the petition fee.

BACKGROUND

On 09 March 2004, applicants filed international application PCT/NZ2004/000049. The international application claimed a priority date of 12 March 2003, and it designated the United States. On 23 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., 12 September 2005.

On 12 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 13 December 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497.

On 25 April 2006, applicants filed a response to the Notification Of Missing Requirements (with required three-month extension fee). The response included a declaration executed by four of the five 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, Stephen Alexander HAM, 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 a declaration executed by four of the five inventors and containing an unsigned signature block for the non-signing inventor. However, the declaration is defective in that: (1) the name of the first inventor on the declaration (Patrick Hall HALL) does not correspond to this inventor's name as set forth on the international application (Michael Patrick HALL); and (2) the citizenship for the second inventor, Kenneth Barry DAVISON, and the non-signing inventor, Stephen Alexander HAM, is not indicated. Because applicants have not submitted an acceptable declaration executed by the co-operating inventors and containing an unsigned signature block for the non-signing inventor, item (3) is 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 not an acceptable reason for filing under 37 CFR 1.47.
>
> Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 CFR 1.47. 37 CFR 1.43 may be available under these circumstances. See

> MPEP § 409.02. Such a petition under 37 CFR 1.47 will be dismissed as inappropriate.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

Here, as evidence of the attempt to locate the non-signing inventor, applicants have provide a "Declaration of Michael Patrick Hall."[1] Mr. HALL's declaration refers generally to attempts made to locate the non-signing inventor's current address; however, it does not include a detailed description of the actions taken by Mr. HALL, as required, and no documentary evidence of such efforts has been provided. In addition, the statement refers to efforts to locate the inventor made by other persons at Mr. HALL's behest; if such efforts are to be considered as part of the diligent effort to locate the inventor, a firsthand statement from such other person(s) must be submitted to confirm their actions. It is also noted that a showing of a diligent effort to locate the inventor should include, but not be limited too, internet searches (with the results of such internet searches being made of record herein). Until an adequate firsthand statement(s), with supporting documentation, is provided demonstrating that a diligent effort has been made to locate the non-signing inventor, item (4) is not considered satisfied.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)" and must include the materials required to satisfy items (3) and (4) of a grantable petition, as discussed above, that is: (1) an 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 nonsigning 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).

---

[1] Applicants have also provided assignment materials; however, these materials are irrelevant with respect to the inquiry as to 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.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

09 AUG 2007

JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON, DC 20004

In re Application of :
HALL, Michael Patrick et al. : DECISION ON
Application No.: 10/548,454 :
PCT No.: PCT/NZ04/00049 : PETITION UNDER
Int. Filing Date: 09 March 2004 :
Priority Date: 12 March 2003 : 37 CFR 1.181
Attorney's Docket No.: P70836US0 :
For: Produce Shaping Apparatus Therefor And Uses Thereof :

This decision is in response to applicants' facsimile communication filed 13 July 2007. Applicants' submission has been treated as a petition under 37 CFR 1.181 requesting that the Notification of Abandonment (Form PCT/DO/EO/909), mailed 03 July 2007, be withdrawn.

BACKGROUND

On 09 March 2004, applicants filed international application PCT/NZ04/00049. The thirty-month period for paying the basic national fee in the United States expired at midnight on 12 September 2005.

On 12 September 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied, *inter alia*, by the requisite basic national fee.

On 13 December 2005, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 (a)-(b) and the surcharge for late filing of the oath or declaration are required.

On 25 April 2006, applicants filed a "Petition Under 37 CFR 1.47(a)" to permit the applicants to file the above-captioned application on behalf of the non-signing inventor, Stephen Ham and the surcharge for late filing of the declaration.

On 20 July 2006, the Office mailed "Decision on Petition under 37 CFR 1.47(a)" dismissing applicants' petition without prejudice.

On 17 November 2006, applicants purportedly filed a "Response To Decision On Petition" ("Response") mailed 20 July 2006. In the Response, Applicants' purportedly allege that inventor Stephen Ham had been located and a new declaration executed by all inventors was also submitted, hence concluding that the "Petition Under 37 CFR 1.47(a)" was moot. However, the U.S. Patent and Trademark Office records do not appear to show that the Office has received such a Response.

On 29 May 2007, applicants filed by facsimile a "Request For Reinstatement" ("Request") including, a copy of the Response mailed 17 November 2006 and, a copy of the postcard receipt that itemizes a "Response To Decision On Petition" and bears a stamped date of 17 November 2006. However, the U.S. Patent and Trademark Office records do not appear to show that the Office has received such a Request.

On 27 June 2007, the Office mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the instant application is abandoned for failure to respond to the Notification of Missing Requirements mailed 13 December 2005.

On 13 July 2007, applicants submitted the instant facsimile communication including, a copy of the Request filed 29 May 2007 showing the Auto-Reply Facsimile Transmission cover-sheet bearing a date of 29 May 2007 and, a copy of the postcard receipt that itemizes a "Response To Decision On Petition" and bears a stamped date of 17 November 2006.

DISCUSSION

Applicants have provided sufficient evidence to establish that on 17 November 2006 applicants filed a proper response to the "Decision on Petition under 37 CFR 1.47(a)" mailed 20 July 2006. The evidence is in the form of the copy of the postcard receipt that itemizes a "Response To Decision On Petition" and bears a stamped date of 17 November 2006, and identifies the above-captioned application number and docket number.

Further noted is that the newly submitted declaration is executed by all the inventors. Hence, the "Petition Under 37 CFR 1.47(a)" is moot and the declaration of inventors filed 17 November 2006 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the reasons stated above, the petition under 37 C.F.R. 1.181 is **GRANTED.**

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 27 June 2007 is **VACATED.**

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

A Notification of Acceptance (Form PCT/DO/EO/903) will be mailed and the application will be given a date of 17 November 2006 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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
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

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Michael Patrick Hall

Serial No.: 10/548,454

Filing Date: September 12, 2005

For: PRODUCE SHAPING APPARATUS AND USES THEROF

RECEIVED

MAY 2 9 2007

PCT SPECIAL PROGRAMS OFFICE

REQUEST FOR REINSTATEMENT

PCT Help Desk
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

VIA FACSIMILE
(571) 273-0419

Sir:

The above-captioned application was filed September 12, 2005, and there was a Petition Under 37 CFR 1.47(a). The Response to that decision was due on or before August 20, 2006, and apparently the Office did not receive our response and hence issued a letter on April 30, 2007 that this case is to receive a Notification of Abandonment. This is in error.

On November 17, 2006, a Response to Decision on Petition was filed, and a copy of that Response, along with a date-receipted postcard, is enclosed. It will be seen that the missing inventor has now joined, hence the Petition is mooted. Therefore, this case should be sent forward to the Application Branch for further processing.

Any further questions, please contact the undersigned.

Respectfully submitted,

JACOBSON HOLMAN, PLLC

By: _____
John C. Holman
Reg. No. 22769

400 Seventh Street, N.W.

Washington, D.C. 20004-2201
(202) 638-6666
Atty. Docket: P70836US0
Date: May 29, 2007

Enclosures: Copy, Letter of April 30, 2007
Copy, Response to Decision on Petition
Dated Receipt Postcard

May 5th/07 JC4 P70836US0

United States Patent and Trademark Office

TC 5-3-07

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Req for Reinstatement
6/30/07

John C. Holman
JACOBSON HOLMAN PLLC
400 Seventh Street, N.W.
Washington, DC 20004

In re Application of
MICHAEL PATRICK HALL et al.
Application No.: 10/548,454
PCT No.: PCT/NZ04/00049
Int. Filing Date: 09 March 2004
Priority Date: 12 March 2003
Attorney's Docket No.: P70836US0
For: PRODUCE SHAPING APPARATUS THEREFOR AND USES THEREOF

Dear Mr. Holman:

This is in response to your communication received 31 January 2007 requesting the status of U.S. application 10/548,454. U.S. application 10/548,454 is abandoned. Applicants failed to respond to the "DECISION ON PETITION UNDER 37 CFR 1.47(a)" which was mailed 20 July 2006. The decision set a time period of 2 months from the mailing date to respond. Additionally, the decision allowed for extensions of time up to 5 months from the mailing date of the decision. See 37 CFR 1.136(a). The decision also informed applicants that a failure to respond in a timely manner would result in the abandonment of the application.

This application is being returned to the DO/EO/US for mailing of a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909).

BM

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

JSF/BM:jf

Jeremy Fleming
Paralegal Specialist
Office of PCT Legal Administration

Tel: (571) 272-3284
Fax: (571) 273-0459

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of: HALL et al.

Serial No.:10/548,454 Attorney Advisor: Richard M. Ross

Filed: September 12, 2005

For: PRODUCING SHAPING APPARATUS AND USES THEREOF

RESPONSE TO DECISION ON PETITION

Mail Stop PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is a full and complete response to the Dismissal of the Petition. The Attorney Advisor has pointed out various deficiencies in the attempt, or at least the evidence showing the attempt to locate inventor Ham. Counsel is pleased to say that not only has Inventor Ham been located but he has now executed a substitute Declaration which is attached. It will be seen that this Declaration, which is cumulative consists of four pages, the first page being signed by inventors Hall and Davison; the second page being signed by inventor Steens, the third page being signed by inventor Ham and the fourth page being signed by inventor Stovell.

It is submitted that since the missing inventor Ham has now joined in executing the substitute patent declaration, the need for dealing with various requirements set forth by the Attorney Advisor in the decision on the petition mailed July 22, 2006 has been mooted. Such petition is no longer necessary and it is requested that this application be sent forward to the examiner for examination.

Respectfully submitted,

JACOBSON HOLMAN, PLLC

By: _____
John C. Holman
Reg. No. 22769

Enclosure: Executed Substitute Patent Declaration including missing inventor Ham

400 Seventh Street, N.W.
Washington, D.C. 20004-2201
(202) 638-6666
Atty. Docket:
Date: November 17, 2006

JH Ref P70836US0 Today's Date 11-17-2006

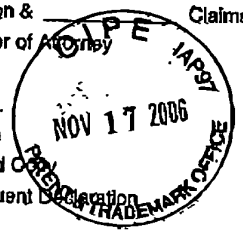
Serial/Patent No. 10/548,454

Applicant, Patentee, Assignee HALL et. al.

Filing Date/Patent Date 09/12/2005

The following has been received in the U.S. Patent & Trademark Office on the date stamped hereon:

- ☐ _____ pp. Specification & _____ Claims
- ☐ Combined Declaration, Power of Attorney
- ☐ Preliminary Amendment
- ☐ Rule 53 (b) Application
- ☐ Rule 53 (d)/RCE Application
- ☐ Claim to Priority and Certified Copy
- ☐ Substitute ☐ Subsequent Declaration
- ☐ Maintenance Fee
- ☐ Drawings ____ Sheets ____ Formal ____ Informal
- ☐ Assignment/Change of Name
- ☐ Small Entity Declaration
- ☐ ~~Check for $~~ PTO FORM 225.00
- ☐ Response to Office Action
- ☐ Disclosure Statement-IDS
- ☐ Copies of References
- ☐ Request for Refund
- ☐ Request for Corrected Filing Receipt
- ☑ Petition for XOT
- ☐ Notice of Appeal/Brief
- ☐ Sequence Listing
- ☐ Issue Fee Transmittal
- ☑ Other RESPONSE TO Decision on Petition



OIPE IAP97 NOV 17 2006 PATENT & TRADEMARK OFFICE

JACOBSON HOLMAN PLLC
400 SEVENTH STREET, N.W.
WASHINGTON, D.C. 20004

JH 11/01 DUE DATE _____

Person filing _____

TC

20 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

COOPER & DUNHAM, LLP
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

In re Application of :
SEGARA, Davendra et al. :
U.S. Application No.: 10/548,460 :
PCT No.: PCT/AU04/00194 :
International Filing Date: 18 February 2004 : DECISION
Priority Date: 18 February 2003 :
Attorney's Docket No.: 75020/JPW/JW :
For: METHODS OF DIAGNOSIS AND :
PROGNOSIS OF PANCREATIC :
CANCER :

This application is before the Office of PCT Legal Administration for matters arising under 35 U.S.C. 371.

BACKGROUND

On 18 February 2004, applicant filed international application PCT/AU04/00194, which claimed a priority date of 18 February 2003. A copy of the international application was communicated to the United States Patent and Trademark Office ("USPTO") by the International Bureau ("IB") on 02 September 2004. The deadline for entry into the national stage in the US was 18 August 2005.

On 18 August 2005, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee.

On 14 April 2006, applicant submitted a declaration executed by the inventors.

On 18 April 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) and the surcharge for late filing of the search fee, examination fee or the oath or declaration was required.

On 12 May 2006, applicant submitted a second copy of the declaration filed on 14 April 2006 and mentioned the earlier submission, but did not include a postcard receipt.

On 25 August 2006, a Notification of Acceptance (Form PCT/DO/EO/903) was mailed giving the application a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of 12 May 2006.

DISCUSSION

The Notification of Acceptance mailed 25 August 2006, indicated that the declaration in compliance with 37 CFR 1.497(a)-(b) was received on 12 May 2006. A review of the file reveals that a declaration in compliance with 37 CFR 1.497(a)-(b) was originally received on 14 April 2006. As such, the completion date for the requirements under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) was 14 April 2006, not 12 May 2006.

Additionally, as the Office was in receipt of the declaration prior to the mailing of the Notification of Missing Requirements, the Notification of Missing Requirements should not have issued.

CONCLUSION

For the reasons discussed above, the Petition Under 37 CFR 1.181 is **GRANTED**.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed 25 August 2006 is **VACATED**.

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 18 April 2006 is hereby **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, including the mailing of a corrected Notification of Acceptance (Form PCT/DO/EO/903) and filing receipt. The application has a date of 14 April 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

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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MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN VA 22102-3833

COPY MAILED

MAY 0 2 2008

OFFICE OF PETITIONS

In re Application of :
Luca Turin :
Application No. 10/548,471 : DECISION ON PETITION
Filed: June 1, 2006 : TO WITHDRAW
Attorney Docket No. T3523-908282US01 : 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 29, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Edward J. Kondraki on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must

have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number)

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: LUCA TURIN
119 ALBERT STREET
LONDON NW1
UNITED KINGDOM

cc: MS. JACQUELIN GRANT
FLEXITRAL, INC.
4001-A WESTFAX DRIVE
CHANTILLY, VA 20151

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/548,471	06/01/2006	Luca Turin	T3523-908282US01

CONFIRMATION NO. 6362

181
MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN, VA 22102-3833

POWER OF ATTORNEY NOTICE

OC000000029654610

Date Mailed: 04/30/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/29/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 1, 2009

TO SPE OF : ART UNIT 2916
SUBJECT : Request for Certificate of Correction for Appl. No.: 10/548475 /7470717
Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 120

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

Joseph K. McKane — **SPE**
1626 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed: October 2, 2007

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

Applicant: Jeganathan et al.
Appl. No.: 10/548,498
Filing Date: November 13, 2006
Title: LAMP AND A PROCESS FOR PRODUCING A LAMP
Attorney Docket No.: DAVI262.001APC
Pub. No.: US 2007/0087643 A1
Pub. Date: April 19, 2007

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on September 27, 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: 10/03/2007 RCLEMONS
09/28/2007 INTEFSW 00004254 10548498
01 FC:1505 -300.00 OP

Refund Ref:
10/03/2007 0030045474

Credit Card Refund Total: $300.00

Master C: XXXXXXXXXXXX5583

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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GODFREY & KAHN S.C.
780 NORTH WATER STREET
MILWAUKEE, WI 53202

MAILED

FEB 19 2010

OFFICE OF PETITIONS

In re Application of :
Karim Benalikhoudja :
Application No. 10/548,503 : ON PETITION
Filed: May 2, 2006 :
Attorney Docket No. 071564-0037 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 16, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 29, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is July 30, 2009.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r. Pats. 1988). Accordingly, since the $555 extension of time submitted with the petition on November 16, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary. However, $405 has been applied toward the payment of the Request for Continued Examination and $150 and will be credit to petitioner's deposit account.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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) 272-3210.

This application is being referred to Technology Center AU 3752 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

UNITED STATES 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 : March 12, 2009

Patent No. :7461782
Inventor(s) :Lars Andersson, et al.
Issued :December 9, 2008
Title ELECTRONIC LABEL

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) 308-9380 ext. 123.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308-9390 ext. 123

Peter G. Thurlow
Jones Day
222 East 41st Street
New York, NY 10017

/arg

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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

In re Patent No. 7,461,782 :
Issue Date: December 9, 2008 :
Application No. 10/548,513 : ON PETITION
Filed: September 6, 2005 :
Attorney Docket No. 9435-31-999 :

This is a decision on the petition filed September 17, 2009, under 37 CFR 3.81(b)[1] to correct the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

United States Patent and Trademark Office

0 1 OCT 2007

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FAY SHARPE LLP
1100 SUPERIOR AVENUE, SEVENTH FLOOR
CLEVELAND OH 44114

In re Application of
Heubach et al.
Application No.: 10/548,516
PCT No.: PCT/EP04/02303
Int. Filing Date: 05 March 2004
Priority Date: 05 March 2003
Attorney Docket No.: HMNZ 2 00038
For: Pigment Composition And Process For Preparation Of The Same

DECISION ON PETITION

This is in response to the "Petition to Change Filing Date" filed on 01 February 2007.

BACKGROUND

This international application was filed on 05 March 2004, claimed an earlier priority date of 05 March 2003, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 16 September 2004. The 30 month time period for paying the basic national fee in the United States expired at midnight on 06 September 2005 (since 05 September 2005 was a holiday). Applicants filed *inter alia* the basic national fee on 07 September 2005.

On 05 September 2006, a Notification of Missing Requirements 9Form 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) and a surcharge under 37 CFR 1.492(h).

On 09 November 2006, applicants filed a declaration.

On 09 January 2007, 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 **09 November 2006**.

DISCUSSION

Counsel requests that "the above referenced application be afforded the proper filing date of September 6, 2005," and requests correction on the basis of Express Mail label evidence. Since counsel is in effect disputing the "date-in"appearing on the Express Mail label, 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, EV702963139US, was recorded on the Express Mail Certificate which accompanied the correspondence in question.

With regard to 37 CFR 1.10(d)(3), counsel has provided a copy of the "Customer Copy" of the Express Mail mailing label, number EV702963139US, which shows a "Date-In" (on this version of the label, a "Date Accepted") of "9 7 05." Petitioner has not provided adequate, 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." Petitioner does provide a copy of a "Track & Confirm" page corresponding to the Express Mail label number at issue, but does not indicate whether a more complete version available from the "Restore Offline Details"tab was retrieved. No Track & Confirm information for this parcel is currently available from **www.usps.gov.** The provided "Track & Confrim" page at most suggests that the parcel was delivered on 07 September 2005, but petitioner's speculation notwithstanding, it does not establish the actual date of deposit of the parcel as Express Mail. Even if accepted at face value, the indication appearing on the Track & Confirm page does not provide an adequate basis to conclude that the date-in entered by the postal clerk was mistaken, as opposed to the data entered into the USPS web page. Therefore, 37 CFR 1.10(d)(3) has not been satisfied.

Since petitioner has not established an earlier filing date fort he correspondence at issue, it would be appropriate to conclude that the basic national fee accompanying said correspondence was not paid until 07 September 2005, after the expiration of the time period to pay said fee. Accordingly, this international application stands **ABANDONED** with respect to the national stage in the United States. The Notice of Acceptance mailed on 09 January 2007 was issued in error, and 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).

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

0 6 JUN 2008

United States Patent and Trademark Office

Commissioner for Patents
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Alexandria, VA 22313-1450
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FAY SHARPE LLP
1100 SUPERIOR AVENUE, SEVENTH FLOOR
CLEVELAND OH 44114

In re Application of	:	
Heubach et al.	:	
Application No.: 10/548,516	:	DECISION
PCT No.: PCT/EP04/02303	:	
Int. Filing Date: 05 March 2004	:	ON
Priority Date: 05 March 2003	:	
Attorney Docket No.: HMNZ 2 00038	:	PETITION
For: Pigment Composition And Process For Preparation Of The Same	:	

This is in response to the renewed petition under 37 CFR 1.10(d) and the petition under 37 CFR 1.137(b) filed on 01 April 2008.

DISCUSSION

Petition Under 37 CFR 1.137(b)

In a Decision mailed on 01 October 2007, it was stated in part that

> Since petitioner has not established an earlier filing date for the correspondence at issue, it would be appropriate to conclude that the basic national fee accompanying said correspondence was not paid until 07 September 2005, after the expiration of the time period to pay said fee. Accordingly, this international application stands **ABANDONED** with respect to the national stage in the United States. The Notice of Acceptance mailed on 09 January 2007 was issued in error, and it is hereby **VACATED**.

Petitioner now seeks revival pursuant to 37 CFR 1.137(b). This petition is hereby **GRANTED** as follows:

Petitioner 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." Said 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 the basic national fee, and the petition fee has also been paid. 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.

Renewed Petition Under 37 CFR 1.10(d)

The Decision mailed on 01 October 2007 dismissed, without prejudice, the petition under 37 CFR 1.10(d) filed on 01 February 2007 because

> With regard to 37 CFR 1.10(d)(3), counsel has provided a copy of the "Customer Copy" of the Express Mail mailing label, number EV702963139US, which shows a "Date-In" (on this version of the label, a "Date Accepted") of "9 7 05." Petitioner has not provided adequate, 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." Petitioner does provide a copy of a "Track & Confirm" page corresponding to the Express Mail label number at issue, but does not indicate whether a more complete version available from the "Restore Offline Details"tab was retrieved. No Track & Confirm information for this parcel is currently available from www.usps.gov. The provided "Track & Confirm" page at most suggests that the parcel was delivered on 07 September 2005, but petitioner's speculation notwithstanding, it does not establish the actual date of deposit of the parcel as Express Mail. Even if accepted at face value, the indication appearing on the Track & Confirm page does not provide an adequate basis to conclude that the date-in entered by the postal clerk was mistaken, as opposed to the data entered into the USPS web page. Therefore, 37 CFR 1.10(d)(3) has not been satisfied.

In response, petitioner argues that "the deposit date must have been September 6th," in view of the circumstances including the receipt of the correspondence by the USPTO on 07 September 2005. However, this argument is not sufficient to satisfy the requirements of 37 CFR 1.10(d)(3), which requires in part that "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." It is noted that the Certificate of Express Mailing provided by petitioner appears to have been completed prior to the deposit of the correspondence as Express Mail, not after such deposit. Insofar as petitioner has not provided adequate evidence showing 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," it would not be appropriate to grant the requested relief under 37 CFR 1.10(d) at this time.

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

The petition under 37 CFR 1.10(d) is **DISMISSED**, without prejudice.

This application is being returned to the Office of Patent Application Processing for further processing. The date of the application under 35 U.S.C. 371(c)(1), (2) and (4) is **09 November 2006**.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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WELSH & FLAXMAN LLC
2000 DUKE STREET, SUITE 100
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of :
Kirk H. SHELLEY, et al :
Application No. 10/548,518 : DECISION ON PETITION
Filed: June 19, 2006 : TO WITHDRAW
Attorney Docket No. SHEL-001US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 3, 2009.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Welsh & Flaxman LLC, has been revoked by the assignee of the patent application on May 14, 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

cc: DANIEL J. ROY
7797 S. STATE RD. 267
PLAINFIELD, IN 46168

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/548,518	06/19/2006	Kirk H. Shelley	SHEL-001-US

CONFIRMATION NO. 4068

POWER OF ATTORNEY NOTICE

21884
WELSH & FLAXMAN LLC
2000 DUKE STREET, SUITE 100
ALEXANDRIA, VA 22314

OC000000037434696

Date Mailed: 08/20/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/14/2009.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/dcgoodwyn/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/548,518	06/19/2006	Kirk H. Shelley	SHEL-001-US

CONFIRMATION NO. 4068

BASAM E. NABULSI
MCCARTER & ENGLISH, LLP
FINANCIAL CENTRE, SUITE 304A
695 EAST MAIN STREET
STAMFORD, CT 06901-2138

POA ACCEPTANCE LETTER

OC00000037434739

Date Mailed: 08/20/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/14/2009.

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.

/dcgoodwyn/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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DLA PIPER US LLP
ATTN: PATENT GROUP
1200 NINETEENTH STREET, NW
WASHINGTON DC 20036

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OFFICE OF PETITIONS

In re Application of :

BEAUDOIN, Adrien :
Application No. 10/548,520 : DECISION ON PETITION
Filed: November 13, 2006 : TO WITHDRAW
Attorney Docket No. **4102** : 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 08, 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 James M. Heintz on behalf of all attorneys of record who are associated with customer No. 24510. All attorneys/agents associated with the Customer Number 24510 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: **ADRIEN BEAUDOIN**
748 BOUL DES VETERANS
ROCK FOREST, QUEBEC JIN IZ7
CANADA

cc: **MS. MANON GANE**
LE GROUPE BOUDREAU RICHARD INC. – SYNDIC
33, RUE ST. JACQUES, 5 EETAGE
MONTREAL, QUEBEC H2Y 1K9

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Edward J. Howard
Plevy, Howard & Darcy, PC
P.O. Box 226
Fort Washington, PA 19034

In re Application of	:	
Lavallee et al.	:	
Application No.: 10/548,556	:	DECISION
PCT No.: PCT/FR04/050100	:	
Int. Filing Date: 10 March 2004	:	ON
Priority Date: 10 March 2003	:	
Attorney Docket No.: BEAUMONT-24	:	PETITION
For: Localised Medical Instrument	:	
With Tilt And Swivel Screen	:	

The petition to revive under 37 CFR 1.137(b) filed 29 September 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant states that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." This statement is being accepted in satisfaction of 37 CFR 1.137(b)(3).

A review of the application file reveals that the small entity basic national fee of $150.00 was provided. The small entity petition fee of $750.00 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

Counsel is advised that the English translation of the international application, filed on 09 September 2005, is defective because its content differs from that of the published international application in that it includes a claim 14, whereas the published application includes claims 1-11.

This application is being forwarded to the United States Designated/Elected Office for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b), an English translation of the international application, a surcharge under 37 CFR 1.492(h) and a processing fee under 37 CFR 1.492(i).

Boris Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

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VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

Mail Date: 04/21/2010

Applicant	: Frank Sommer	: DECISION ON REQUEST FOR
Patent Number	: 7667425	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/548,565	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/14/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **380** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

In re Application of :
BINER, Jurg :
Application No. 10/548,569 : DECISION ON PETITION
Filed: May 15, 2006 : TO WITHDRAW
Attorney Docket No. **2360-0430PUS1** : 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 01, 2008.

The request is not approved because it is **moot**.

A review of the file record indicates that BIRCH STEWART KOLASCH & BIRCH has been withdrawn. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **JURG BINER**
POSTFACH 426
CH-3920
ZERMATT CH SWITZERLAND

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.
10/548,584	02/23/2006	Michael R. Davies	037335-0103	2513

22428 7590 07/11/2008

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

EXAMINER	
STEPHENSON, DANIEL P	
ART UNIT	**PAPER NUMBER**
3676	

MAIL DATE	DELIVERY MODE
07/11/2008	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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FROM DIRECTORS OFFICE

JUL 10 2008

TECHNOLOGY CENTER 3600

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

In re Application No. 10/548,584
Filed: February 23, 2006
For: PNEUMATIC ROCK DRILL

DECISION DISMISSING PETITION TO RESCIND OFFICE ACTION DUE TO EXAMINATIN OF WRONG CLAIMS

This is a decision on the petition filed March 19th, 2008 under 37 CFR 1.181to rescind the Office Action of September 20th, 2007 due to the examination of the wrong claims.

Applicant requested that the Office Action of September 20th, 2007 be rescinded due to claims 1-33 as originally filed PCT/IB2004/050254 being examined. As set forth in the above petition, claims 1-33 were amended during the PCT stage to claims 1-28. Further Applicant was charged for only 28 claims in the instant application.

As indicated by Applicant the examiner was requested, as early as November 26th, 2007, to mail a new Office Action examining the correct claims. The new Office Action was mailed on March 25th, 2008.

Therefore since a new and corrected Office Action has already been mailed, this petition is considered to be moot.

The petition is **DISMISSED as moot**.

Telephone inquiries should be directed to Jennifer H Gay, Supervisory Patent Examiner, at (571) 272-7029.

for Donald Hajec
Director
Technology Center 3600
(571) 272-5150

JHG/SNM: 7/7/08

SM

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.
10/548,594	10/05/2006	Tensen Tahara	HAG 126NP	2512

7590 07/03/2008

RABIN & Berdo, PC
1101 14TH STREET, NW
SUITE 500
WASHINGTON, DC 20005

EXAMINER	
RODRIGUEZ, CRIS LOIREN	

ART UNIT	PAPER NUMBER
3732	

MAIL DATE	DELIVERY MODE
07/03/2008	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

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

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DEC 3 0 2008

OFFICE OF PETITIONS

In re Application of :
Kenya Matsuda et al :
Application No. 10/548,595 : DECISION ON PETITION
Filed: September 13, 2005 :
Attorney Docket No. 1422-0686PUS1 :

This is a decision on the petition, filed November 19, 2008, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of April 21, 2008, which set a three (3) month shortened statutory period for reply. Three month (3) extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, a reply was due on or before October 21, 2008.

Petitioner states that a timely reply was received on October 21, 2008. Petitioner provided a copy of the USPTO Post Card Receipt with a date stamp of October 21, 2008, which included the following papers: amendment/reply; three month extension of time with authorization to charge the deposit account and Declaration. Office records show copies of the October 21, 2008 correspondence reply was timely received.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of April 21, 2008 is hereby withdrawn and the application restored to pending status.

This application is being referred to Technology Center AU 1794 for appropriate action in the normal course of business on the reply received with petition.

Irvin Dingle
Petition Examiner
Office of Petitions

04 MAY 2006

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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KANESAKA BERNER AND PARTNERS LLP
SUITE 300, 1700 DIAGONAL RD
ALEXANDRIA VA 22314-2848

In re Application of	:	
KUBOTERA et al.	:	
Application No.: 10/548,629	:	
PCT No.: PCT/JP04/02838	:	
Int. Filing Date: 05 March 2004	:	DECISION
Priority Date: 12 March 2003	:	
Attorney Docket No.: NIP-001	:	
For: METAL DETECTING APPARATUS	:	

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 09 September 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 05 March 2004, applicants filed international application PCT/JP04/02838, which designated the United States and claimed a priority date of 12 March 2003. A copy of the international application was communicated from the International Bureau to the USPTO on 07 October 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 12 September 2005 (11 September 2005 being a Sunday).

On 09 September 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, a translation of the application into English, a declaration of inventors, and the instant petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

As to item (1), the petition fee of $200 has been charged to Deposited Account 11-0219. Accordingly, item (1) has been met.

Item (3) has been met as well.

Item (2) has not been met. As noted in MPEP § 409.03(d), the statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Here, it is not clear that either Shigeru Kubotera or Satoshi Mitani have firsthand knowledge of the facts recited in the declaration by them. Statements based on hearsay will not normally be accepted. Additionally, it is not clear whether it is being alleged that Mr. Toshihiko Nagaoka refuses to execute the application or that he cannot be reached after diligent effort. The two are distinct. *See, e.g.,* MPEP 409.03(d), item I. "Inventor Cannot Be Reached" and item II. "Refusal to Join." A declaration was delivered to the last known address but not returned. All other attempts to deliver at the last known address failed because no one was at the address. It is not clear whether Mr. Nagaoka resided at this address at the time the communications were sent. Accordingly, it is not clear if the inventor is no longer at this address and his whereabouts are unknown, or if he simply received one of the mailings and did not respond. If one of the mailings was received and the inventor did not respond, then a refusal to execute the application would likely need to be established. See MPEP § 409.03(d), item II. The inventor must be presented with a complete copy of the application papers (specification, including claims, drawing, and oath or declaration) for a refusal to be established. Thus, if Mr. Nagaoka resides at the last known address, a complete copy of the application papers would still need to be presented to him. If it is being alleged that the inventor cannot be reached or found, copies of documentary evidence such as *internet searches*, certified mail return receipts, cover letters of instructions, and telegrams, that support a finding that the non-signing inventor could not be found or reached should be made part of the affidavit or declaration. See MPEP § 409.03, item I. No such documentary evidence has been provided.

Item (4) has not been met. The declaration of inventors filed 09 September 2005 is not in compliance with 37 CFR 1.69(b); specifically applicants have not used one of the pre-approved foreign language forms nor have applicants furnished the requisite statement attesting to the accuracy of the translation.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response, including a translation of the Figures, must be filed within TWO (2) MONTHS from the mail date of this decision. **Failure to timely file the proper response will result in abandonment of this application.** Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

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OFFICE OF PETITIONS

BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

In re Application of :
Liang, et al. :
Application No. 10/548,698 : ON APPLICATION FOR
Filed: September 9, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. 42559-200492

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) filed June 15, 2009, which properly treated under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is a minimum of two hundred eighty-three (283) days, not sixteen (16) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 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).

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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.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

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APR 08 2010

OFFICE OF PETITIONS

In re Patent No. 7,601,695	:	DECISION ON REQUEST FOR
LIANG et al.	:	RECONSIDERATION OF
Issue Date: October 13, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 10/548,698	:	NOTICE OF INTENT TO ISSUE
Filed: September 9, 2005	:	CERTIFICATE OF CORRECTION
Attorney Docket No.42559-200492	:	

This is a decision on the petition filed on November 13, 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 four hundred and three (403) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The term of the above-identified patent is extended or adjusted by **three hundred and twenty-eight (328) days.**

37 CFR 1.703(b) indicates that the period of adjustment under 37 CFR 1.702(b) ("over three year period") is the number of days, if any, in the period beginning on the day after the date that is three years after the actual filing date of the application and ending on the date a patent was issued. 35 U.S.C. 154(b)(1)(B). However, 37 CFR 1.703(b) also sets forth the limitations on patent term adjustment specified in 35 U.S.C. 154(b)(1)(B)(i) and (ii). Specifically, 37 CFR 1.703(b)(4) provides that the period of adjustment of the term of a patent shall not include the period equal to the sum of the period of pendency consumed by appellate review under 35 U.S.C. 134, 141,

145, whether successful or unsuccessful (35 U.S.C. 154(b)(1)(B)(ii)).

The Office agrees with patentee that the over three year period is 399 days. However, patentee failed to account for the filing of the notice of appeal on February 20, 2009. The Office reminds patentee that the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). In this instance, the period consumed by appellate review is 73 days, beginning on the date on which the notice of appeal to the Board of Patent Appeals and Interferences was filed, February 20, 2009, and ending on the date of the mailing of the notice of allowance, May 4, 2009. Thus, the B delay is 324 days (399 - 73). Accordingly, the patent term adjustment is 328 days (198 days of A delay + 324 days of B delay - 12 days of overlap - 182 days of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges the submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fee is due.

This matter is being referred 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 twenty-eight (328) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT: 7,601,695 B2

DATED: Oct. 13, 2009 **DRAFT**

INVENTOR(S): LIANG 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 217 days

Delete the phrase "by 217 days" and insert – by 328 days--

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BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

Mail Date: 04/20/2010

Applicant	: Chang-Hsing Liang	: DECISION ON REQUEST FOR
Patent Number	: 7601695	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/548,698	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/09/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **441** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS IN 46204

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MAY 25 2010

OFFICE OF PETITIONS

In re Patent No. 7,601,695	:	DECISION ON REQUEST FOR
LIANG et al.	:	RECONSIDERATION OF
Issue Date: October 13, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 10/548,698	:	NOTICE OF INTENT TO ISSUE
Filed: September 9, 2005	:	CERTIFICATE OF CORRECTION
Attorney Docket No.42559-200492	:	

This is a decision on the petition filed on May 11, 2010, which is being treated as a renewed petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by three hundred and thirty (330) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED**. The term of the above-identified patent is extended or adjusted by **three hundred and thirty (330) days.**[1]

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

[1] Due to an error in processing, 111 days of patent term adjustment were entered erroneously pursuant to the "Decision on Request for Recalculation of Patent Term Adjustment in View of Wyeth and Notice of Intent to Issue Certificate of Correction" mailed April 20, 2010. Thus, the entry 111 days of patent term adjustment is being removed.

The Office acknowledges the submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fee is due.

This matter is being referred 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 thirty (330) days.**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,601,695 B2

DATED : Oct. 13, 2009

INVENTOR(S) : Liang 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 (328) days

Delete the phrase "by 328 days" and insert – by 330 days--

07 JUN 2006

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Philips Intellectual Property & Standards
P.O. Box 3001
Briarcliff Manor, NY 10510

In re Application of	:	
Kelly et al.	:	
Application No.: 10/548,706	:	DECISION
PCT No.: PCT/IB03/06112	:	
Int. Filing Date: 18 December 2003	:	ON
Priority Date: 28 January 2003	:	
Attorney Docket No.: NL030065	:	PETITION
For: Storing Repetition Information	:	
For DSMCC Carousel	:	

The petition to revive under 37 CFR 1.137(b) filed 08 September 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant states that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." This statement is being accepted in satisfaction of 37 CFR 1.137(b)(3).

A review of the application file reveals that counsel has filed the required reply in the form of the basic national fee, and has paid the petition fee. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

The $130.00 surcharge under 37 CFR 1.492(h) is being charged to counsel's Deposit Account No. 14-1270, as authorized by the Transmittal Letter filed on 08 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 **08 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

24 APR 2006

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Alexandria, VA 22313-1450
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Michael S Greenfield
McDonnnell Boehnen Hulbert & Berghoff
Suite 3100
300 South Wacker Drive
Chicago IL 60606

In re Application of	:	
ATES et al.	:	
Application No.: 10/548,709	:	DECISION ON
PCT No.: PCT/EP04/00399	:	
Int. Filing Date: 20 January 2004	:	PETITION UNDER
Priority Date: 23 January 2003	:	
Attorney Docket No.: 05-741	:	37 CFR 1.137(b)
For: NEW PIPERAZINE DERIVATIVES AND	:	
THEIR USE AS SYNTHESIS INTERMEDIATES	:	

This decision is in response to applicants' submission filed 08 September 2005.

BACKGROUND

On 20 January 2004, applicants filed international application PCT/EP04/00399 which designated the U.S. and claimed a priority date of 23 January 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (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 25 July 2005 (23 July 2005 being a Saturday).

On 08 September 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 processing fee under 37 CFR 1.492(f) for providing the English translation later than thirty months from the priority date, and a petition under 37 CFR 1.137(b) to revive the application.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:
(1) The required reply;
(2) The petition fee;
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee on 08 September 2005.

As to item (2), applicant submitted the petition fee on 08 September 2005.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

The declaration of inventors filed 08 September 2005 is in compliance with 37 CFR 1.497(a)-(b).

Because no English translation is required for the instant application the processing fee under 37 CFR 1.492(f) is not required. However, the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date is required. Since both fees are $130, no credit or refund will be made to applicants.

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

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MAR 2 2 2007

OFFICE OF PETITIONS

Applicant: Bertino et al.
Appl. No.: 10/548,710
International Filing Date: March 12, 2004
Title: APLIDINE FOR MULTIPLE MYELOMA TREATMENT
Attorney Docket No.: 14620-029US1F/USP290104X
Pub. No.: US 2006/0172926 A1
Pub. Date: August 3, 2006

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on September 28, 2006, for the above-identified application.

The instant request is that the application be republished because the patent application publication contains material errors, as the patent application publication does not include reference to the provisional applications (60/454,125 and 60/520,293) on the front page of the publication.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark O. Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/548,710	04/11/2006	1654	1030	14620-029US1F/USP290104X	7	3

CONFIRMATION NO. 2805

CORRECTED FILING RECEIPT

OC000000023011135

26161
FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Date Mailed: 03/21/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Joseph R. Bertino, Branford, CT;
Daniel Medina, Hampton, NJ;
Glynn Thomas Faircloth, Cambridge, MA;
Constantine S. Mitsiades, Boston, MA;
Kenneth Anderson, Wallesley, MA;
Nicholas Mitsiades, West Roxbury, MA;

Power of Attorney: The patent practitioners associated with Customer Number **26161**.

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/GB04/01062 03/12/2004
which claims benefit of 60/454,125 03/12/2003
and claims benefit of 60/520,293 11/14/2003

Foreign Applications

If Required, Foreign Filing License Granted: 04/21/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/548,710

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Aplidine for multiple myeloma treatment

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The

date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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).

AUG 02 2007

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In re Application of	:
Masayuki Tsuchiya et al	:
Serial No.: 10/548,727	: PETITION DECISION
Filed: September 9, 2005	:
Attorney Docket No.: 14875-150US1	:

This is in response to the petition under 37 CFR 1.59(b), filed June 23, 2007, to expunge a Proprietary Information Disclosure Statement from the above identified application.

Petitioner requests that documents submitted with the petition as a Proprietary Information Disclosure Statement (PIDS) be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The information submitted as proprietary material was submitted in accordance with M.P.E.P. 724 and has been placed in an artifact folder. The information provided has not been reviewed by the examiner and the petition cannot be granted at this time. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application petition may be made for return of Proprietary Information Disclosure Statements.

The petition is **DISMISSED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at general Office facsimile number.

John LeGuyader
Director, Technology Center 1600

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/548,727	09/09/2005	Masayuki Tsuchiya	14875-150US1 C1-A0303P US	2814

26161 7590 07/17/2009
FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER	
SHAFER, SHULAMITH H	

ART UNIT	PAPER NUMBER
1647	

NOTIFICATION DATE	DELIVERY MODE
07/17/2009	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):

PATDOCTC@fr.com

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JUL 17 2009

In re Application of:
Tsuchiya et al.
Serial No.: 10/548,727
Filed: September 9, 2005
Attorney Docket No.: **14875-150US1 C1-A0303P US**

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed July 14, 2009, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that information submitted to the Patent Office on July 14, 2009, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Petitioner may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/548,727	09/09/2005	Masayuki Tsuchiya	14875-150US1 C1-A0303P US	2814

26161 7590 01/28/2010
FISH & RICHARDSON PC
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MINNEAPOLIS, MN 55440-1022

EXAMINER	
SHAFER, SHULAMITH H	

ART UNIT	PAPER NUMBER
1647	

NOTIFICATION DATE	DELIVERY MODE
01/28/2010	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):

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JAN 2 8 2010

In re Application of:
Tsuchiya et al.
Serial No.: 10/548,727
Filed: September 9, 2005
Attorney Docket No.: **14875-150US1 C1-A0303P US**

: PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed January 21, 2010, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that proprietary information submitted to the Patent Office on July 23, 2007 and July 14, 2009 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The 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

10 MAY 2006

UNITED STATES PATENT and TRADEMARK OFFICE

10 MAY 2006

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Joseph L Lemoine Jr
406 Audubon Boulevard
Lafayette LA 70503

In re Application of	:	DECISION ON
Sfeir et al	:	
PCT No.: PCT/US2004/007010	:	
Application No: 10/548,731	:	
Int. Filing Date: 08 March 2004	:	PETITION UNDER
Priority Date: 07 March 2003	:	
Attorney's Docket No.: Technical Industries	:	
For: Method for Inspection of Metal Tubular Goods	:	37 CFR 1.47(a)

This is in response to the "PETITION UNDER 37 CFR 1.47 FOR ENTRY OF UNITED STATES NATIONAL PHASE BY DECLARATION SIGNED BY ONE INVENTOR ON BEHALF OF NON-SIGNING INVENTORIES" filed on 07 September 2005. The petition fee is now $200.00 for a petition under 37 CFR 1.47(a) so the check of $130.00 is insufficient to cover the petition fee.

BACKGROUND

On 08 March 2004, petitioner filed international application PCT/US2004/007010, which claimed priority to an earlier application filed 07 March 2003. The thirty-month (30) time period for paying the basic national fee in the United States of America expired at midnight on 07 September 2005.

On 07 September 2005, petitioner filed in the United States Patent & Trademark Office a transmittal letter for entry into the national stage in the U.S. under 35 U.SC. 371 and a petition under 37 CFR 1.47, which were accompanied by, inter alia, the U.S. basic national fee, and an executed declaration without the signatures of Jeffery S. Banks and Dennis L. Rogers.

DISCUSSION

PETITION UNDER 37 CFR 1.47(a):

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the 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.
>
> 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 items (2) - (4) of 37 CFR 1.47(a) but not item (1).

Regarding item (1), petitioner has not provided the complete fee of $200.00 under 37 CFR 1.17(g).

Regarding item (2), in this case, Lemoine's declaration has sufficiently demonstrated that a copy of the application papers were mailed to the non-signing inventors, Jeffery S. Banks and Dennis L. Rogers on August 26, 2005 and copy of the cover letters and tracking numbers have been provided.

Regarding item (3), petitioner has provided a statement of the last known addresses of the missing inventors.

Regarding item (4), petitioner has provided an executed declaration signed by George M. Sfeir on his behalf and the behalf of the nonsigning joint inventors Jeffery S. Banks and Dennis L. Rogers.

Consequently, petitioner has not satisfied all the items 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

16 JUN 2006

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P.O BOX 1450
ALEXANDRIA, VA 22313-1450
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Joseph L Lemoine Jr
406 Audubon Boulevard
Lafayette LA 70503

In re Application of	:	DECISION ON
Sfeir et al	:	
PCT No.: PCT/US2004/007010	:	
Application No: 10/548,731	:	
Int. Filing Date: 08 March 2004	:	PETITION UNDER
Priority Date: 07 March 2003	:	
Attorney's Docket No.: Technical Industries	:	
For: Method for Inspection of Metal Tubular Goods	:	37 CFR 1.47(a)

This is in response to the "RENEWED PETITION UNDER 37 C.F.R. §1.47(a)" filed on 22 May 2006.

BACKGROUND

In a decision from this Office on 10 May 2006, the initial petition under 37 CFR 1.47(a) was dismissed. The decision stated that item (1) had not been satisfied.

On 22 May 2006, petitioner submitted a "Renewed Petition Under 37 CFR 1.47(a)" requesting reconsideration of the Office's decision of 10 May 2006 with respect to accepting the above application without the signatures of nonsigning inventors Jeffrey S. Banks and Dennis L. Rogers.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

The renewed petition of 22 May 2006 has satisfied item 1 under 37 CFR 1.47(a) because the petition fee of $200.00 has been paid. Thus satisfying all the requirements under 37 CFR 1.47(a).

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 **07 September 2005.**

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded 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

06 JUN 2006

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David P. Maivald
Eckert Seamans Cherin & mellot, LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15219

In re Application of	:	
Jablonski	:	
Serial No.: 10/548,746	:	
PCT No.: PCT/US03/32608	:	DECISION ON
Int. Filing Date: 15 October 2003	:	
Priority Date: 22 October 2002	:	PETITION
Attorney's Docket No.: 291488-00156 US	:	
For: PLATE CYLINDER LOCKING MECHANISM	:	UNDER 37 CFR 1.137(b)
	:	

This decision is responsive to the "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" filed 08 September 2005.

BACKGROUND

On 15 October 2003, applicants filed international application PCT/US03/32608, which claimed priority of an earlier United States provisional application filed 22 October 2002. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 22 April 2005.

On 08 September 2005, applicants filed a transmittal letter for entry into the national stage in the United States, an IDS, an application data sheet, a preliminary amendment, a petition for revival, the petition fee and the basic national fee. These papers were assigned Application No. 10/548,746.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional delay must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied (1) by a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," (2) by a proper reply, (3) by the petition fee required by law (37 CFR 1.17(m)), and (4) if the international filing date of the application is before June 8, 1995, any petition to revive under 37 CFR 1.137(b) must be accompanied by a terminal disclaimer and small entity fee of $55.

Applicants have provided the required statement, a proper reply and the petition fee. Therefore, the petition to revive is GRANTED.

CONCLUSION

The petition to revive the application abandoned under 35 U.S.C. 371(d) is **GRANTED** as to the National Stage in the United States of America.

This application is being forwarded to the national stage office for preparation of a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905).

Debra Brittingham
PCT Special Programs Examiner
Office of PCT Legal Administration

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Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

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WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON, MA 02109

Mail Date: 04/27/2010

Applicant	: Stephan Beer	: DECISION ON REQUEST FOR
Patent Number	: 7595476	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/548,753	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1054** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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DEC 2 9 2009

OFFICE OF PETITIONS

KING & SCHICKLI, PLLC
247 NORTH BROADWAY
LEXINGTON KY 40507

In re Application of :
Armstrong et al :
Application No. 10/548,771 : DECISION ON PETITION
Filed: September 9, 2005 :
Attorney Docket No. 19487-002US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 21, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed November 13, 2008, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1796 for appropriate action by the Examiner in the normal course of business on the reply received September 21, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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Thomson Licensing, LLC
P.O. Box 5312
Two Independence Way
PRINCETON, NJ 08543-5312

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OFFICE OF PETITIONS

In re Application of
Michael Anthony Pugel
Application No. 10/548,773
Filed: September 9, 2005
Attorney Docket No. PU030058

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 13, 2009, to revive the above-identified application.

The application became abandoned for failure to file a reply to the non-final Office action mailed on July 30, 2008. A Notice of Abandonment was mailed on February 10, 2009.

It is noted that petitioner failed to include his registration number on the present petition. However, since the Request for Continued Examination (RCE) and amendment filed on February 13, 2009 contains the registration number of petitioner, the petition will be accepted. Petitioner is reminded to include his registration number on necessary documents filed with the Office.

Additionally, petitioner should note that prosecution in the above application is not closed. Therefore, the RCE is considered improper and the $810 fee will be refunded to petitioner's deposit account.

Since the RCE is improper, the amendment filed on February 13, 2009 will be considered as the proper response to the non-final Office action 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 an amendment; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2618 for review of the amendment filed with the present petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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Fran S. Wasserman
CYTEC Industries, Inc.
P.O. Box 60
1937 West main Street
Stamford, CT 06904-0060

Mail Date: 06/28/2010

Applicant	: Christine J. Bradaric-Baus	: DECISION ON REQUEST FOR
Patent Number	: 7608713	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/548,777	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/14/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **262** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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.
10/548,792	01/16/2007	Manabu Tomita	09792909-6375	8958

7590 08/21/2009

SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, WILLIS TOWER
CHICAGO, IL 60606-1080

EXAMINER	
LUU, MATTHEW	

ART UNIT	PAPER NUMBER
2861	

MAIL DATE	DELIVERY MODE
08/21/2009	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

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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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OFFICE OF PETITIONS

Applicant: Roncucci et al.
Appl. No.: 10/548,793
International Filing Date: March 11, 2004
Title: BORONATED METAL-PHTHALOCYANINES, PROCESS FOR THEIR PREPARATION, PHARMACEUTICAL COMPOSITIONS COMPRISING THEM AND USE THEREOF
Attorney Docket No.: M1100.70003US00
Pub. No.: 2006/0135478 A1
Pub. Date: June 22, 2006

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on August 11, 2006, for the above-identified application.

Applicant requests the republication because of subscript and superscript errors in Claims 1, 5, and 7, and an extra word in Claim 5.

However, in this instance the request for corrections is granted.

Applicant is advised that in the future he may want to file application papers that are clearer and in the case of superscripts and subscripts, he may wish to use larger font, as the errors in the subscripts and superscripts is due to the quality of the text. 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 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 (703) 272-7709.

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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22 AUG 2006

6449
ROTHWELL, FIGG, ERNST & MANBECK
1425 K Street, N.W.,
Suite 800
Washington, DC 20005

In re Application of :
ZAGAR *et al* :
Application No.: 10/548,815 :
PCT No.: PCT/EP2004/002239 :
Int. Filing Date: 05 March 2004 : **DECISION**
Priority Date: 13 March 2003 :
Attorney Docket No.: 3165-130 :
For: HERBICIDAL MIXTURES BASED ON 3- :
PHENYLURACILS :

This is a decision on the documents filed 09 May 2006 which are treated as a petition under 37 CFR 1.181. No fee is required.

BACKGROUND

On 13 September 2005, applicants filed papers to enter the national stage of PCT/EP2004/002239 which purportedly included an executed declaration.

On 11 April 2006, a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) was mailed indicating that an executed declaration and surcharge fee was required. Applicants were given two months to respond with extensions available.

On 09 May 2006, applicant submitted the subject petition along with a copy of the declaration purportedly filed 13 September 2005 and the date-stamped postcard receipt for the documents filed 13 September 2005.

DISCUSSION

Applicants claim that a declaration was submitted with the national stage papers on 13 September 2005. A review of the application shows that the declaration was not located in the file. Nevertheless, MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO.

Applicants must enclose a self-addressed postcard identifying all of the papers filed. The USPTO will stamp the receipt date on the card and place it on the outgoing mail. The identifying data on the card must clearly identify the paper for which receipt

is requested. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

Here, applicants provided a copy of the date-stamped postcard receipt for documents submitted on 13 September 2005. The postcard receipt identified the application by the applicant name, docket number and PCT number. The postcard receipt indicates that an "Inventors Declaration (3 pages)" was among the papers received in the USPTO. The postcard receipt is stamped "OIPE SEP 13 2005 " across its face.

Accordingly, applicants have provided *prima facie* evidence that an executed declaration was filed 13 September 2005.

CONCLUSION

In view of the above, the petition under 37 CFR 1.181 is hereby **GRANTED**.

The Form PCT/DO/EO/905 mailed 11 April 2006 is **VACATED**.

A declaration in compliance with 37 CFR 1.497(a) and (b) was submitted with the national stage papers on 13 September 2005. This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

30 AUG 2006

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INNOVENE USA LLC
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26TH FLOOR
CHICAGO IL 60601

In re Application of	:	
ERNST et al.	:	
Application No.: 10/548,819	:	DECISION
PCT No.: PCT/US2004/008888	:	
Int. Filing Date: 24 March 2004	:	
Priority Date: 26 March 2003	:	
Attorney's Docket No.: 37482	:	
For: OLEFIN POLYMERISATION CATALYST	:	
CONTAINING A CYCLOAKANE DICARBOXYLATE	:	
AS ELECTRON DONOR	:	

This decision is in response to applicant's submission filed 15 May 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 24 March 2004, applicants filed international application PCT/US2004/008888, which designated the U.S. and claimed a priority date of 26 March 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 14 October 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 26 September 2005 (16 October 2005 being a Sunday).

On 14 September 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a copy of a declaration filed in the international application under PCT Rule 4.17(iv).

On 25 April 2006, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that the declaration filed 14 September 2005 was not in compliance with 37 CFR 1.497(a)-(b) because it did not identify the application to which it was directed and that the surcharge under 37 CFR 1.492(h) was required.

On 15 May 2006, applicant filed the instant submission which was accompanied by, *inter alia*, a copy of the declaration under PCT Rule 4.17(iv) filed 14 September 2005 with the application number added thereto and the surcharge under 37 CFR 1.492(h).

DISCUSSION

MPEP § 605.04(a) states that "it is improper for anyone, including counsel, to alter, rewrite, or partly fill in any part of the application, including the oath or declaration, after execution of the oath or declaration by the applicant." As the declaration filed 15 May 2006 has been altered to include the international application number and filing date after signing, it is improper.

Attention is also directed to the instructions in the Request (Form PCT/RO/101) for Box No. VIII(iv) which state that where "**the declaration** was not included in the request, but **is furnished later**, the PCT application number MUST be indicated within the text of Box No. VIII(iv)." (emphasis in original) It appears that the copy of the PCT Rule 4.17 declaration filed 14 September 2005 was not included in the request but was furnished later.

CONCLUSION

Applicants are required to file a declaration of inventors in compliance with 37 CFR 1.497(a)-(b) within a time limit of ONE MONTH from the date of this decision or within the time remaining in the response set forth in the NOTIFICATION mailed 25 April 2006, whichever is longer. No extension of this time limit may be granted under 37 CFR 1.136, but the period for response set in the NOTIFICATION mailed 25 April 2006 may be extended under 37 CFR 1.136(a).

Failure to timely file a proper reply 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

25 JUN 2007

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INEOS US LLC
3030 WARRENVILLE ROAD, S/650
LISLE IL 60532

In re Application of	:	
ERNST et al.	:	
Application No.: 10/548,819	:	DECISION
PCT No.: PCT/US2004/008888	:	
Int. Filing Date: 24 March 2004	:	
Priority Date: 26 March 2003	:	
Attorney's Docket No.: 37482	:	
For: OLEFIN POLYMERISATION CATALYST	:	
CONTAINING A CYCLOAKANE DICARBOXYLATE	:	
AS ELECTRON DONOR	:	

This decision is in response to applicant's petition under 37 CFR 1.137(b) filed 18 June 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 24 March 2004, applicants filed international application PCT/US2004/008888, which designated the U.S. and claimed a priority date of 26 March 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 14 October 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 26 September 2005 (16 October 2005 being a Sunday).

On 14 September 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a copy of a declaration filed in the international application under PCT Rule 4.17(iv).

On 25 April 2006, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that the declaration filed 14 September 2005 was not in compliance with 37 CFR 1.497(a)-(b) because it did not identify the application to which it was directed and that the surcharge under 37 CFR 1.492(h) was required.

On 15 May 2006, applicant filed a submission which was accompanied by, *inter alia*, a copy of the declaration under PCT Rule 4.17(iv) filed 14 September 2005 with the application number added thereto and the surcharge under 37 CFR 1.492(h).

On 30 August 2006, a decision was mailed indicating that the declaration filed 15 May 2006 was improper. The decision set a time limit of ONE MONTH from the date of the decision or within the time remaining in the response set forth in the NOTIFICATION mailed 25 April 2006, whichever was longer. The decision also indicated that no extension of the ONE MONTH time limit would be granted under 37 CFR 1.136, but the period for response set in the NOTIFICATION mailed 25 April 2006 could be extended under 37 CFR 1.136(a).

On 20 March 2007, the USPTO mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned as to the United States for pailure to respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 25 April 2006 within the time period set therein.

On 18 June 2007, applicants filed the instant petition under 37 CFR 1.137(b) which was accompanied by, *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.

Item (1) has not been satisfied. The declaration filed 18 June 2007 is an improper composite declaration, consisting of one of Page 1, one of Page 2, and two of Page 3 of 3. (Although an attempt has been made to label the first page 3, "Page 3 of 4" and the second page 3, "Page 4 of 4", the fact remains that the first page 3 and the second page 3 are the same page. The only difference is the the first page 3 is signed by the second inventor and the second page 3 is signed by the third inventor.) Each inventor must be presented with a complete declaration which lists all of the inventors, and the signature of each inventor must appear on at least one complete declaration. Multiple complete declarations may be submitted, but it is not permissible to combine pages of separate documents.

As to item (2), applicant submitted the petition fee on 18 June 2007.

As to item (3), a grantable petition has not yet been provided.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

Applicant is hereby given the time limit of **TWO (2) MONTHS** from the mail date of this communication in order to file a proper response.

Failure to timely file a proper response to this decision in a timely manner will result in abandonment of the application with regards to national stage prosecution in the United States.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

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LISLE IL 60532

In re Application of :
ERNST et al. :
Application No.: 10/548,819 : DECISION
PCT No.: PCT/US2004/008888 :
Int. Filing Date: 24 March 2004 :
Priority Date: 26 March 2003 :
Attorney's Docket No.: 37482 :
For: OLEFIN POLYMERISATION CATALYST :
CONTAINING A CYCLOAKANE DICARBOXYLATE :
AS ELECTRON DONOR :

This decision is in response to applicant's petition under 37 CFR 1.137(b) filed 16 July 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 24 March 2004, applicants filed international application PCT/US2004/008888, which designated the U.S. and claimed a priority date of 26 March 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 14 October 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 26 September 2005 (16 October 2005 being a Sunday).

On 14 September 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a copy of a declaration filed in the international application under PCT Rule 4.17(iv).

On 25 April 2006, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that the declaration filed 14 September 2005 was not in compliance with 37 CFR 1.497(a)-(b) because it did not identify the application to which it was directed and that the surcharge under 37 CFR 1.492(h) was required.

On 15 May 2006, applicant filed a submission which was accompanied by, *inter alia*, a copy of the declaration under PCT Rule 4.17(iv) filed 14 September 2005 with the application number added thereto and the surcharge under 37 CFR 1.492(h).

On 30 August 2006, a decision was mailed indicating that the declaration filed 15 May 2006 was improper. The decision set a time limit of ONE MONTH from the date of the decision or within the time remaining in the response set forth in the NOTIFICATION mailed 25 April 2006, whichever was longer. The decision also indicated that no extension of the ONE MONTH time limit would be granted under 37 CFR 1.136, but the period for response set in the NOTIFICATION mailed 25 April 2006 could be extended under 37 CFR 1.136(a).

On 20 March 2007, the USPTO mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned as to the United States for pailure to respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 25 April 2006 within the time period set therein.

On 18 June 2007, applicants filed a petition under 37 CFR 1.137(b) which was accompanied by, *inter alia*, a declaration of inventors.

On 25 June 2007, a decision was mailed dismissing without prejudice applicants' petition under 37 CFR 1.137(b) because the declaration of inventors was not sufficient. The decision set a two-month extendable period for response.

On 16 July 2007, applicants submitted the instant petition under 37 CFR 1.137(b) which was accompanied by, *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.

Item (1) has now been satisfied. The declaration of inventors filed 16 July 2007 is in compliance with 27 CFR 1.497(a)-(b).

As to item (2), applicant submitted the petition fee on 18 June 2007.

As to item (3), the required statement has been provided.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT

Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an executed oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
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25 OCT 2007

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LISLE IL 60532

In re Application of	:	
ERNST et al.	:	
Application No.: 10/548,819	:	SUPPLEMENTAL
PCT No.: PCT/US2004/008888	:	
Int. Filing Date: 24 March 2004	:	DECISION
Priority Date: 26 March 2003	:	
Attorney's Docket No.: 37482	:	
For: OLEFIN POLYMERISATION CATALYST	:	
CONTAINING A CYCLOAKANE DICARBOXYLATE	:	
AS ELECTRON DONOR	:	

This decision is supplemental to the decision mailed 29 August 2007.

The last paragraph of that decision indicated that the application was being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an executed oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage. However, a declaration in compliance with 37 CFR 1.497(a)-(b) had already been filed on 16 July 2007 and the surcharge under 37 CFR 1.492(h) had already been paid. Accordingly, that portion of the decision is hereby VACATED.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.

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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Oppedahl Patent Law Firm LLC - Frei
P O Box 5940
Dillon, CO 80435-5940

Mail Date: 04/20/2010

Applicant	: Roland Pulfer	: DECISION ON REQUEST FOR
Patent Number	: 7620639	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/548,823	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/04/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **209** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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RUTAN & TUCKER, LLP
611 ANTON BLVD., SUITE 1400
COSTA MESA CA 92626

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OCT 0 7 2008

OFFICE OF PETITIONS

In re Application of
Paul T. WEGENER
Application No. 10/548,851
Filed: June 14, 2006
Attorney Docket No. 100799.0007US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 3, 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 above have been performed.

The Office cannot approve the request at this time since the reason provided does 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, "if paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, left the customer number, does not meet any of the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ROBERT FISH
FISH & ASSOCIATES, PC
2603 MAIN STREET, SUITE 1050
IRVINE, CA 92614

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CHRISTIE PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

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DEC 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Chi-Te Chin et al	:	
Application No. 10/548,852	:	ON PETITION
Filed: June 7, 2006	:	
Attorney Docket No. 52112/THD/A599	:	

This is a decision on the petition under 37 CFR 1.182 filed September 5, 2007, to change the order of inventorship.

The petition is **granted.**

The order of inventors have been changed to the following:

1. Chi-Te Chin
2. Jong-I Mou

Telephone inquiries concerning this matter may be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
10/548,852	06/07/2006	2834	715	52112/THD/A599	40	3

CONFIRMATION NO. 2313

23363
CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

CORRECTED FILING RECEIPT

Date Mailed: 12/19/2007

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Chi-Te Chin, HsinChu, TAIWAN;
Jong-I Mou, Taipei, TAIWAN;

Power of Attorney: The patent practitioners associated with Customer Number 23363

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US04/07578 03/11/2004
which claims benefit of 60/432,886 03/11/2004

Foreign Applications

If Required, Foreign Filing License Granted: 01/16/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/548,852**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Micro parallel kinematic mechanism design and fabrication

Preliminary Class

310

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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SHELDON MAK ROSE & ANDERSON PC
100 Corson Street
Third Floor
Pasadena, CA 91103-3842

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OFFICE OF PETITIONS

In re Application of	:	
Harvey L. Deutsch	:	
Application No. 10/548,857	:	DECISION ON PETITION
Filed: September 9, 2005	:	TO WITHDRAW
Attorney Docket No. 15265-1US	:	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 29, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by David A. Farah on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Harvey L. Deutsch**
350 Comstock Avenue
Los Angeles, CA 90024

cc: **THE CATHETER EXCHANGE, INC.**
16633 Ventura Boulevard, Suite #735
Encino, CA 91436

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/548,857	09/09/2005	Harvey L Deutsch	15265-1US

CONFIRMATION NO. 1364

POWER OF ATTORNEY NOTICE

23676
SHELDON MAK ROSE & ANDERSON PC
100 Corson Street
Third Floor
PASADENA, CA 91103-3842

Date Mailed: 09/16/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/29/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tsjohnson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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Stephen B. Salai, Esq.
Harter, Secrest & Emery LLP
1600 Bausch & Lomb Place
Rochester NY 14604-2711

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DEC 0 6 2007
OFFICE OF PETITIONS

Applicant: Riach
Appl. No.: 10/548,899
International Filing Date: March 12, 2004
Title: HOPPER OPENING MECHANISM
Attorney Docket No.: 85923.000081
Pub. No.: US 2006/0236497 A1
Pub. Date: October 26, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on November 22, 2006, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on the front page of the publication wherein the drawing on the front page is to another application.

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 a wrong drawing was published on the front page of the publication may be an Office error, but it is not a material Office error under 37 CFR 1.221. The error does not affect the understanding of the application because the correct figures were published in 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 error is also not a material mistake because the application is a National Stage entry of PCT/GB04/01077, which is published. Since, the application is published, and contains the information printed correctly, the errors do not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. The error also does not affect the use of the patent application publication as a prior art reference, because the continuity data is correctly published and the WIPO publication has the best date as a reference. Furthermore, this is not a material error since the Image File Wrapper (IFW) for this application is available to the public, as of July 31, 2004.

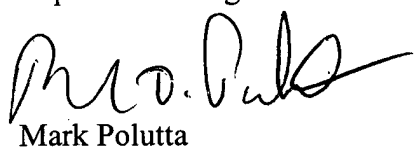
The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the 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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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Peter Buerk	: DECISION ON REQUEST FOR
Patent Number	: 7598687	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/548,908	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/09/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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14 SEP 2007

RatnerPrestia
P.O. Box 980
Valley Forge, PA 19482

In re Application of
FAGRIDAS, Nikolaos
U.S. Application No.: 10/548,912
PCT No.: PCT/IB04/01248
Int. Filing Date: 05 March 2004
Priority Date: 14 March 2003
Attorney Docket No.: AAT-104US
For: FAST HANDOVER IN MOBILE COMMUNICATIONS NETWORKS

DECISION ON PETITION UNDER 37 CFR 1.47(b)

This decision is in response to applicant's "Petition by Person Having Proprietary Interest to File Application on Behalf of Inventor Who Refuses to Sign or Cannot Be Located under 37 CFR 1.47(b)" filed 16 April 2007 to accept the application without the signature of the sole inventor, Nikolaos Fagridas. The $200 petition fee has been submitted.

BACKGROUND

On 05 March 2004, applicant filed international application PCT/IB04/01248 which claimed a priority date of 14 March 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 23 September 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 14 September 2005.

On 13 September 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a preliminary amendment; and a copy of the international application.

On 18 September 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 16 April 2007, applicant filed a petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17; (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the nonsigning inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. The 37 CFR 1.47(b) applicant has satisfied the requirements of items (1); (3); (4); and (6). However, items (2) and (5) have not been satisfied.

Regarding item (2) above, petitioner states that Nikolaos Fagridas has refused to execute the application. Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of 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.
>
> 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 the conclusion is based should be stated in an 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.

A review of the present petition reveals that applicant has not satisfied the item (2) above, in that the petitioner has not shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Nikolaos Fagridas. Petitioner has provided copies of letter and delivery certificates to Nikolaos Fagridas. However, petitioner fails to provide evidence (or a statement) that a

complete copy of the application was mailed to the nonsigning inventor. Lastly, the statement regarding the mailing of the electronic mail communication constitutes secondhand knowledge, in that, the mailing to which the petitioner is averring to was conducted by Elizabeth A. Dawson.

As stated above, in order to meet the requirements of 37 CFR 1.47(b) and Section 409.03(d) of the MPEP, a statement of facts is needed from a person having first hand knowledge of the facts that a complete copy of the application papers were sent to Nikolaos Fagridas and when such papers were sent and that Nikolaos Fagridas has subsequently refused to execute the application.

Regarding item (5), section 409.03(f) of the MPEP states the following:

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that: (A) the invention has been assigned to the applicant, or (B) the inventor has agreed in writing to assign the invention to the applicant, or (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.

The statements of Amar Bachu and Andrew Crawford assert that Mr. Fagridas was employed by Panasonic Mobile Communication Development Limited (PMCDE) and that by virtue of employment the inventions belongs to PMCDE. The MPEP states the following with respect to such circumstances:

> When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. If an agreement to assign is dependent on certain specified conditions being met, it must be established by a statement of facts by someone with first hand knowledge of the circumstances in which those conditions have been met. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by a statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.

Here, Amar Bachu states that the invention underlying the present application was made during the inventor's employment and in the course of his duties at PMCDE. However, petitioner (or Amar Bachu) has not provided a copy of the employment agreement referred to, as required by the MPEP.

In addition, Petitioner states that PMCDE is an affiliate of Matsushita Electric Industrial Co. (MEI) such that MEI own all inventions owned by PMCDE. However, petitioner has not provided a copy of this assignment to demonstrate the full chain of title from the inventor to PMCDE to MEI. Petitioner here must provide copies of the employment agreement which serves as the basis for PMCDE's claim of proprietary interest in the application, and a copy of the assignment from PMCDE to MEI before it can

be concluded that MEI has the proprietary interest necessary to serve as the 37 CFR 1.47(b) applicant. Until such materials are provided, item (5) is not considered satisfied.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Nikolaos Fagridas under 37 CFR 1.47(b) at this time.

CONCLUSION

The petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

0 3 DEC 2007

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P.O. Box 980
Valley Forge, PA 19482

In re Application of
FAGRIDAS, Nikolaos
U.S. Application No.: 10/548,912
PCT No.: PCT/IB04/01248
Int. Filing Date: 05 March 2004
Priority Date: 14 March 2003
Attorney Docket No.: AAT-104US
For: FAST HANDOVER IN MOBILE COMMUNICATIONS NETWORKS

DECISION ON PETITION UNDER 37 CFR 1.47(b)

This decision is in response to applicant's "Renewed Petition under 37 CFR 1.47(b)" filed 14 November 2007 to accept the application without the signature of the sole inventor, Nikolaos Fagridas. The $200 petition fee has been submitted.

BACKGROUND

On 05 March 2004, applicant filed international application PCT/IB04/01248 which claimed a priority date of 14 March 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 23 September 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 14 September 2005.

On 13 September 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a preliminary amendment; and a copy of the international application.

On 18 September 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 16 April 2007, applicant filed a petition under 37 CFR 1.47(b). In a decision dated 14 September 2007, applicant's petition under 37 CFR 1.47(b) was dismissed without prejuidice.

On 14 November 2007, applicant filed the present renewed petition under 37 CFR 1.47(b).

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17; (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the nonsigning inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages.

A review of the papers filed 16 April 2007 and 14 November 2007 reveals that petitioner has paid the requisite petition fee, provided sufficient proof that the non-signing inventor has refused to execute the application, stated the last known address of the non-signing inventor, provided an acceptable declaration, provided sufficient proof of proprietary interest, and provided a sufficient showing of preservation of right or irreparable damage. Accordingly, all of the requirements have been satisfied.

CONCLUSION

For the reasons above, applicant's renewed petition under 37 CFR 1.47(b) is **GRANTED**.

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(c) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

0 3 DEC 2007

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Commissioner for Patents
United States Patent and Trademark Office
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Nikolaos Fagridas
c/o 12 Taxiarcho Street
Palio Faliro 17563
Athens, Greece

In re Application of
FAGRIDAS, Nikolaos
U.S. Application No.: 10/548,912
PCT No.: PCT/IB04/01248
Int. Filing Date: 05 March 2004
Priority Date: 14 March 2003
Attorney Docket No.: AAT-104US
For: FAST HANDOVER IN MOBILE COMMUNICATIONS NETWORKS

Dear Nikolaos Fagridas:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

Counsel of Record:
RatnerPrestia
P.O. Box 980
Valley Forge, PA 19482

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JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK NY 10168

In re Application of SHIGE, YOSHIFUMI Application No.: 10/548,913 Filing or 371(c) Date: 9/13/05 Attorney Docket Number: F-8470	: : : : : :	AUG 13 2009 DECISION ON PETITION

This is a decision on the Petition to Withdraw Holding of Abandonment under 37CFR § 1.81 (a), received in the United States Patent and Trademark Office (USPTO) June 30, 2008.

This petition is **GRANTED**.

The application was held abandoned for failure to timely submit the Issue Fee and Publication fee as required by the Notice of Allowance, mailed February 25, 2008 which set forth a three (3) month statutory period of reply. The Notice of Abandonment was mailed on June 20, 2008.

Petitioner states that the issue fee transmittal and payment were timely filed via the USPTO on March 31, 2008. Petitioner submitted a copy of the original submission which included a properly completed Certificate of Mailing/Transmission.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status. The Issue Fee has been charged to Form PTO-2038.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

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KEELING PATENTS AND TRADEMARKS, LLC
3310 KATY FREEWAY, 2nd Floor
HOUSTON, TX 77007

Mail Date: 04/20/2010

Applicant	: John Gaskarth	: DECISION ON REQUEST FOR
Patent Number	: 7638077	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/548,917	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1051** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 05/17/2010

Applicant	: Xiaobao Chen	: DECISION ON REQUEST FOR
Patent Number	: 7640017	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/548,920	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/28/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

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Paper No.

PAUL AND PAUL
2000 MARKET STREET
SUITE 2900
PHILADELPHIA PA 19103

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MAR 17 2009

OFFICE OF PETITIONS

In re Application of :
Lehn et al. :
Application No. 10/548,922 : ON APPLICATION FOR
Filed: September 9, 2005 : PATENT TERM ADJUSTMENT
Attorney Docket No. 2005-309 :

This is in response to the Application for Patent Term Adjustment Under 37 CFR 1.705(d) filed January 14, 2009. Applicants request that the determination of patent term adjustment be increased from three hundred twenty-three (323) days to four hundred nine (409) days on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b). (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. Accordingly, it is still too soon to make a determination as to the correctness of any period of adjustment that will or will not be entered pursuant to § 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.

It is acknowledged that applicants are correct that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is noted that a Request for Continued Examination (RCE) was filed in this application on December 5, 2008.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment

of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Paper No.

PAUL AND PAUL
2000 MARKET STREET
SUITE 2900
PHILADELPHIA PA 19103

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FEB 18 2010

In re Patent No. 7,522,277	:	DECISION ON REQUEST
Lehn et al.	:	FOR RECONSIDERATION OF
Issue Date: April 21, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/548,922	:	and
Filed: September 9, 2005	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No. 2005-309	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 15, 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 four hundred nine (409) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by four hundred nine (409) days is **GRANTED**.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **four hundred nine (409)** 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 : 7,522,277

DATED : **April 21, 2009** **DRAFT**

INVENTOR(S) : Lehn 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 323 days

Delete the phrase "by 323 days" and insert – by 409 days--

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Paul J White
Nrel
1617 Cole Boulevard
Golden CO 80401

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JUN 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Dillon et al.	:	
Application No.: 10/548924	:	ON PETITION
Filing or 371(c) Date: 09/12/2005	:	
Attorney Docket Number:	:	
NREL 01-19 CIP	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed April 14, 2009.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed July 29, 2008. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on October 30, 2008. A Notice of Abandonment was mailed April 10, 2009.

Applicant files the present petition and includes an Amendment in response to the Office action. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment is filed with the present petition; (2) the petition fee; and (3) the required statement of unintentional delay[1]. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to Technology Center Art Unit 1793 for processing of the Amendment filed with the petition in the normal course of business.

[1] 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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ANDRUS, SCEALES, STARKE & SAWALL, LLP
100 EAST WISCONSIN AVENUE, SUITE 1100
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: Per Olav Haughom	: DECISION ON REQUEST FOR
Patent Number	: 7578360	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/548,928	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

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SCHMEISER, OLSEN & WATTS
22 CENTURY HILL DRIVE
SUITE 302
LATHAM, NY 12110

Mail Date: 04/21/2010

Applicant	: William Richard Jinks	: DECISION ON REQUEST FOR
Patent Number	: 7653711	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/548,930	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **953** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

21 JUN 2007

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Knobbe Martens Olson & Bear LLP
2040 Main Street
Fourteen Floor
Irvine, CA 92614

In re Application of :
BROWNING et al. :
U.S. Application No.: 10/548,932 : DECISION ON PETITION
PCT No.: PCT/US04/82501 : UNDER 37 CFR 1.47(a)
Int. Filing Date: 12 March 2004 :
Priority Date: 13 March 2003 :
Attorney Docket No.: ORAL.001NP :
For: DISPOSABLE DENTAL INSTRUMENT :

This decision is in response to applicants' "Petition to File Application on Behalf of Nonsigning Inventor Who Cannot be Reached to Sign under 37 CFR 1.47(a) and Statement of Fact" filed 29 May 2007, which is being treated as a petition under 37 CFR 1.47(a) to accept the application without the signature of joint-inventor, Brian Babson.

BACKGROUND

On 12 March 2004, applicants filed international application PCT/US04/82501 which claimed a priority date of 13 March 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 30 September 2004. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 13 September 2005.

On 12 September 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) and a copy of the international application.

On 26 October 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 29 May 2007, applicants filed the present petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Items (1), (3) and (4) have been satisfied.

Regarding item (2) above, petitioner states that Brian Babson has refused to sign the application. Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

A review of the present petition reveals that petitioner has not shown that a bona fide attempt was made to present the application papers (specification, claims, and drawings) to Brian Babson. Petitioner has provided a copy of the communication to Brian Babson, however, the communication fails to identify whether a complete application was attached to the electronic mail communication. Additionally, petitioner has not presented evidence that a complete copy of the application (specification, claims, and drawings) has

been mailed to the nonsigning inventor last known address. Lastly, the statement regarding the mailing of the electronic mail communication constitutes secondhand knowledge, in that, the mailing to which the petitioner is averring to was conducted by Christopher Karnes.

As stated above, where a refusal of the inventor to sign the application papers is alleged, a statement of facts is needed from a person having first hand knowledge of the facts that a complete copy of the application papers (specification, claims, and drawings) were sent to Brian Babson, and when such papers were sent. In addition, copies of documentary evidence such as a certified mail return receipt, cover letter of instruction, telegrams, etc., should be supplied with the declaration.

For the reasons stated above, it would not be appropriate to accept the application without the signature of Brian Babson under 37 CFR 1.47(a) at this time.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
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29 AUG 2007

Knobbe Martens Olson & Bear LLP
2040 Main Street
Fourteen Floor
Irvine, CA 92614

In re Application of
BROWNING et al.
U.S. Application No.: 10/548,932
PCT No.: PCT/US04/07641
Int. Filing Date: 12 March 2004
Priority Date: 13 March 2003
Attorney Docket No.: ORAL.001NP
For: DISPOSABLE DENTAL INSTRUMENT

DECISION ON PETITION
UNDER 37 CFR 1.47(a)

This decision is issued in response to applicants' "Request for Reconsideration of Petition under 37 CFR 1.47(a)" filed 21 August 2007 to accept the application without the signature of joint-inventor, Brian Babson.

BACKGROUND

On 12 March 2004, applicants filed international application PCT/US04/07641 which claimed a priority date of 13 March 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 30 September 2004. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 13 September 2005.

On 12 September 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) and a copy of the international application.

On 26 October 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 29 May 2007, applicants filed a petition under 37 CFR 1.47(a). In a decision dated 21 June 2007, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 21 August 2007, applicants filed a renewed petition under 37 CFR 1.47(a).

DISCUSSION

A review of the papers filed 29 May 2007 and 21 August 2007 reveals that petitioner has paid the requisite petition fee, provided sufficient proof that the non-signing inventor (Brian Babson) refused to execute the application or cannot be located after diligent effort, stated the last known address of the non-signing inventor (Brian Babson), 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 is accepted under 37 CFR 1.47(a) without the signatures of joint-inventor Brian Babson.

As provided in 37 CFR 1.47(c), a notice of the filing of this application will be forwarded to the non-signing inventors at the last known addresses set forth in the petition, and notice of the filing of the application under 37 CFR 1.47(c) will be published in the Official Gazette.

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 29 May 2007.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
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26 SEP 2006

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HAYNES & BOONE, LLP
901 Main Street, Suite 3100
Dallas, Texas 75212-3789

In re Application of:
WATSON, Brock Wayne, et al.
Application No.: 10/548,934
PCT No.: PCT/US2004/007711
Int. Filing Date: 11 March 2004
Priority Date: 11 March 2003
Attorney Docket No.: 25791.253.05
For: APPARATUS FOR RADIALLY EXPANDING AND PLASTICALLY DEFORMING A TUBULAR MEMBER

DECISION ON REFUND REQUEST

This decision is issued in response to applicants' "Petition Under 37 CFR 1.26 For A Refund Of Fees" filed 30 June 2006. No petition fee is required.

BACKGROUND

On 1 March 2004, applicants filed international application PCT/US2004/007711. The international application claimed a priority date of 11 March 2003 and designated the United States. The deadline for filing the basic national fee was thirty months from the priority date, i.e., 12 September 2005 (11 September 2005 was a Sunday).

The published international application contained 520 claims.

On 12 September 2005, applicants filed a transmittal letter for entry into the national stage accompanied by, among other materials, payment of the basic national and a substitute specification containing only 67 claims.

Applicants' 12 September 2005 included a specific fee payment based on the number of claims and pages contained in the substitute specification and the authorization to charge Deposit Account No. 08-1394 "any additional fees which may be required."

On 14 June 2006, the DO/EO/US charged Deposit Account No. 08-1394 additional fees based on the number of claims and pages contained in the international application. Specifically, applicants were charged the following additional fees: $22,650 for 453 additional total claims; $6,200 for 31 additional independent claims; $250 for the inclusion of an additional 63 total pages; and an additional $400 for the search fee.

On 30 June 2006, applicants filed the "Petition Under 37 CFR 1.26 For A Refund Of Fees" considered herein, accompanied by, among other materials, a Preliminary Amendment

directed to the 520 claims of record and specifically reducing such claims to the 67 total claims included with the substitute specification filed 12 September 2005. The petition requests a refund of the additional fees charged to Deposit Account No. 08-1394, arguing that the fees herein should be based on the number of claims and pages contained in the substitute specification.

DISCUSSION

The present petition asserts that the 67 claims (set forth on 15 pages) in the substitute specification filed 12 September 2005 are the proper basis for determining the fees due herein. This is only correct if the substitute specification is accompanied by an effective amendment of the claims; otherwise, the 520 total claims (set forth on 78 pages) contained in the international application remain of record and therefore are the proper basis for determining the fees.

The purported substitute specification filed by applicants on 12 September 2005 does not comply with the requirements for submitting a substitute specification set forth in 37 CFR 1.121(b)(3) and 1.125(b) and (c). For example, applicants did not provide a copy of the specification with markings indicating all the changes made with respect to the application of record, nor was a statement submitted confirming that the substitute specification did not include new matter. The substitute specification filed 12 September 2005 is therefore not an effective amendment of the present application. Moreover, even if the substitute specification had been submitted in the proper form, it would not have been effective to amend the claims in the application because, absent a specific request from the Office, the claims in an application cannot be amended by use of a substitute specification. See 37 CFR 1.121(b)(3): "The specification, **other than the claims**, may also be amended by submitting ... a substitute specification in compliance with §§ 1.125(b) and (c)" (emphasis added).

37 CFR 1.121(c) sets forth the requirements for effectively amending claims and, upon review, it is clear that the 15 pages of claims included with the substitute specification do not comply with these requirements. These pages simply set forth a new set of 67 claims. Applicants did not reference the 520 claims of record, indicate the specific changes made, or identify which claims were original, amended, or cancelled, all of which is required for a proper amendment of the claims pursuant to 37 CFR 1.121(c). Thus, the 15 pages of revised claims in the purported substitute specification filed 12 September 2005 do not constitute an effective amendment of the claims of record herein.

It is noted that the present petition was accompanied by a Preliminary Amendment specifically directed to the original 520 claims. However, this amendment is not in the form required by 37 CFR 1.121(c), and it was not submitted until after the Office had charged applicants for all the required claims fees (calculated from the claims of record at that time). Accordingly, even if the Preliminary Amendment filed 30 June 2006 were effective in reducing the number of claims herein, applicants are not entitled to a refund of fees based thereon. See MPEP § 1893.01(c) (emphasis added):

> A preliminary amendment accompanying the initial national stage submission under 35 U.SC. 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). **A subsequently filed amendment canceling claims and/or eliminating multiple dependent claims will not entitle applicant to a refund of fees previously paid.**

Based on the above, the fees due in this national stage application are properly calculated based on the 78 pages (containing 520 claims) included in the international application. A review of the fees charged herein confirms that the $22,650 fee for additional total claims, the $6,200 fee additional independent claims, and the $250 fee for the inclusion of an additional 63 total pages were properly calculated. The request for a refund of these fees is therefore appropriately dismissed.

The additional $400 search fee charged to against applicants' account, however, appears to have been charged in error. Applicants had previously submitted the full $100 national stage search fee applicable where, as here, the international search fee has been paid to the USPTO as the International Searching Authority on the international application. Applicants' request for a refund of this $400 charge is therefore appropriately granted.

CONCLUSION

The request for a refund of the additional $22,650 fee for total claims, $6,200 fee for independent claims, and $250 fee for total pages charged to Deposit Account No. 08-1394 on 14 June 2006 is **DISMISSED** without prejudice.

The request for a refund of the additional $400 search fee charged to Deposit Account No. 08-1394 on 14 June 2006 is **GRANTED**.

Deposit Account No. 08-1394 will be credited with a refund of $400.

Any request for reconsideration on the merits of this decision must be filed within **TWO (2) MONTHS** from the mailing date of this decision, indicated above.

Any such request should include a cover sheet entitled "Renewed Petition For Refund Under 37 CFR 1.26" and must include a proper showing that the claims herein were effectively amended by applicants prior to the USPTO's charging of all required fees on 15 June 2006.

Any further correspondence with respect to this matter should be addressed 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

09/26/2006 SBASHEIR 00000003 081394 10548934
01 FC:1641 100.00 DA

Adjustment date: 09/26/2006 SBASHEIR
06/14/2006 IEVANS 00000002 081394 10548934
01 FC:1632 500.00 CR

11 JUN 2007

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HAYNES AND BOONE, LLP
901 MAIN STREET
SUITE 3100
DALLAS, TX 75202-3789

In re Application of WATSON et al :
U.S. Application No.: 10/548,934 :
PCT Application No.: PCT/US2004/007711 :
Int. Filing Date: 11 March 2004 :
Priority Date Claimed: 11 March 2003 : DECISION
Attorney Docket No.: 25791.253.05 :
For: APPARATUS FOR RADIALLY :
EXPANDING AND PLASTICALLY :
DEFORMING A TUBULAR MEMBER :

This is in response to applicant's "Renewed Petition for Refund Under 37 CFR 1.26" filed 27 November 2006 and "Supplemental Renewed Petition for Refund Under 37 C.F.R. § 1.26" filed 13 March 2007, which are being treated together as a petition under 37 CFR 1.182 as authorized by applicant. The requisite $400.00 petition fee will be charged to Deposit Account No. 08-1394 as authorized in the petition.

BACKGROUND

On 11 March 2004, applicant filed international application PCT/US2004/007711, which claimed priority of an earlier United States application filed 11 March 2003. The thirty-month period for paying the basic national fee in the United States expired on 12 September 2005 (11 September 2005 was a Sunday).

On 12 September 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), a substitute specification, and an authorization to charge any fees which may be required to a deposit account.

On 14 June 2006, applicant's deposit account was debited for excess claim fees.

On 30 June 2006, applicant filed a request for refund under 37 CFR 1.26.

On 26 September 2006, this Office mailed a decision dismissing the 30 June 2006 request for refund.

On 27 November 2006, applicant filed the present renewed request for refund under 37 CFR 1.26.

On 13 March 2007, applicant filed the present supplemental renewed request for refund under 37 CFR 1.26.

DISCUSSION

37 CFR 1.26(a) states in relevant part,

> The Commissioner 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 or trademark 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.

A review of international application PCT/US2004/0007711 reveals that the application contained 520 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, the initial national stage submission on 12 September 2005 did not include a proper preliminary amendment. The petition states that the presentation of claims contained in the substitute specification should have been treated as an improperly formatted amendment, and that applicant should have been given an opportunity to file a corrected preliminary amendment in accordance with MPEP 714.01(e). Even assuming *arguendo* that applicant should be allowed to submit a corrected preliminary amendment, any corrected amendment would not have accompanied the initial national stage submission and thus would not be effective to reduce the number of claims to be considered in calculating extra claim fees in accordance with MPEP 1893.01(c). Therefore, the corrected amendment would not entitle applicant to a refund of the extra claim fees previously paid.

However, it is apparent from the papers filed 12 September 2006 that applicant sought to reduce the number of claims for examination at the time of national stage entry. Specifically, the substitute specification contained a listing of 67 claims, rather than the 520 claims contained in

the international application. Furthermore, the transmittal letter (Form PTO-1390) contained a payment calculation based on the presence of 67 claims as opposed to 520 claims. A proper preliminary amendment was filed on 13 March 2007, reducing the total number of claims to 67. Because of applicant's intent to reduce the number of claims for examination and because the fees paid towards the examination of claims are not remotely commensurate with number of claims that remain for examination, justice in the present case requires waiver of the requirement that a preliminary amendment must accompany the initial national stage papers in order to reduce the number of claims to be considered in calculating extra claim fees. Accordingly, the claim fees paid based on the presence of the original 520 claims, less the claim fees based on the remaining 67 claims, are deemed to be in excess of that required, and refund of such excess under 37 CFR 1.26(a) is appropriate.

A review of the fee records for the present application reveals that $33,600.00 has been paid for excess claim fees. The application currently contains 67 total claims, including 16 independent claims. Thus, a fee of $2,350.00 for 47 claims in excess of 20 is required, and a fee of $2,600.00 for 13 independent claims in excess of 3 is required. A total of $28,650.00 will be refunded to Deposit Account No. 08-1394.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is GRANTED.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision and will be forwarded to Technology Center AU 3676 for examination in due course.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

06/12/2007 SBASHEIR 00000001 081394 10548934
01 FC:1614 200.00 DA

Adjustment Date: 06/12/2007 SBASHEIR
06/14/2006 IEVANS 00000001 081394 10548934
02 FC:1614 6200.00 CR

Adjustment Date: 06/12/2007 SBASHEIR
06/14/2006 IEVANS 00000001 081394 10548934
01 FC:1615 22650.00 CR

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JAGTIANI + GUTTAG
10363-A DEMOCRACY LANE
FAIRFAX, VA 22030

COPY MAILED

MAY 12 2008

In re Application of :
HATZIANESTIS, Konstadinos et al. :
Application No. 10/548,948 : DECISION ON PETITION
Filed: May 24, 2006 : TO WITHDRAW
Attorney Docket No. **22409-00269-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 03, 2007.

The request is **Moot** because a revocation of power of attorney has been previously filed.

A review of the file record indicates that the power of attorney to JAGTIANI + GUTTAG has been revoked by the assignee of the patent application on November 20, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **CONNOLLY BOVE LODGE & HUTZ LLP**
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON DC 20036

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DICKSTEIN SHAPIRO LLP
1633 Broadway
NEW YORK, NY 10019

Mail Date: 04/20/2010

Applicant	: Nasir Zubairi	: DECISION ON REQUEST FOR
Patent Number	: 7660760	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/548,949	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **957** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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30 JAN 2007

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

In re Application of DEJA et al	:	
U.S. Application No.: 10/548,978	:	
PCT Application No.: PCT/DE2003/003083	:	DECISION
Int. Filing Date: 17 September 2003	:	
Priority Date Claimed: 10 March 2003	:	
Attorney Docket No.: 10191/4007	:	
For: SECURING ELEMENT . . .	:	

This is in response to applicant's "Response to 'Notification of Defective Response' to Missing Requirements Under 35 U.S.C. 371" filed 27 November 2006, which is being treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 17 September 2003, applicant filed international application PCT/DE2003/003083, which claimed priority of an earlier Germany application filed 10 March 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 on 12 September 2005 (10 September 2005 was a Saturday).

On 12 September 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 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 19 July 2006, applicant filed an executed declaration.

On 27 October 2006, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which stated that the declaration filed 19 July 2006 was improperly executed.

On 27 November 2006, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The Notification of Defective Response mailed 27 October 2006 stated that the signatures of the two inventors are improper. A review of the declaration filed 19 July 2006 reveals that the signatures are acceptable.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The Notification of Defective Response (Form PCT/DO/EO/916) mailed 27 October 2006 is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 17 September 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 19 July 2006.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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SUNNYVALE, CA 94085

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OFFICE OF PETITIONS

In re Application of	:	
Daniel Ciesinger	:	
Application No. 10/548,996	:	DECISION GRANTING PETITION
Filed: September 9, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. WACHP007	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 6, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 19, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2431 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.*

21 NOV 2006

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DAVID J. ARCHER
7037 POMERY ROAD
ROCKTON, IL 61072

In re Application of	:	
TORNELLO, Fabrizio	:	
Application No.: 10/549,000	:	DECISION
PCT No.: PCT/IT03/00192	:	
Int. Filing Date: 31 March 2003	:	ON PETITION UNDER
Priority Date: None	:	
Docket No.: 1320US	:	37 CFR 1.137(b)
For: A PRESS APPARATUS FOR REMOVING WATER FROM A WEB	:	

Applicant's "Petition For Revival of an International Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 06 September 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 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 yet 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 is also required.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision, including mailing of a Notification of Missing Requirements indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the search fee, examination fee or 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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DAVID J ARCHER
7037 POMERY ROAD
ROCKTON IL 61072

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MAR 0 3 2010

OFFICE OF PETITIONS

In re Application of :
Fabrizio Tonello :
Application No. 10/549,000 : ON PETITION
Filed: September 14, 2005 :
Attorney Docket No. 1320 US :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed January 4, 2010.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181".

The above-identified application became abandoned for failure to timely file a proper reply to the non-final Office action mailed February 10, 2009. This Office action set a shortened statutory period for reply of three months. Applicant filed an Amendment on July 15, 2009 (Certificate of Mailing dated July 10, 2009), accompanied by a check for a two month extension of time in the amount of $245. However, Office finance records indicate that the check bounced. Accordingly, the application became abandoned by operation of law on May 11, 2009. The Office mailed a courtesy Notice of Abandonment on October 7, 2009.

As set forth above, the Amendment filed July 15, 2009 was not timely, as it was not filed with the required two month extension of time. In view thereof, the holding of abandonment was proper, and will not be withdrawn.

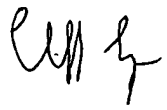
While the showing of record is not sufficient to withdraw the holding of abandonment, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); 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.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries 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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MAY 17 2010

OFFICE OF PETITIONS

DAVID J ARCHER
7037 POMERY ROAD
ROCKTON IL 61072

In re Application of	:	
Fabrizio Tonello	:	
Application No. 10/549,000	:	ON PETITION
Filed: September 14, 2005	:	
Attorney Docket No. 1320 US	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed March 26, 2010.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper reply to the non-final Office action mailed February 10, 2009. This Office action set a shortened statutory period for reply of three months. Applicant filed an Amendment on July 15, 2009 (Certificate of Mailing dated July 10, 2009), accompanied by a check for a two month extension of time in the amount of $245. However, Office finance records indicate that the check bounced. Accordingly, the application became abandoned by operation of law on May 11, 2009. The Office mailed a courtesy Notice of Abandonment on October 7, 2009. Applicant filed a petition to withdraw the holding of abandonment on January 4, 2010. However, the petition was dismissed in a decision mailed on March 3, 2010.

With the instant petition, petitioner made the proper statement of unintentional delay and paid the petition fee. The required reply in the form of an Amendment was previously filed on July 15, 2009.

The application is being forwarded to Group Art Unit 1791 for consideration of the Amendment filed July 15, 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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NIRO, SCAVONE, HALLER & NIRO
181 W. MADISON, SUITE 4600
CHICAGO, IL 60602

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JUN 15 2007

OFFICE OF PETITIONS

In re Application of :
Bo RENBERG :
Application No. 10/549,029 : DECISION ON PETITION
Filed: November 7, 2006 : TO WITHDRAW
Attorney Docket No. 3672PCTUS : 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 4, 2007.

The request is **NOT APPROVED**.

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: BO RENBERG
MEDTECH SWEDEN, INC.
604 W. FIRST STREET
KEWANEE, IL 61443

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SUITE 4600
CHICAGO, IL 60602

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MAR 26 2008

OFFICE OF PETITIONS

In re Application of	:	
Bo RENBERG	:	
Application No. 10/549,029	:	DECISION ON PETITION
Filed: November 7, 2006	:	TO WITHDRAW
Attorney Docket No. 3672PCTUS	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 3, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because there remains less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on October 3, 2007.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MR. BO RENBERT
MEDTECH SWEDEN
604 WEST FIRST STREET
KEWANEE, IL 61443

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DENNISON, SCHULTZ & MACDONALD
1727 KING STREET
SUITE 105
ALEXANDRIA, VA 22314

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JAN 0 6 2010

In re Application of
Bo Renberg
Application No. 10/549,029
Filed: November 7, 2006
Attorney Docket No. 09052

ON PETITION

This is a decision in response to the petition, filed October 21, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 3, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on January 4, 2008. A Notice of Abandonment was mailed on May 29, 2008. On October 21, 2009, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay[1].

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on October 21, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card.

The application is being referred to Technology Center AU 1794 for appropriate action by the Examiner in the normal course of business on the amendment received October 21, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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SHOEMAKER AND MATTARE, LTD
10 POST OFFICE ROAD - SUITE 100
SILVER SPRING MD 20910

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MAY 12 2009

OFFICE OF PETITIONS

In re Application of :
ZILIANI, MASSIMO :
Application No. 10/549,035 : DECISION ON PETITIONS
Filing Date: 10/13/2005 :
Attorney Docket Number: 5721 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137{a) OR UNINTENTIONALLY UNDER 37 CFR 1.137(b),[1] filed on October 30, 2008, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

The petition under 37 CRFR 1.137(b) is **GRANTED**.

This application became abandoned on August 15, 2008, for failure to timely submit the publication fee in response to the Notice of Allowance and Fee(s) Due mailed on May 14, 2008, which set a three (3) month statutory time period for reply. A Notice of Abandonment was mailed on September 10, 2008.

CONSIDERATION UNDER 37 CFR 1.137(a)

On June 5, 2008, petitioners filed the Fee(s) Transmittal Form (PTOL-85(b)) requesting that the Office charge the issue fee and

[1] "'[U]navoidable' delay and 'unintentional' delay are not alternatives; 'unavoidable' delay is the epitome of 'unintentional' delay." MPEP 711.03(c)(II)(B). Pursuant to 35 U.S.C. 41(a)(7), the petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the petition fees under 37 CFR 1.17(l) and 1.17(m) are required on filing the petitions regardless of whether the petitions are dismissed or granted. As applicants are requesting review under both 37 CFR 1.137(a) and 1.137(b) (i.e. the filing of two separate petitions), the Office must charge the petition fees under 37 CFR 1.17(l) and 1.17(m).

the publication fee to counsel's deposit account. Unfortunately, the deposit account contained an insufficient balance to charge the publication fee.

Petitioners assert unavoidable delay in that Ms. Robyn Badman was responsible for ensuring that the deposit account contained sufficient funds to charge all Office fees, but failed to do so as a result of a mistaken assumption about when other fee payments would be withdrawn from the deposit account.

Petitioners assert, in pertinent part:

> At the end of June, we received the monthly Deposit Account statement. Per our standard practice, Robyn Badman reviewed it for correctness. She confirmed that the issue fee had been charged for application 10/549035 on June 6, and took no further action, expecting a patent would issue.
>
> On September 12, we received a Notice of Abandonment dated September 10, indicating that a balance of $300 (the publication fee) is still due. Having again reviewed the Deposit Account Statement for June, we infer the publication fee was not charged because there was an insufficient balance on June 6, after the issue fee was charged, but before a $5000 deposit on the same day was credited. We were unaware of the deficiency at the time. We request that this application be revived on the ground that abandonment was unavoidable (37 CFR 1.137(a)) or, in the alternative, on the ground that abandonment was unintentional (37 CFR 1.137(b)).
>
> Abandonment may be deemed unavoidable when there was an administrative error, if reasonable procedures to prevent such error were in place and were followed. Robyn Badman's declaration, attached, explains in detail the procedures which have been established for handling the Deposit Account and her compliance with the procedures. Because no notice of a fee deficiency was sent during the period June 5 - August 14 (during which the publication fee could have been paid without penalty), we had no reason to cure the deficiency. Obviously our intention was to pay all fees due.
>
> We respectfully submit that the procedures which we followed were reasonably designed to prevent abandonment of an application after intended payment of the issue fee,

> and that this situation is appropriate for a conclusion of unavoidability.
>
> If the abandonment is deemed not to qualify as unavoidable, we request revival based on the unintentional standard under 37 CFR 1.137(b). 1 certify 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.

Petition, pp. 1-2.

The petition is accompanied by a declaration of Robyn Badman, explaining the procedures for checking and replenishing the Deposit Account, as well as and setting forth the facts surrounding the abandonment of the application. A copy of counsel's Deposit Account Statement is included.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

> (1) the required reply, unless previously filed. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
>
> (2) the petition fee as set forth in § 1.17(l);
>
> (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
>
> (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant § 1.137(d).

This petition lacks item (3) above.

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.[2]

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioners, or counsel for petitioners, take all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[3]

A delay resulting from an error (*e.g.*, a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:

(1) the error was the cause of the delay at issue;

(2) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance;

(3) and the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.[4]

---

[2] 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."

[3] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

[4] See MPEP 711.03(c)(III)(C)(2).

An adequate showing requires:

(A) Statements by all persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts as they know them.

(B) Petitioners must supply a thorough explanation of the system in use and must identify the type of records kept and the person responsible for the maintenance of the system. This showing must include copies of records that may exist which would substantiate an error in the system's performance, and include an indication as to why the system failed to provide adequate notice.

(C) Petitioners must supply information regarding the training provided to the personnel responsible for the error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

The present petition lacks the showing required above.

Petitioners did not supply information regarding the training provided to Ms. Badman, the degree of supervision of her work, and any checks on the described work which were used to assure proper execution of assigned tasks. Furthermore, petitioners submitted a copy of their Deposit Account Statement for June 2008; however, they did not provide any copies of the firm's records which would substantiate the error in the system's performance and an indication as to why the system failed to provide adequate notice of the deficiency in the Deposit Account. The Office reminds petitioners that it is their responsibility to keep an accounting of all fees paid or authorized, as well as the remaining balance in the Deposit Account. Furthermore, the Office notes that failure to receive a notification by the USPTO of insufficient funds does not render the delay unavoidable. See generally, In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994) (while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction). Moreover, reliance on the mailing of a notice of fee deficiency does not support a showing that the system is sufficiently reliable to provide adequate notice that the Deposit Account balance is low and must be replenished.

Accordingly, the showing of record is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. 133 and 37 CFR 1.137(a). Thus, the petition under 37 CFR 1.137(a) is **dismissed**.

CONSIDERATION UNDER 37 CFR 1.137(b)

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed.

(2) The petition fee as set forth in 37 CFR 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and,

(4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to 37 CFR 1.137(d)

Petitioners have met the requirements under 37 CFR 1.137(b), in that they submitted: (1) the required reply in the form of an authorization to charge the publication fee; (2) an authorization to charge the petition fees; and, (3) a proper statement of unintentional delay. Accordingly, the petition under 37 CFR 1.137(b) is **granted**.

The $300.00 publication fee, the $270.00 fee for filing a petition under 37 CFR 1.137(a), and the $810.00 fee for filing a petition under 37 CFR 1.137(b) will be charged to the Deposit Account as authorized.

This application is being referred to the Office of Data Management for issuance as a patent.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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DILWORTH & BARRESE, LLP
1000 WOODBURY ROAD
SUITE 405
WOODBURY, NY 11797

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MAR 22 2010

OFFICE OF PETITIONS

In re Application of :
Michl et al. :
Application No. 10/549,048 : ON PETITION
Filed: December 13, 2006 :
Attorney Docket No. 1181-17 CIP II PCT US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 13, 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, February 25, 2009, which set a shortened statutory period for reply of three (3) months. In view of the 3-month extension of time filed August 24, 2009, the date of abandonment of this application is August 26, 2009. A Notice of Abandonment was mailed October 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 an amendment , (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center 1635 for further examination on the merits

Chris Bottorff
Petitions Examiner
Office of Petitions

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Nixon Peabody LLP
P.O. Box 60610
Palo Alto, CA 94306

Mail Date: 04/21/2010

Applicant	: Philippe Garrec	: DECISION ON REQUEST FOR
Patent Number	: 7574939	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/549,049	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **973** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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BASF CORPORATION
Patent Department
1609 BIDDLE AVENUE
MAIN BUILDING
WYANDOTTE, MI 48192

Mail Date: 04/26/2010

Applicant	: Egon Wegner	: DECISION ON REQUEST FOR
Patent Number	: 7579048	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/549,055	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

In re Application of:
HUND, MARTIN
Application Serial No.: 10/549,063
Filed: May 11, 2006
For: **METHOD AND DEVICE FOR PROCESSING COLOUR INFORMATION OF A PATTERN HAVING CLUTTERED AND USEFUL INFORMATION CHARACTERS**

DECISION
ON PETITION

This is a decision on the petition filed on September 26, 2008, which is treated as a petition to envoke the supervisory authority of the Director in accordance with 37 C.F.R. §1.181.

The petition is **Dismissed**.

Applicant requests the accompanying amendment with this petition, inserting reference to a claim for priority into the specification, be entered and the application undergo accelerated examination.

MPEP §1893.03(c), The Priority Date, Priority Claim, and Priority Papers for a U.S. National Stage Application, states in part:...

*Note: a national stage application submitted under 35 U.S.C. 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the **>international filing date of the< international application. See also MPEP § 1893.03(b). Stated differently, since the international application is not an earlier application (it has the same filing date as the national stage), a benefit claim under 35 U.S.C. 120 in the national stage to the international application is inappropriate and may result in the submission being treated as an application filed under 35 U.S.C. 111(a). See MPEP § 1893.03(a). Accordingly, it is not necessary for the applicant to amend the first sentence(s) of the specification to reference the international application number that was used to identify the application during international processing of the application by the international authorities prior to commencement of the national stage.*

A review of the record reveals that the application was granted national stage status under 35 U.S.C. 371 as evidenced by the notice of acceptance under 35 U.S.C. 371 and 37 CFR 1.495 letter mailed on 12/13/06. Therefore, the petition to enter the amendment to the specification to correct formality is dismissed as unnecessary.

Petitioner further requests application to undergo accelerated examination. Upon further review of the record reveals that there are no papers or petitions to make special filed in accordance with

MPEP 708.02(a). Therefore, the petition to have the application undergo accelerated examination is dismissed.

The amendment to the specification filed 9/24/08 will be considered in accordance with 37 CFR 1.121 during the regular course of prosecution. Application is being returned to the Technology Center for action on the merits in its regular turn.

Michael Horabik,
Quality Assurance Specialist
Technology Center 2600
Communications

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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.: 10/549,074
PCT No.: PCT/EP2004/002053
International Filing Date: 02 March 2004
Priority Date: 14 March 2003
Attorney's Docket No.: CS-8620/BCS023003
For: 2,4,6-PHENYL SUBSTITUTED CYCLIC KETOENOLS

DECISION ON PAPERS SUBMITTED UNDER 37 CFR 1.42

This decision is issued in response to the 21 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 12 September 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 21 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.

On 17 March 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.

DISCUSSION

1. Declaration Filed 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."

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 21 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 heiress' country of citizenship and residency. Thus, the declaration contains the information required by 37 CFR 1.497(b)(2). However, while the person executing the declaration on behalf of the deceased inventor is identified as the "heiress," neither the declaration nor any materials submitted therewith state that this person is the sole heir of the deceased inventor.

Before the declaration may be accepted under 37 CFR 1.42, applicants must provide an acceptable statement and/or supporting documentation confirming that Angelika LUBOS-ERDELEN is the sole heir of the deceased inventor and that no legal representative of the deceased's estate has been appointed or is required to be appointed by applicable law.

2. **Notification Of Missing Requirements**:

The Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 17 March 2006, based as it was on applicants' purported failure to file an oath or declaration herein, is appropriately vacated.

CONCLUSION

For the reasons discussed above, the request for status under 37 CFR 1.42 is **DISMISSED** without prejudice.

The Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 17 March 2006 is **VACATED**.

Applicants have **TWO (2) MONTHS** from the mailing date of this communication to submit a proper response under 37 CFR 1.42 and 37 CFR 1.497. Failure to provide a proper and timely response will result in abandonment.

A proper response must include an adequate statement and/or supporting documentation confirming that Angelika LUBOS-ERDELEN is the sole heir of the deceased inventor and that no legal representative of the deceased's estate has been appointed or is required to be appointed by applicable law.

Any further correspondence with respect to this matter should be addressed 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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UNITED STATES PATENT AND TRADEMARK OFFICE

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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.: 10/549,074	:	DECISION ON SECOND
PCT No.: PCT/EP2004/002053	:	SUBMISSION UNDER
International Filing Date: 02 March 2004	:	37 CFR 1.42
Priority Date: 14 March 2003	:	
Attorney's Docket No.: CS-8620/BCS023003	:	
For: 2,4,6-PHENYL SUBSTITUTED CYCLIC KETOENOLS	:	

In a decision mailed by this Office on 01 May 2006, the declaration filed 21 February 2006, executed on behalf of deceased inventor Christoph EREDELEN by his heiress Angelika LUBOS-ERDELEN, was refused based on applicants failure to provide a statement or supporting materials confirming that Angelika LUBOS-ERDELEN is the sole heir of the deceased inventor.

On 15 May 2006, applicants filed a response to the previous communication that included a statement from counsel confirming that Angelika LUBOS-ERDELEN is the sole heir of the deceased inventor. Applicants also provided a certificate of inheritance (with English translation) supporting this assertion.

The 15 May 2006 submission satisfies the outstanding requirement set forth in the previous decision. Accordingly, applicants' request for status under 37 CFR 1.42 with respect to deceased inventor Christoph ERDELEN is **GRANTED**.

The submission of the declaration executed by the heir of the deceased inventor is hereby construed as an indication that no legal representative of the deceased's estate has been appointed and that no legal representative is required by 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.

The application will be forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 21 February 2006.

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UNITED STATES PATENT AND TRADEMARK OFFICE

05 MAY 2009

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GE Healthcare, Inc.
IP Department
101 Carnegie Center
Princeton, NJ 08540-6231

In re Application of
CUTHBERTSON et al.
U.S. Application No.: 10/549,082
PCT No.: PCT/GB04/01052
International Filing Date: 12 March 2004
Priority Date: 13 March 2003
Attorney's Docket No.: PH0323
For: METHODS OF RADIOFLUORINATION OF BIOLOGICALLY ACTIVE VECTORS

DECISION ON PETITION

This decision is issued in response to applicant's "Response to Notice of Abandonment" filed on 01 February 2007, which is being treated as a Petition to Withdraw Holding of Abandonment under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 12 March 2004, applicant filed international application PCT/GB04/01052 which claimed a priority date of 13 March 2003 and which designated the United States. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 13 September 2005.

On 12 September 2005, the United States Patent and Trademark Office (USPTO) received a submission from applicant seeking to enter the national stage in the United States accompanied by, among other materials, payment of the basic national fee; a copy of the international application; and a preliminary amendment.

On 01 May 2006, the USPTO mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that applicant was required to submit an oath/declaration and an "initial or substitute computer readable form (CRF) of the Sequence Listing." The notification set a two-month time limit in which to respond.

On 03 July 2006, applicant filed a response which included an oath/declaration.

On 08 August 2006, the USPTO mailed a Notification Of A Defective Response (Form PCT/DO/EO/916) "indicating that additional sequence listing materials were required, including a computer readable form (CRF) of the sequence listing."

On 01 September 2006, applicant filed "Submission of Nucleotide and/or Amino Acid Sequence Listing" which included a diskette containing a purported computer readable form (CRF).

On 27 December 2006, the United States Designated/ Elected Office (DO/EO/US) mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that additional sequence listing materials were required, including a computer readable form (CRF) of the sequence listing.[1]

On 19 January 2007, applicant filed "Response under 37 CFR 1.825(d) and Statement in Support of Filing a Substitute Sequence Listing under 37 CFR 1.821(f) which included a Statement under 37 CFR 1.821(e) and a computer readable form of the sequence listing. (On 24 January 2007, the PALM Database indicated that a compliant computer readable form (CRF) had been submitted.)

On 29 January 2007, the USPTO mailed a Notification of Abandonment under 37 CFR 1.495 (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 01 May 2006 within the time period set therein.

On 01 February 2007, applicant filed a "Response to Notice of Abandonment."

DISCUSSION

The above-identified application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 01 May 2006, in that, the sequence listing in computer readable form complying with 37 CFR 1.821-1.825 had not been submitted within the period set therein. Since the Notification of Missing Requirements was mailed on 01 May 2006, applicants were required to submit a response by 01 July 2006. If applicant elected to use to the provisions under 37 CFR 1.136, applicant was required to file a complete response by 01 December 2006.

Applicant submitted a response to the Notification Defective Response on 01 September 2006. A review of the application file reveals that the Computer Readable Form filed 01 September 2006 had an "Invalid Response" and was not considered a proper response to the Notification of Defective Response. Since the time-limit to respond to the Notification Of Missing Requirements (Form PCT/DO/EO/905) had elapsed, a Notification of Abandonment should have been mailed, instead of the second Notification Of A Defective Response (Form PCT/DO/EO/916) dated 27 December 2006. (See Manual of Patent Examining Procedure §714.03, states that "once an inadvertent omission is brought to the attention of the applicant, the question of inadvertence no longer exists. Therefore, a

[1]The United States Designated/Elected Office should have mailed a Notification of Abandonment (Form/DO/EO/909) indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 01 May 2006 since the time period to respond had expired.

second Office action giving another new (1 month) time period to supply the omission would not be appropriate under 37 CFR 1.135(c).)

Therefore, the USPTO was correct in mailing the Notification of Abandonment dated 29 January 2007 and the petition may not be properly granted.

CONCLUSION

The petition under 37 CFR 1.181 is **DISMISSED** without prejudice and the application remains **ABANDONED**.

Applicants may wish to consider filing a petition to the Commissioner under 37 CFR 1.137(b) requesting that the application be revived. Any petition filed under 37 CFR 1.137(b) requesting that the application be revived must meet the criteria indicated in the recent revision of 37 CFR 1.137. This recommendation to file a petition under 37 CFR 1.137(b) should not be construed as an indication as to whether or not any such petition(s) will be favorably considered.

If reconsideration on the merits of this petition is desired, an appropriate response to this decision must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

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.

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21 AUG 2009

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GE Healthcare, Inc.
IP Department
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Princeton, NJ 08540-6231

In re Application of :
CUTHBERTSON et al. :
U.S. Application No.: 10/549,082 :
PCT No.: PCT/GB04/01052 :
International Filing Date: 12 March 2004 : DECISION ON PETITION
Priority Date: 13 March 2003 :
Attorney's Docket No.: PH0323 :
For: METHODS OF RADIOFLUORINATION OF :
BIOLOGICALLY ACTIVE VECTORS :

This decision is issued in response to applicant's "Renewed Petition under 37 CFR 1.181 - Request for Reconsideration of Renewal Petition under 37 CFR 1.137(b)" filed on 26 June 2009, which is being treated as a Renewed Petition to Withdraw Holding of Abandonment under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 12 March 2004, applicant filed international application PCT/GB04/01052 which claimed a priority date of 13 March 2003 and which designated the United States. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 13 September 2005.

On 12 September 2005, the United States Patent and Trademark Office (USPTO) received a submission from applicant seeking to enter the national stage in the United States accompanied by, among other materials, payment of the basic national fee; a copy of the international application; and a preliminary amendment.

On 01 May 2006, the USPTO mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that applicant was required to submit an oath/declaration and an "initial or substitute computer readable form (CRF) of the Sequence Listing." The notification set a two-month time limit in which to respond.

On 03 July 2006, applicant filed a response which included an oath/declaration.

On 08 August 2006, the USPTO mailed a Notification Of A Defective Response (Form PCT/DO/EO/916) "indicating that additional sequence listing materials were required, including a computer readable form (CRF) of the sequence listing."

On 01 September 2006, applicant filed "Submission of Nucleotide and/or Amino Acid Sequence Listing" which included a diskette containing a purported computer readable form (CRF).

On 27 December 2006, the United States Designated/ Elected Office (DO/EO/US) mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that additional sequence listing materials were required, including a computer readable form (CRF) of the sequence listing.

On 19 January 2007, applicant filed "Response under 37 CFR 1.825(d) and Statement in Support of Filing a Substitute Sequence Listing under 37 CFR 1.821(f) which included a Statement under 37 CFR 1.821(e) and a computer readable form of the sequence listing. (On 24 January 2007, the PALM Database indicated that a compliant computer readable form (CRF) had been submitted.)

On 29 January 2007, the USPTO mailed a Notification of Abandonment under 37 CFR 1.495 (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 01 May 2006 within the time period set therein.

On 01 February 2007, applicant filed a "Response to Notice of Abandonment." In a decision dated 05 May 2009, applicant's petition under 37 CFR 1.181 was dismissed without prejudice.

On 26 June 2009, applicant filed "Renewed Petition under 37 CFR 1.181 - Request for Reconsideration of Renewal Petition under 37 CFR 1.137(b)."

DISCUSSION

The above-identified application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 01 May 2006, in that, the sequence listing in computer readable form complying with 37 CFR 1.821-1.825 had not been submitted within the period set therein.

Petitioner requests that the Office withdraw the holding of abandonment pursuant to 37 CFR 1.181. Petitioner asserts that the instant application should not be abandoned because applicant responded timely by filing a respective response on 01 September 2006. However, merely filing timely a "response" to the Notification of Defective Response mailed 08 August 2006 is not sufficient to avoid abandonment. To avoid abandonment, applicant needed to timely furnish a complete and proper response to the notification dated 08 August 2006, i.e., a response that included a CRF that complied with 37 CFR 1.822 and 1.823. See 37 CFR 1.821(g). The 01 September 2006 submission did not include a CRF that complied with the sequence rules. Accordingly, the application is abandoned.

Additionally, petitioner states that "a valid computer readable disc was carefully reviewed without error on January 16, 2007 prior to any abandonment notice." As indicated in the prior decision, the instant application became abandoned pursuant to 37 CFR 1.821(g) when a CRF in compliance with 37 CFR 1.822-1.823 was not timely furnished in response to the first Notification of Defective Response. The fact that a second Notification of Defective Response was improperly mailed by the National Stage Processing Division of the USPTO is not relevant, as the authority to revive an abandoned international application prior to entering the U.S. national stage is delegated exclusively to the Office of PCT Legal Administration (see MPEP 1002.02(q)). Furthermore, revival is only appropriate upon fulfillment of certain statutory and regulatory requirements. See 35 U.S.C. 41 and 37 CFR 1.137. Petitioners should also note §714.03 of the Manual of Patent Examining Procedure, which states, in pertinent part: "*Once an inadvertent omission is brought to, the attention of the applicant, the question of inadvertence no longer exists. Therefore, a second Office action giving another new (1 month) time period to supply the omission would not be appropriate under 37 CFR 1.135(c).*"

In summary, petitioners have not provided the proper showing necessary to withdraw the holding of abandonment.

Petitioners may wish to consider filing a petition under 37 CFR 1.137(b) to revive the instant application. Any petition filed under 37 CFR 1.137(b) must meet the criteria indicated in 37 CFR 1.137. This suggestion to consider filing a petition under 37 CFR 1.137(b) should not be construed as an indication as to whether any such petition will be favorably considered.

CONCLUSION

The petition under 37 CFR 1.181 is **DISMISSED** without prejudice and the application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, an appropriate response to this decision must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

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.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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IP Department
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Princeton, NJ 08540-6231

In re Application of
CUTHBERTSON et al.
U.S. Application No.: 10/549,082
PCT No.: PCT/GB04/01052
International Filing Date: 12 March 2004
Priority Date: 13 March 2003
Attorney's Docket No.: PH0323
For: METHODS OF RADIOFLUORINATION OF BIOLOGICALLY ACTIVE VECTORS

DECISION ON PETITION

The petition to revive under 37 CFR 1.137(b) filed 20 October 2009 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 sequence listing (paper copy and diskette) 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.

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#3

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12 JAN 2005

Judson K. Champlin
Westman, Champlin & Kelly, P.A.
900 Second Avenue South
Suite 1400 · International Centre
Minneapolis, MN 55402

In re Application of
JUNG, Yun-Kyung
Application No.: 10/549,096
PCT No.: PCT/KR04/00267
Int. Filing Date: 11 February 2004
Priority Date: 11 February 2003
Attorney Docket No.: J63.12-0001
For: WIRELESS CAMERA WITH CDMA AND MOTION PICTURE TRANSMISSION SYSTEM USING THE SAME

DECISION ON PETITION UNDER 37 CFR 1.137(b)

This decision is in response to applicant's petition to revive filed 13 September 2005 and applicant's facsimile communication dated 05 January 2006. The petition to revive under 37 CFR 1.137(b) in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

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BRINKS, HOFER, GILSON & LIONE
P.O. BOX 1340
MORRISVILLE, NC 27560

Mail Date: 04/21/2010

Applicant	: Binh Dinh	: DECISION ON REQUEST FOR
Patent Number	: 7622090	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/549,101	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/13/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **777** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 NATH LAW GROUP
112 SOUTH WEST STREET
ALEXANDRIA, VA 22314

MAILED

MAR 2 9 2010

OFFICE OF PETITIONS

In re Application of
Arthur M. Deboeck, et al.
Application No. 10/549,124
Filed: June 16, 2006
Attorney Docket No. 70075.0008USWO

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 14, 2010.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because practitioners were not appointed by customer number. Petitioner must withdraw in the same manner by which they were appointed. The Office strongly encourages practitioners(s) requesting withdrawal from representation as practitioner of record in an application to review the record to determine whether he or she, is in fact, of record and how he or she was made of record. Additionally, as set forth in MPEP 403(I), the addition or deletion of a practitioner from the list of persons associated with a Customer Number should be done by way of a Request for Customer Number Data Change (PTO/SB/124) and not a Request for Withdrawal as Attorney or Agent and Change of Correspondence Address (Form PTO/SB/83).

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

cc: GALEPHAR PHARMACEUTICAL RESEARCH, INC.
C/O WILLIAM E. BEAUMONT
627 SOUTH ASAPH STREET
ALEXANDRIA, VA 22314

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24 APR 2007

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of	:	
ARIMONDO et al.	:	DECISION ON
Application No.: 10/549,129	:	
PCT No.: PCT/EP2004/004022	:	PAPERS
Int. Filing Date: 18 March 2004	:	
Priority Date: 18 March 2003	:	UNDER 37 CFR 1.42
Attorney's Docket No.: BJS-1721-97		:
For: COMPOUNDS AND THEIR USE FOR SPECIFIC	:	
AND SIMULTANEOUS INHIBITION OF GENES	:	
INVOLVED IN DISEASES AND RELATED DRUGS	:	

This is a decision on the submission filed by applicants on 26 March 2007. The indication that inventor Claude Helene is deceased has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 18 March 2004, applicants filed international application PCT/EP2004/004022 which claimed a priority date of 18 March 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 30 September 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 19 September 2005 (18 September 2005 being a Sunday).

On 16 September 2005, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee.

On 01 May 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 a declaration of inventors was required.

On 30 November 2006, applicants submitted, *inter alia*, a petition/fee for a five-month extension of time and a declaration of inventors indicating Therese Garestier as both the fifth and sixth inventors. No explanation of why this inventor was listed twice appears to have been provided.

On 26 February 2007, the DO/EO/US mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) indicating that the declaration of inventors filed 30 November 2006 was not in compliance with 37 CFR 1.497(a)-(b) because the information for inventor Claude Helene was missing.

On 26 March 2007, applicants filed the instant submission which indicates that Claude Helene is deceased and Therese Garestier is his legal heir. The indication that inventor Claude Helene is deceased has been treated as a request for status under 37 CFR 1.42.

DISCUSSION

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)). Also, the declaration does not indicate that Therese Garestier is the legal representative for the deceased inventor.

Additionally, the declaration filed 30 November 2006 signed by Jian-Sheng Sun is not sufficient because it contains non-initialed alterations. 37 CFR 1.52(c). "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." MPEP § 605.04(a). Item I.

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 proper declaration 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."

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16 AUG 2007

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ARLINGTON VA 22203

In re Application of	:	
ARIMONDO et al.	:	DECISION ON
Application No.: 10/549,129	:	
PCT No.: PCT/EP2004/004022	:	PAPERS
Int. Filing Date: 18 March 2004	:	
Priority Date: 18 March 2003	:	UNDER 37 CFR 1.42
Attorney's Docket No.: BJS-1721-97	:	
For: COMPOUNDS AND THEIR USE FOR SPECIFIC AND SIMULTANEOUS INHIBITION OF GENES INVOLVED IN DISEASES AND RELATED DRUGS	:	

This is a decision on the "RENEWED SUBMISSION UNDER 37 CFR 1.42" filed by applicants on 24 July 2007.

BACKGROUND

On 18 March 2004, applicants filed international application PCT/EP2004/004022 which claimed a priority date of 18 March 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 30 September 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 19 September 2005 (18 September 2005 being a Sunday).

On 16 September 2005, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee.

On 01 May 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 a declaration of inventors was required.

On 30 November 2006, applicants submitted, *inter alia*, a petition/fee for a five-month extension of time and a declaration of inventors indicating Therese Garestier as both the fifth and sixth inventors. No explanation of why this inventor was listed twice appears to have been provided.

On 26 February 2007, the DO/EO/US mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) indicating that the declaration of inventors filed 30

November 2006 was not in compliance with 37 CFR 1.497(a)-(b) because the information for inventor Claude Helene was missing.

On 26 March 2007, applicants filed a submission which indicated that Claude Helene is deceased and Therese Garestier is his legal heir. The indication that inventor Claude Helene is deceased was treated as a request for status under 37 CFR 1.42.

On 24 April 2007, a decision was mailed refusing applicants' request for status under 37 CFR 1.42. The decision also indicated that the declaration filed 30 November 2006 signed by Jian-Sheng Sun was not sufficient because it contained non-initialed alterations.

On 24 July 2007, applicants filed the instant "RENEWED SUBMISSION UNDER 37 CFR 1.42" which was accompanied by, *inter alia,* two declarations of inventors.

DISCUSSION

The indication in the "RENEWED SUBMISSION UNDER 37 CFR 1.42" that Therese Garestier is "the heir of deceased inventor"Claude Helene is hereby construed as meaning that Therese Garestier is the sole heir of the deceased inventor. The submission of the declaration executed by the sole heir of the deceased inventor is further construed as an indication that no legal representative of the deceased's estate has been appointed and that no legal representative is required by the applicable law to be appointed and thus the sole heir is signing as the legal representative of the estate. If either of these interpretations 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. Accordingly, the application papers are now in compliance with 37 CFR 1.42.

The declaration of inventors filed 24 July 2007 is now in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **ACCEPTED**.

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
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Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

0 1 OCT 2008

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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of	:	
ARIMONDO et al.	:	DECISION
Application No.: 10/549,129	:	
PCT No.: PCT/EP2004/004022	:	
Int. Filing Date: 18 March 2004	:	
Priority Date: 18 March 2003	:	
Attorney's Docket No.: BJS-1721-97	:	
For: COMPOUNDS AND THEIR USE FOR SPECIFIC	:	
AND SIMULTANEOUS INHIBITION OF GENES ,	:	
INVOLVED IN DISEASES AND RELATED DRUGS	:	

This decision is in response to applicants' submission filed in the United States Patent and Trademark Office (USPTO) on 12 June 2008. The request has properly been treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 18 March 2004, applicants filed international application PCT/EP2004/004022 which claimed a priority date of 18 March 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 30 September 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 19 September 2005 (18 September 2005 being a Sunday).

On 16 September 2005, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee.

On 01 May 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 a declaration of inventors was required.

On 30 November 2006, applicants submitted, *inter alia*, a petition/fee for a five-month extension of time and a declaration of inventors indicating Therese Garestier as both the fifth and sixth inventors. No explanation of why this inventor was listed twice appears to have been provided.

On 26 February 2007, the DO/EO/US mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) indicating that the declaration of inventors filed 30 November 2006 was not in compliance with 37 CFR 1.497(a)-(b) because the information for inventor Claude Helene was missing.

On 26 March 2007, applicants filed a submission which indicated that Claude Helene is deceased and Therese Garestier is his legal heir. The indication that inventor Claude Helene is deceased was treated as a request for status under 37 CFR 1.42.

On 24 April 2007, a decision was mailed refusing applicants' request for status under 37 CFR 1.42. The decision also indicated that the declaration filed 30 November 2006 signed by Jian-Sheng Sun was not sufficient because it contained non-initialed alterations.

On 24 July 2007, applicants filed a "RENEWED SUBMISSION UNDER 37 CFR 1.42" which was accompanied by, *inter alia,* two declarations of inventors.

On 16 July 2007, a decision was mailed accepting applicants' request for status under 37 CFR 1.42. The decision also noted that the declarations of inventors filed 24 July 2007 were in compliance with 37 CFR 1.497(a)-(b).

On 12 May 2008, the DO/EO/US mailed a second NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) indicating, *inter alia*, that a translation of the application into English was required. Specifically, on page 32 of the specification, some text in the right hand margin was missing.

On 12 June 2008, applicants filed the instant submission, which has properly been treated as a petition under 37 CFR 1.181.

DISCUSSION

The petition under 37 CFR 1.181 in essence requests that the NOTIFICATION OF DEFECTIVE RESPONSE mailed 12 May 2008 be vacated. This NOTIFICATION was sent in error. As noted by applicants, the international application was published in English and thus a translation would not be required. Accordingly, the NOTIFICATION OF DEFECTIVE RESPONSE is hereby VACATED.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

The NOTIFICATION OF DEFECTIVE RESPONSE mailed 12 May 2008 is 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 to continue national stage processing of the application including according the application a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **24 July 2007**.

/Daniel Stemmer/

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Legal Examiner
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21 MAR 2006

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43

ARMSTRONG, KRATZ, QUINTOS,
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1725 K Street, N.W.
Washington, D.C. 20006

In re Application of	:	
KIDOKORO, Hiroto	:	
U.S. Application No.: 10/549,144	:	DECISION ON PETITION
Int'l Filing Date: 15 March 2004	:	UNDER 37 CFR 1.182
Priority Date: 17 March 2003	:	
Attorney's Docket No.: 050598	:	
For: TONER FOR ELECTRONIC IMAGE DEVELOPMENT	:	

This decision is issued in response to the "Petition Under 37 CFR 1.182" filed 30 December 2005 seeking to transfer the priority document filed herein to U.S. Application No. 11/225,024. Applicant has paid the required petition fee.

BACKGROUND

On 19 October 2005, applicant filed in the present application a "Claim For Priority Under 35 U.S.C. 119" accompanied by a certified copy of Japanese Application No. 2005-169248, filed 09 June 2005.

On 30 December 2005, applicant filed the petition considered herein. The petition states that the "Claim For Priority Under 35 U.S.C. 119" and accompanying priority document filed herein on 19 October 2005 were erroneously directed to the present application file. The petition asserts that the correct application file for these materials is U.S. Application No. 11/225,024 and requests that the certified copy of the priority application be transferred into the proper application file.

DISCUSSION

Based on the statements in the present petition, it is concluded that the certified copy of the priority document filed herein on 19 October 2005 was intended to be filed in U.S. Application No. 11/225,024.

Applicant has now submitted the petition fee required under 37 CFR 1.182. Accordingly, the certified copy of the priority document filed erroneously herein on 19 October 2005 will be transferred to U.S. Application No. 11/225,024.

CONCLUSION

The petition under 37 CFR 1.182 **GRANTED**.

The certified copy of Japanese Patent Application No. 2005-169248 filed erroneously herein on 19 October 2005 will be transferred to U.S. Application No. 11/225,024.

This application is being returned to the National Stage Processing Branch of the Office Of PCT Operations for processing.

Richard M. Ross
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07 AUG 2008

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PITTSBURGH PA 15217

In Re Application of	:	
WENDENBURG et al.	:	
Application No.: 10/549,163	:	DECISION
PCT No.: PCT/EP04/02653	:	
Int. Filing Date: 15 March 2004	:	
Priority Date: 14 March 2003	:	
Attorney Docket No.: Authenti Date-1	:	
For: ELECTRONIC TRANSMISSION OF DOCUMENTS	:	

This is a decision on applicant's "Request for Corrected Filing Receipt" filed in the United States Patent and Trademark Office (USPTO) on 14 August 2006.

On 15 March 2004, applicant filed international application No. PCT/EP04/02653 which claimed a priority date of 14 March 2003 and which designated the United States. Thereafter, on 14 September 2005, before the expiration of the thirty month period, applicant filed, *inter alia*, a transmittal letter for entry into the national stage and the basic national stage filing fee.

A Notification of Missing Requirements (Form PCT/DO/EO/905) was issued on 01 May 2006, indicating that an English translation of the international application was required along with the processing fee of $130 for providing the translation after the thirty month period. Specifically, applicant was advised that the text in the drawings had not been properly translated.

On 22 May 2006, applicant responded with an English translation of the drawing sheets and the processing fee.

On 19 July 2006, a Notification of Acceptance Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) was mailed, indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 22 May 2006.

On 14 August 2006, applicant filed a Request for a Corrected Filing Receipt.

DISCUSSION

As stated in MPEP 1893.01(d), applicants entering the national stage in the U.S. are

required to file an English translation of the international application if the international application was filed in another language and was not published under PCT Article 21(2) in English. *See* 35 U.S.C. 371(a)(2) and 37 CFR 1.495(c). A translation of less than all of the international application (e.g., a translation that fails to include a translation of text contained in the drawings) is unacceptable. A translation of words contained in the drawings must be furnished either in the form of new drawings or in the form of a copy of the original drawings with the translation pasted on the original text matter. See PCT Rule 49.5(d).

Here, applicant supplied an English translation of the description and claims of the published international application on 14 September 2005. However, the text on the drawing sheets was not translated. The Notification of Missing Requirements advised applicant of the deficiency. In response to the Notification of Missing Requirements, on 22 May 2006, applicant filed an English translation of the text on the drawing sheets. Thus, on 22 May 2006, all of the 35 U.S.C. 371 requirements were complete.

The 19 July 2006 Notification of Acceptance correctly indicated a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 22 May 2006, the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements and date of completion of all 35 U.S.C. 371 requirements.

The Notification of Acceptance mailed on 19 July 2006 correctly indicated a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 22 May 2006 and remains in effect.

CONCLUSION

For the reasons set forth above, the Request to Correct the Filing Receipt is **DISMISSED**.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 19 July 2006 remains in effect, as it correctly indicates a 35 U.S.C. 371(c) (1), (c)(2) and (c)(4) date of 22 May 2006.

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27 OCT 2006

Duane M. Byers
Nixon & Vanderhye, P.C.
901 North Glebe Road, Suite 1100
Arlington, VA 22203

In re Application of :
MAUVERNAY, et al. :
PCT No.: PCT/IB04/00734 : DECISION ON PETITION
Application No.: 10/549,167 :
Int. Filing Date: 15 March 2004 : UNDER 37 CFR 1.47(a)
Priority Date: 14 March 2003 :
Atty. Docket No.: 2590-135 :
For: SUBCUTANEOUS DELIVERY SYSTEM, PROCESS FOR THE PREPARATION OF THE SAME AND USE OF THE SAME FOR THE TREATMENT OF CHOLINERGIC DEFICIENT DISORDERS :

This decision is in response to applicant's "Petition Under 37 CFR § 1.47" filed 14 September 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 15 March 2004, applicant filed international application PCT/IB04/00734 which claimed priority to an earlier application filed 14 March 2003. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 14 September 2005.

On 13 September 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a preliminary amendment.

On 14 June 2006, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 14 September 2006, applicant filed the present petition under 37 CFR 1.47(a) to accept the filed declaration without the signature of joint inventor Mark McCormick. As authorized, payment of the one-month extension of time fee will be charged to deposit account

number 14-1140. With payment of the extension of time fee the present response is considered timely filed.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. With the filing of the present petition and accompanying papers, applicant has satisfied all four items and it is appropriate to grant the petition under 37 CFR 1.47(a).

CONCLUSION

For the reasons above, applicant's petition under 37 CFR 1.47(a) is **GRANTED**.

The application has an international filing date of 15 March 2004 under 35 U.S.C. 363, and will be given a date of **14 September 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(c), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record. A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the DO/EO/US for processing in accordance with this decision.

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10/27/2006 SBASHEIR 00000001 141140 10549167
Sale Ref: 00000001 DAH: 141140 10549167
01 FC:1251 120.00 DA
02 FC:1463 200.00 DA

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24 NOV 2006

Rothwell, Figg, Ernst & Manbeck
1425 K St. N.W.
Washington, D.C. 20005

In re Application of	:	
RADEMAECHER et al	:	DECISION ON
Application No.: 10/549,171	:	
PCT No.: PCT/EP2004/002713	:	
Int. Filing Date: 16 March 2004	:	PETITION UNDER
Priority Date: 17 March 2003	:	
Attorney Docket No.: 3165-131	:	
For: USE OF ACYLCYCLOHEXANEDIONE ...	:	
COLD AND/OR FROST	:	37 CFR 1.181

This decision is in response to the "RESPONSE TO NOTIFICATION OF MISSING REQUIRMENTS," filed 29 June 2006, which is being treated as a petition under 37 CFR 1.181 requesting acceptance of a copy of the Declaration filed on 16 September 2005. Applicants have submitted, inter alia, a copy of the 16 September 2005 USPTO stamped itemized postcard receipt. The itemized postcard lists, *inter alia*, the following item: Executed Declaration.

BACKGROUND

On 02 May 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.47(a) and (b), identifying the application by International application number and international filing date" must be submitted within two months from the date of this notice or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 29 June 2006, applicants submitted a "Response to Notice of Missing Requirements Under 35 U.S.C. 371" which included a copy of the executed declaration, and USPTO stamped postcard with the date 16 September 2005.

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) Inventor(s) Declaration
(2) English Translation of International Application

The postcard lists the above items and bears a USPTO date of stamp as 16 September 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 16 September 2005.

Accordingly, the date of receipt for the Executed Declaration is 16 September 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 **16 September 2005**.

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15 NOV 2006

BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

In re Application of
MOITREL et al.
Serial No.: 10/549,183
PCT No.: PCT/EP04/50333
Int. Filing Date: 19 March 2004
Priority Date: 21 March 2003
Attorney's Docket No.: 1032326-000305
For: METHOD OF PROTECTING A MOBILE-TELEPHONE-TYPE TELECOMMUNICATION TERMINAL

DECISION ON PETITION

UNDER 37 CFR 1.181

This decision is in response to applicant's "Request to Withdraw Improper Holding of Abandonment" filed 11 August 2006 in the United States Patent and Trademark Office (USPTO) in the above-captioned application and treated as a petition under 37 CFR 1.181.

On 16 September 2005, applicant filed the U.S. national stage application for international application PCT/EP04/50333, under 35 U.S.C. 371. These papers were assigned U.S. serial number 10/549,183.

On 05 May 2006, a Notification of Missing Requirements, identifying 10/479,323, was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required.

On 14 July 2006, a Notification of Abandonment was mailed to applicant indicating that applicant failed to respond to the Notification of Missing Requirements.

On 11 August 2006, applicant filed the instant petition, requesting acceptance of a copy of the declarations filed 05 July 2006, accompanied by a copy of the declarations and the itemized postcard receipt with USPTO date-stamp 05 July 2006, indicating receipt of, *inter alia*, declarations executed by the inventors.

DISCUSSION

A review of the USPTO date-stamped, itemized postcard receipt indicates that two executed declarations and the surcharge for filing the declarations after the thirty month period were deposited, along with a copy of the 05 May 2006 Notice of Missing Requirements, in the USPTO on 05 July 2006.

The evidence submitted is sufficient to establish that these declarations were received in the USPTO on 05 July 2006. Accordingly, it is appropriate to accept the copies of the declarations as a replacement for the missing original declarations with a deposit date of 05 July 2006.

A review of the declarations reveals that the declarations identify and are executed by each inventor, and state the residency, citizenship and mailing address of each inventor. Thus, the declaration is acceptable and the requirements of 37 CFR 1.497(a) and (b).

CONCLUSION

The petition under 37 CFR 1.181 to accept a copy of the declarations filed on 11 August 2006 in application 10/549,183 with a filing date of 05 July 2006 is **GRANTED**.

The 14 July 2006 Notification of Abandonment is hereby **VACATED**.

The copy of the declarations originally submitted on 05 July 2006 and resubmitted on 11 August 2006 are acceptable and meet the requirements of 37 CFR 1.497(a) and (b). The surcharge of $65 was paid on 05 July 2006.

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 **05 July 2006.**

Cynthia M. Kratz
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Office of PCT Legal Administration

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06/09/10

TO SPE OF : ART UNIT 3744

SUBJECT : Request for Certificate of Correction for Appl. No.: 10549194 Patent No.: 7703294

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
[redacted]

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: _____

_____

_____

_____

_____

_____ 3744

PAGE 1/1 * RCVD AT 6/10/2010 6:58:50 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/28 * DNIS:2709990 * CSID:5712730275 * DURATION (mm-ss):00-34

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MAILED

OCT 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Zhu et al.	:	
Application No. 10/549,199	:	DECISION ON PETITION
Filed: September 16, 2005	:	
Attorney Docket No. 63795.8007.US00	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 25, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 13, 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 March 14, 2008. A Notice of Abandonment was mailed July 9, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $810.00, and (3) an adequate statement of unintentional delay.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office. It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR

1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. While, a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to Technology Center AU 2857 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Robert E. Bushnell
2029 K Street N.W.
Suite 600
Washington, D.C. 20006-1004

10 MAR 2006

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Charles P. Romano
Thompson Coburn LLP
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St. Louis, MO 63101

In re Application of	:	DECISION ON
Banfi TOSI et al	:	
Application No.: 10/549,221	:	
PCT No.: PCT/ES2004/000104	:	
Int. Filing Date: 05 March 2004	:	PETITION UNDER
Priority Date: 07 March 2003	:	
Attorney's Docket No.: 54164-57310	:	
For: Pharmaceutical compositions containing Sulphonic	:	
Acid Derivatives	:	37 CFR 1.137(b)

This decision is in response to applicants' "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. 1.137(b)," filed on 09 September 2005.

BACKGROUND

On 05 March 2004, this international application was filed, claiming an earliest priority date of 07 March 2003.

The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 07 September 2005. This international application became abandoned with respect to the United States at midnight on 07 September 2005 for failure to pay the required basic national fee.

On 09 September 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 ready for the United States Designated/Elected Office (DO/EO/US) to continue processing. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **09 September 2005.**

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

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JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

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OFFICE OF PETITIONS

In re Patent No. 7,632,810	:	DECISION ON REQUEST
Ferrara et al.	:	FOR
Issue Date: December 15, 2009	:	RECONSIDERATION OF
Application No. 10/549,241	:	PATENT TERM ADJUSTMENT
Filed: June 12, 2006	:	and
Atty Docket No. 12279-424-999	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on February 9, 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 three hundred eighty-six (386) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by three hundred eighty-six (386) 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 **three hundred eighty-six (386)** 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 : 7,632,810 B2

DATED : **December 15, 2009** **DRAFT**

INVENTOR(S) : Ferrara 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 32 days

Delete the phrase "by 32 days" and insert – by 386 days--

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P.O. BOX 828
BLOOMFIELD HILLS MI 48303

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OFFICE OF PETITIONS

In re Patent No. 7,545,781 :
Otsuki, et al. :
Application No. 10/549,242 :
Issue Date: June 9, 2009 :
Filed: September 12, 2005 :
Attorney Docket No. :
6268-000007/US/NP :

DECISION DISMISSING REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705

This is in response to the PETITION UNDER RULE 1.705, filed August 5, 2009, which is properly treated under 37 CFR § 1.705(d). Patentees request that the determination of patent term adjustment be corrected from five hundred and twenty-seven (527) days to seven hundred ninety-seven (797) 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 527 days.

BACKGROUND

This application was filed on September 12, 2005. On June 9, 2009, the application matured into U.S. Patent No. 7,545,781, with a revised patent term adjustment of 527 days. The Office determined that the 270 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)[1,2] overlaps with the 527

[1] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides, in pertinent part, that:

Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1)[3,4] accorded prior to the issuance of the patent. As such, the Office allowed only entry of the adjustment of 527 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 0 days, the patent issued with a revised patent term adjustment of 527 (527 - 0) days.

On August 5, 2009, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee). See 37 CFR 1.705(d). Patentees aver that the correct number of days of patent term adjustment is 797 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Specifically, patentees state that:

> Pursuant to the ruling in *Wyeth v. Dudas* (DC Sept. 2008), Applicant hereby petitions under Rule 1.705 for a corrected Patent Term Adjustment of an additional 270 days since the present Patent did not issue within 36 months of the filing date, namely, by September 12, 2008. The corrected Patent Term Adjustment should now equal 797 days.

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b).

[2] As of the date the patent issued, the application was pending three years and 270 days.

[3] 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
> (1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

[4] A first Office action was not mailed until April 22, 2008, fourteen months and 527 days after the date of completion of all 35 U.S.C. 371, September 12, 2005.

Excerpt taken from "Petition under Rule 1.705", filed August 5, 2009, pg.1

OPINION

Patentees' interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[5] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap

---

[5] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

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, September 12, 2005, the date of commencement of the national stage under 35 U.S.C. 371(f), to June 9, 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), 527 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), 270 days of patent term adjustment accrued for Office issuance of the patent more than three years after the date the national stage commenced under 35 U.S.C. 371(f).

All of the 270 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 527 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 527 days and the 270 days is neither permitted nor warranted. 527 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment.

CONCLUSION

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 527 days (527 days of Office delay - 0 days of applicant delay).

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 Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

In re Patent No. 7,545,781 : DECISION ON REQUEST
Otsuki, et al. : FOR
Issue Date: June 9, 2009 : RECONSIDERATION OF
Application No. 10/549,242 : PATENT TERM ADJUSTMENT
Filed: September 2, 2005 : and
Atty Docket No.**6268-00007/US/NP** : 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 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred and ninety-seven (797) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by seven hundred and ninety-seven (797) days is **GRANTED**.

Deposit account 08-0750 will be charged $200.00 for the fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred and ninety-seven (797) days**

Telephone inquiries specific to this matter should be directed to the undersigned, at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,545,781 B2

DATED : Jun. 9, 2009

INVENTOR(S) : Otsuki 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 (527) days

Delete the phrase "by 527 days" and insert – by 797 days--

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Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

Mail Date: 04/28/2010

Applicant	: Matthias Baca	: DECISION ON REQUEST FOR
Patent Number	: 7605592	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/549,247	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/19/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **166** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

In re Application of	:	
Yves AUBERSON, et al	:	
Application No. 10/549,248	:	DECISION ON PETITION
Filed: November 16, 2005	:	TO WITHDRAW
Attorney Docket No. 093286-0104	:	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 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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PEARNE & GORDON LLP
1801 EAST 9TH STREET
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CLEVELAND, OH 44114-3108

Mail Date: 04/20/2010

Applicant	: Yuichiro Sasaki	: DECISION ON REQUEST FOR
Patent Number	: 7619223	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/549,251	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/05/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **811** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

In re Application of
Michael Anthony Pugel et al.
Application No. 10/549,258
Filed: July 27, 2006
Attorney Docket No.: **PU040067**

ON PETITION

This is a decision on the petition filed October 11, 2007 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed February 28, 2007. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned May 30, 2007. Accordingly, a Notice of Abandonment was mailed October 9, 2007.

This matter is being referred to Technology Center 2618 for appropriate action on the amendment filed October 11, 2007.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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OFFICE OF PETITIONS

In re Application of	:	
Bjorn Heismann	:	
Application No. 10/549,269	:	DECISION GRANTING PETITION
Filed: September 13, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 32860-000875/US	:	

This is a decision on the petition, filed August 10, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 24, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2882 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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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.*