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

DAVIDSON, DAVIDSON & KAPPEL, LLC
485 SEVENTH AVENUE, 14TH FLOOR
NEW YORK NY 10018

COPY MAILED
MAR 2 8 2007
OFFICE OF PETITIONS

Applicant: Uwe Habisretinger
Appl. No.: 10/549,273
International Filing Date: January 16, 2004
Title: METHOD AND DEVICE FOR AUTOMATED APPLICATION OF LACQUER FILM ON BODYWORK PARTS AND USE OF A STRETCHED ADHESIVE STRIP
Attorney Docket No.: 710.1030
Pub. No.: US 2006/0169398 A1
Pub. Date: August 3, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on September 29, 2006, for the above-identified application

The request is DISMISSED.

The instant request is that the application be republished because the front page of the patent application publication includes a material error in the foreign priority information as the application improperly fails to include a priority claim to application DE 103 11 267.7 filed March 14, 2003.

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

The failure to include a foreign priority claim to application DE 103 11 267.7 filed March 14, 2003, in the priority information on the front page of the published patent application is an Office error but it is not a material error, as required by 37 CFR 1.221(b). The error in the foreign priority claim is not a material mistake because it does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an

[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).

applicant may seek to enforce upon issuance of a patent. The specification and claims were accurately published, thus one can read and understand the content of the application. The error also does not affect the use of the patent application publication as a prior art reference, because the foreign priority date is not useable as a reference date.

On April 25, 2006, a Filing Receipt was mailed by the Office. To avoid this type of problem in the future, applicant's representative should make request a corrected filing receipt.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

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

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

By facsimile: 571-273-8300

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

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

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT and TRADEMARK OFFICE

2 2 OCT 2008

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

PANASONIC PATENT CENTER
c/o MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON, DC 20005-3096

In re Application of	:	
IWANAGA et al	:	
Application No.: 10/549,291	:	DECISION ON
PCT No.: PCT/JP04/003808	:	
Int. Filing Date: 19 March 2004	:	PETITION
Priority Date: 20 March 2003	:	
Attorney's Docket No.: 071971-361	:	UNDER 37 CFR 1.181
For: SEMICONDUCTOR DEVICE...	:	
FABRICATING THE SAME	:	

This decision is in response to the "REQUEST FOR CORRECTED FILING RECEIPT," filed on 17 July 2006, which is being treated as a petition under 37 CFR 1.181 requesting that the 371(c)(1), (c)(2), and (c)(4) date of the above application be corrected to September 16, 2005 from September 14, 2005.

BACKGROUND

On 19 March 2004, this international application was filed, claiming an earliest priority date of 20 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 20 September 2005.

On 20 September 2005, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), a copy of the international application, and an executed declaration.

On 13 June 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" which informed applicants that the 371(c)(1), (c)(2) and (c)(4) date is 14 September 2005 and that the date of completion of all 35 U.S.C. 371 is 16 September 2005.

On 17 July 2006, petitioner submitted the present petition to correct the filing receipt.

DISCUSSION

A review of the file indicates that a properly executed declaration was filed on 16 September 2005. Thus, the date of receipt of the executed declaration for the above application is 16 September 2005, which is the date that applicants satisfied the requirement under 35 U.S.C. 371(c)(4). Accordingly, this is the Date of Receipt of 35 USC 371(c)(1), (c)(2), and (c)(4) requirements is **16 September 2005** and that date of completion of all 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements is **16 September 2005**.

DECISION

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

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 13 June 2006 is **VACATED** with the mailing of this decision.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **16 September 2005.**

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

COPY MAILED

AUG 07 2007

OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN VA 22102

In re Application of

PROTZE, Carsten
Application No. 10/549,307
Filed: September 16, 2005
Attorney Docket No. **449122083500**

DECISION ON PETITION TO WITHDRAW FROM RECORD

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

The request is **APPROVED**.

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

The request was signed by Deborah S. Gladstein on behalf of all attorneys of record who are associated with customer No. 25227. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **CARSTEN PROTZE**
WALLOTSTR. 10A
DRESDEN, 01307
GERMANY

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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
10/549,307	09/16/2005	Carsten Protze	449122083500

CONFIRMATION NO. 3492

OC000000025210206

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 R. Eslar

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

FORMER ATTORNEY/AGENT COPY

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

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

Mail Date: 04/21/2010

Applicant	: Kenji Soejima	: DECISION ON REQUEST FOR
Patent Number	: 7572591	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/549,317	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **233** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

MAIL

SEP 2 1 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of
IWAMOTO, HIROAKI, et al.
Application No. 10/549,318
Filed: November 10, 2003
For: **RECORDING MEDIUM, REPRODUCTION DEVICE, PROGRAM, REPRODUCTION METHOD, AND SYSTEM INTEGRATED CIRCUIT**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed November 28, 2005 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

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

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

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

United States Patent and Trademark Office

#5

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

14 AUG 2006

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

In re Application of
Stitou et al.
Application No. 10/549,326
PCT No.: PCT/FR04/00617
Int. Filing Date: 12 March 2004
Priority Date: 18 March 2003
Atty. Docket No.: 032013-129
For: Method And Device For Rapid And High-Power Cold Production

COMMUNICATION

This is in response to the declaration of the inventors filed on 03 February 2006, which is being treated under 37 CFR 1.42.

BACKGROUND

This international application was filed on 12 March 2004, claimed an earliest priority date of 18 March 2003, and designated the U.S. The International Bureau communicated a copy of the published international application to the USPTO on 07 October 2004. The 30 month time period for paying the basic national fee in the United States expired at midnight on 19 September 2005 (since 18 September 2005 was a Sunday). Applicants filed, *inter alia*, the basic national fee on 16 September 2005.

On 12 December 2005, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the filing of an executed oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(h).

DISCUSSION

Review of the declaration of the inventors filed on 03 February 2005 reveals that joint inventor Bernard Spinner is indicated to be "deceased" and that Bruno Spinner, Caroline Spinner Brossard, Anne Christel Spinner Kohler, Nathalie Mazet and Martin Spinner have signed on his behalf. 37 CFR 1.42 provides in part that

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

Meanwhile, 37 CFR 1.497(b)(2), as amended effective 08 September 2000, provides that

> If the person making the oath or declaration is not the inventor (§§ 1.42, 1.43 or 1.47), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.

Further examination of the declaration filed on 03 February 2006 reveals that it provides citizenship, residence and mailing address information for each of the five individuals signing on behalf of Bernard Spinner, but it does not provide "the facts which the inventor would have been required to state" in that Bernard Spinner's citizenship, residence and mailing address information is not listed.

In addition, Bruno Spinner, Caroline Spinner Brossard, Anne Christel Spinner Kohler and Martin Spinner have signed in the capacity of "heir and legal representative to Bernard Spinner," while Nathalie Mazet has signed as "mother of minor Camille Spinner, daughter of and heir and legal representative to Bernard Spinner." There is no affirmative statement that the five signatories (or some other set of individuals) constitute "all" of the heirs and legal representatives of Bernard Spinner. This issue is exacerbated by the fact that applicants have not adequately clarified the status of Nathalie Mazet. Counsel states that "Camille Spinner is a minor, and her mother, Nathalie Mazet, has signed on her behalf." It is not clear whether Ms. Mazet is also an heir, and in what capacity she has signed the declaration (is she representing her own interests as an heir, or only Camille Spinner's interests as an heir, when she signs on behalf of Bernard Spinner? Are both Nathalie Mazet and Camille Spinner "legal representatives" of Bernard Spinner?) The language "mother of minor Camille Spinner, daughter of and heir and legal representative to Bernard Spinner" is particularly unclear; should this be interpreted as "signing on behalf of minor heir Camille Spinner as Camille Spinner's mother, Camille Spinner being a daughter of Bernard Spinner, an heir of Bernard Spinner, and a legal representative of Bernard Spinner, and Nathalie Mazet (also being/not being) an heir and a legal representative of Bernard Spinner"? It is noted that the mere fact that a particular heir may be a minor does not preclude that heir from signing a declaration of inventorship, so long as he or she understands the declaration. As such, if Camille Spinner understands the declaration, it would be appropriate for her to execute it herself. For these reasons, it would not be appropriate to accept the declaration of the inventors under 37 CFR 1.42 at this time.

CONCLUSION

The declaration is **NOT ACCEPTED** under 37 CFR 1.42, without prejudice.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42." Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

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

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

0 5 MAR 2007

#7

United States Patent and Trademark Office

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

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

In re Application of :
Stitou et al. :
Application No. 10/549,326 :
PCT No.: PCT/FR04/00617 :
Int. Filing Date: 12 March 2004 : COMMUNICATION
Priority Date: 18 March 2003 :
Atty. Docket No.: 032013-129 :
For: Method And Device For Rapid :
And High-Power Cold Production :

This is in response to the renewed submission under 37 CFR 1.42 filed on 27 September 2006.

DISCUSSION

In a Communication mailed on 14 August 2006, the declaration of the inventors filed on 03 February 2005 was not accepted under 37 CFR 1.42, without prejudice, because

> Further examination of the declaration filed on 03 February 2006 reveals that it provides citizenship, residence and mailing address information for each of the five individuals signing on behalf of Bernard Spinner, but it does not provide "the facts which the inventor would have been required to state" in that Bernard Spinner's citizenship, residence and mailing address information is not listed.
>
> In addition, Bruno Spinner, Caroline Spinner Brossard, Anne Christel Spinner Kohler and Martin Spinner have signed in the capacity of "heir and legal representative to Bernard Spinner," while Nathalie Mazet has signed as "mother of minor Camille Spinner, daughter of and heir and legal representative to Bernard Spinner." There is no affirmative statement that the five signatories (or some other set of individuals) constitute "all" of the heirs and legal representatives of Bernard Spinner. This issue is exacerbated by the fact that applicants have not adequately clarified the status of Nathalie Mazet. Counsel states that "Camille Spinner is a minor, and her mother, Nathalie Mazet, has signed on her behalf." It is not clear whether Ms. Mazet is also an heir, and in what capacity she has signed the declaration (is she representing her own interests as an heir, or only Camille Spinner's interests as an heir, when she signs on behalf of Bernard Spinner? Are both Nathalie Mazet and Camille Spinner "legal representatives" of Bernard Spinner?) The language "mother of minor Camille Spinner, daughter of and heir and legal representative to Bernard Spinner" is particularly unclear; should this be interpreted as "signing on behalf of minor heir Camille Spinner as Camille Spinner's mother, Camille Spinner being a daughter of Bernard Spinner, an heir of Bernard Spinner, and a legal representative of Bernard Spinner, and Nathalie Mazet (also being/not being) an heir and a legal representative of Bernard Spinner"? It is noted that the mere fact that a particular heir may be a minor does not preclude that heir from signing a declaration of inventorship, so long as he or she understands the declaration. As such, if Camille Spinner understands the declaration, it would be appropriate for her to execute it herself. For these reasons, it would not be appropriate to accept the declaration of the inventors under 37 CFR 1.42 at this time.

In response, counsel has submitted three new declaration documents, each of which lists the residence, citizenship and postal address of deceased joint inventor Bernard Spinner. However, one declaration lists (only) Caroline Spinner Broussard and Anne Christel Spinner Kohler as heirs, while the others list Bruno Spinner, Caroline Broussard and Christel Kohler, and also list Nathalie Mazet as signing "on behalf of Bernard Spinner's 2 minor children" without naming said children as heirs. These declarations are defective in that none of them lists the entire set of "all" of Mr. Spinner's heirs. As noted in the Communication mailed on 14 August 2006, a proper declaration submitted under 37 CFR 1.42 is required (per 37 CFR 1.497(b)(2)) to list all of the heirs/legal representatives as well as their citizenships, postal addresses and residences. With respect to the issue of Nathalie Mazet signing on behalf of the minor children, the fact that certain heirs may be minors does not relieve applicants of the requirement to list all of the heirs on the declaration, along with the pertinent information. It is also noted that said heirs may sign the declaration document, even if they are minors, so long as they understand its contents. In the event that counsel instead opts to submit a further declaration signed on their behalf by Nathalie Mazet, such a declaration must clearly identify on its face the capacity in which she is signing. In other words, it must specify the source of her authority to sign on behalf of the heirs (e.g., as "legal guardian" or "legal representative" of such heirs). In view of the defects noted, it would not be appropriate to accept the proffered declarations at this time.

CONCLUSION

The declaration is **NOT ACCEPTED** under 37 CFR 1.42, without prejudice.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42." Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

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

#8

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

0 2 APR 2007

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

In re Application of	:	
Stitou et al.	:	
Application No. 10/549,326	:	
PCT No.: PCT/FR04/00617	:	SUPPLEMENTAL
Int. Filing Date: 12 March 2004	:	
Priority Date: 18 March 2003	:	COMMUNICATION
Atty. Docket No.: 032013-129	:	
For: Method And Device For Rapid	:	
And High-Power Cold Production	:	

This is a supplemental communication in response to the renewed submission under 37 CFR 1.42 filed on 27 September 2006.

DISCUSSION

In a Communication mailed on 05 March 2007, the declaration of the inventors filed on 27 September 2006 was not accepted under 37 CFR 1.42, without prejudice, because

> In response, counsel has submitted three new declaration documents, each of which lists the residence, citizenship and postal address of deceased joint inventor Bernard Spinner. However, one declaration lists (only) Caroline Spinner Broussard and Anne Christel Spinner Kohler as heirs, while the others list Bruno Spinner, Caroline Broussard and Christel Kohler, and also list Nathalie Mazet as signing "on behalf of Bernard Spinner's 2 minor children" without naming said children as heirs. These declarations are defective in that none of them lists the entire set of "all" of Mr. Spinner's heirs. As noted in the Communication mailed on 14 August 2006, a proper declaration submitted under 37 CFR 1.42 is required (per 37 CFR 1.497(b)(2)) to list all of the heirs/legal representatives as well as their citizenships, postal addresses and residences. With respect to the issue of Nathalie Mazet signing on behalf of the minor children, the fact that certain heirs may be minors does not relieve applicants of the requirement to list all of the heirs on the declaration, along with the pertinent information. It is also noted that said heirs may sign the declaration document, even if they are minors, so long as they understand its contents. In the event that counsel instead opts to submit a further declaration signed on their behalf by Nathalie Mazet, such a declaration must clearly identify on its face the capacity in which she is signing. In other words, it must specify the source of her authority to sign on behalf of the heirs (e.g., as "legal guardian" or "legal representative" of such heirs). In view of the defects noted, it would not be appropriate to accept the proffered declarations at this time.

Further consideration of the facts present in this application reveals that the declaration documents filed on 27 September 2006 included two documents which name the entire inventive entity and which, taken together, are signed by the two surviving inventors and by all of Mr. Spinner's heirs (or Nathalie Mazet, on behalf of the two minor children). These two declaration documents provide the citizenship, residence and postal address information for Mr. Spinner, but they do not specifically identify the "two minor children" or their status as heirs vs. legal representatives. However, the third declaration document filed on 27 September 2006 does specifically identify all of the heirs, including Camille Spinner and Martin Spinner. It is noted that this third declaration document is signed by Martin Spinner, rather than by Nathalie Mazet

on his behalf, and that Martin Spinner has not executed a declaration document explicitly setting forth the citizenship, residence and postal address of Bernard Spinner. However, this is obviated by the fact that said information was attested to on his behalf by Nathalie Mazet in the earlier declaration documents. It is also noted that it is clear from the record as a whole that the "2 minor children" identified in the declaration documents filed on 27 September 2006 are Camille Spinner and Martin Spinner, who are described as being among Bernard Spinner's heirs. Based on the totality of the evidence of record, the declarations filed on 27 September 2006 are deemed to satisfy the requirements of 37 CFR 1.42 and 37 CFR 1.497(b)(2). Accordingly, the Communication mailed on 05 March 2007 is hereby **VACATED**.

CONCLUSION

The declaration filed on 27 September 2006 is **ACCEPTED** under 37 CFR 1.42.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **27 September 2006**.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

AUG 07 2009

OFFICE OF PETITIONS

KELLEY DRYE & WARREN LLP
400 Atlantic Street, 13th Floor
Stamford, CT 06901-3229

Applicant: Leonid Kalika, et al.
Appl. No.: 10/549,342
International Filing Date: March 24, 2004
Title: SELF-CONFIGURING, SELF-OPTIMIZING WIRELESS LOCAL AREA NETWORK SYSTEM
Attorney Docket No.: STRX-109(P)(US)
Pub. No.: US 2007/0127417 A1
Pub. Date: June 7, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on April 9, 2009, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on the front page of the application wherein three of the inventors' names have been omitted.

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

The request for corrected publication, received on April 9, 2009 was not timely filed under 37CFR 1.221(b).

Moreover, the omission of an inventor's name and residence does not affect the understanding of the application. The mistakes do 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

[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).

publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The request to change the Attorney Docket No. to: STRX-109(P)(US) has been done.

It would greatly benefit the Office if **applicant did not provide copies of papers**, which were previously submitted and/or **a complete copy of the pre-grant publication**, as it unnecessarily increases the cost to the Office. See 37 CFR 1.4(b). A request for corrected publication need only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

http://www.uspto.gov/ebc/portal/tutorials.htm

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

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

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

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

08 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

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

In re Application of	:	
GREVE *et al*	:	
U.S. Application No.: 10/549,345	:	
PCT No.: PCT/DK04/00162	:	
Int. Filing Date: 12 March 2004	:	**DECISION**
Priority Date: 14 March 2003	:	
Attorney Docket No.: 05432/100M668-US1	:	
For: SUBSTITUTED ANILINE DERIVATIVES	:	

Applicants' "Request for Corrected Filing Receipt" filed via facsimile on 04 May 2006 is treated as a petition under 37 CFR 1.181 and hereby **GRANTED** as follows:

The filing receipt mailed 13 December 2005 displayed an incorrect address for one of the applicants. The country for William P. Watson should be Denmark, not the United Kingdom.

Accordingly, the filing receipt mailed 19 April 2006 is hereby **VACATED**.

A corrected filing receipt will be mailed with this decision.

This application will then be forwarded to Technology Center 1600 for examination.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

11 JAN 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

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

In re Application of	:	
Baikerikar et al.	:	
Application No.: 10/549,356	:	DECISION
PCT No.: PCT/US04/10330	:	
Int. Filing Date: 31 March 2004	:	ON
Priority Date: 02 April 2003	:	
Attorney Docket No.: 62657A	:	PETITION
For: Organosilicate Resin Formulation	:	
For Use In Microelectronic Devices	:	

This is with regard to submission filed on 09 May 2006.

BACKGROUND

This international application was filed on 31 March 2004, claimed an earliest priority date of 02 April 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 02 October 2005. Applicants filed *inter alia* the required basic national fee on 16 September 2005.

On 28 April 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 objected to a "page missing with additional signatures."

DISCUSSION

The instant submission includes a "Page two of two" of a "Declaration And Power Of Attorney." 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 2005 nor the "Page two of two" filed on 09 May 2006 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. Moreover, the declaration filed on 19 September 2005 is defective for the additional reason that it includes an un-initialed alteration to the residence data for John Maher. The declaration filed on 09 May 2006 is defective for the additional reason that it does

not include the statements required by 37 CFR 1.63(b)(2) and (3). For all these reasons, it would not be appropriate to accept the declaration(s) of record at this time.

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

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

0 2 APR 2007

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

In re Application of	:	
Baikerikar et al.	:	
Application No.: 10/549,356	:	
PCT No.: PCT/US04/10330	:	
Int. Filing Date: 31 March 2004	:	COMMUNICATION
Priority Date: 02 April 2003	:	
Attorney Docket No.: 62657A	:	
For: Organosilicate Resin Formulation	:	
For Use In Microelectronic Devices	:	

This is with regard to the submission filed on 15 February 2007.

DISCUSSION

In a Decision mailed on 11 January 2007, the declarations of inventorship filed on 09 May 2006 and 16 September 2005 were not accepted, without prejudice, because

> Neither the declaration filed on 16 September 2005 nor the "Page two of two" filed on 09 May 2006 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. Moreover, the declaration filed on 19 September 2005 is defective for the additional reason that it includes an un-initialed alteration to the residence data for John Maher. The declaration filed on 09 May 2006 is defective for the additional reason that it does not include the statements required by 37 CFR 1.63(b)(2) and (3). For all these reasons, it would not be appropriate to accept the declaration(s) of record at this time.

Review of the declaration documents filed on 15 February 2007 reveals that, taken together, they satisfy the requirements of 37 CFR 1.497(a) and (b).

CONCLUSION

The declaration filed on 15 February 2007 is **ACCEPTED** for purposes of compliance with 37 CFR 1.497(a) and (b).

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 **15 February 2007**.

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

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

COPY MAILED

APR 13 2009

OFFICE OF PETITIONS

In re Application of Hosokawa, et al. Application No. 10/549,359 Filed: September 14, 2005 Attorney Docket No. 01165.0945-00000	: : : : :	DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed February 25, 2009.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely file a response to the non-final Office action mailed July 24, 2008. This Office action set a shortened statutory period for reply of three (3) months. Therefore, the last day a reply could have been timely filed, with a three month extension of time, would have been January 26, 2009 (as January 24, 2009 fell on a Saturday. See 37 CFR 1.7(a)). The Office mailed a Notice of Abandonment on February 3, 2009, stating that no reply had been received.

A review of the application file reveals the presence of an Amendment, filed on January 26, 2009, made timely by obtaining a three month extension of time. A review of Office finance records confirms that the Office received the fee for the three month extension of time on that same day. Accordingly, it is obvious that the Notice of Abandonment was mailed in error.

In view thereof, **the holding of abandonment is withdrawn**.

The matter is being forwarded to Group Art Unit 1794 for consideration of the Amendment, timely filed with a three month extension of time on January 26, 2009).

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NXP BV
NXP INTELLECTUAL PROPERTY & LICENSING
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE CA 95131

COPY MAILED

JUL 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Lambert, et al.	:	
Application No. 10/549,367	:	ON PETITION
Filed: September 14, 2005	:	
Attorney Docket No. NL03 0267 US1	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed June 29, 2009.

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

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action, mailed October 10, 2008. This Office action set a shortened statutory period for reply of three months. No reply having been received, the application became abandoned on January 11, 2009. A Notice of Abandonment was mailed on June 19, 2009.

With the instant petition, applicants 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 2188 for consideration of the Amendment, filed June 29, 2009.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

30 NOV 2006

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

In re Application of: MARTINS, Andre, Luis, et al. U.S. Application No.: 10/549,404 PCT No.: PCT/BR2004/000029 International Filing Date: 12 March 2004 Priority Date: 13 March 2003 Attorney's Docket No.: 04304/0203376-US0 For: SYSTEM AND PROCESS FOR DETECTING A LOAD OF CLOTHES IN AN AUTOMATICE LAUNDRY MACHINE	DECISION ON REQUEST UNDER 37 CFR 1.497(d)

This decision is issued in response to the "Response To Notification Of Defective Response And Petition Pursuant To 37 CFR 1.497(d) To Correct Inventorship" filed 27 November 2006. Applicant has filed the required $130 processing fee.

BACKGROUND

On 12 March 2004, applicants filed international application PCT/BR2004/000029. The application claimed a priority date of 13 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., 13 September 2005. The published international application identified a corporate applicant for all states other than the U.S., and three applicant/inventors for the U.S.: Andre Luis MARTINS, Thomas Carsten GROSS, and Jorge Luiz Benine PENTEADO.

On 12 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.

On 27 April 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that an oath or declaration under 37 CFR 1.497 and $730 in additional fees were required.

On 26 June 2006, applicants filed a response to the Notification Of Missing Requirements. The response included payment of the $730 in additional fees required, and a

declaration that identified, and was executed by, only two of the three inventors of record: Andre Luis MARTINS and Jorge Luiz Benine PENTEADO.

On 25 August 2006, the DO/EO/US mailed a "Notification Of Defective Response" (Form PCT/DO/EO/916) indicating that the declaration was defective for failure to include the third inventor of record, Thomas Carsten GROSS.

On 27 November 2006, applicants filed the "Response To Notification Of Defective Response And Petition Pursuant To 37 CFR 1.497(d) To Correct Inventorship" considered herein (with required five-month extension fee). The submission requests removal of Thomas Carsten GROSS as an inventor of record, pursuant to 37 CFR 1.497(d).

DISCUSSION

Where, as here, the filed declaration names a different inventive entity than that identified in the international application, 37 CFR 1.497(d) requires applicant to submit: (1) a statement from each person being added or removed as an inventor that any error in inventorship in the international application occurred without deceptive intent; (2) the processing fee; (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (in the form required by 37 CFR 3.73(b)), and (4) any new oath or declaration required by paragraph (f) of 37 CFR 1.497(d) (it is noted that item (4) does not apply to the present application).

Applicant here has submitted the required statement from the deleted inventor, Thomas Carsten GROSS. Item (1) is therefore satisfied.

The submission was accompanied by payment of the $130 processing fee. Item (2) is therefore satisfied.

Regarding item three, applicant has submitted a document entitled "Assent Of Assignee" which states that: (1) MULTIBRAS S.A. ELECTRODOMESTICOS is the "assignee of the entire right, title and interest" in the present application; and (2) that the assignee consents to the removal of Thomas Carsten GROSS as an inventor herein. Two persons identified as "Directors" executed the statement of consent; pursuant to their titles, these Directors have apparent authority to sign on behalf of the assignee (see MPEP section 324(V)). 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 section 201.03(II)(D)). Here, the statement executed by the assignee does not comply with the requirements of 37 CFR 3.37(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)." 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.

Based on the above, the present record does not satisfy all the requirements for correction of the inventorship under 37 CFR 1.497(d).

CONCLUSION

Applicant's request to correct inventorship under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

Thomas Carsten GROSS remains an inventor of record herein. Accordingly, the declaration filed 26 June 2006, which fails to include this inventor, remains defective for failure to properly identify the inventors of record.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Request Under 37 CFR 1.497(d)" and must include the materials required to satisfy item (3) of a grantable request, as discussed above (i.e., a submission properly establishing the assignee's ownership in the form required by 37 CFR 3.73(b)).

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

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, P.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

1 0 MAY 2007

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

In re Application of	:	
PENTEADO, Jorge-Luiz et al.	:	
Application No.: 10/549,404	:	DECISION ON
PCT No.: PCT/BR04/00029	:	
Int. Filing Date: 12 March 2004	:	RENEWED REQUEST UNDER
Priority Date: 13 March 2003	:	
Attorney's Docket No.: 04304/0203376-US0	:	37 CFR 1.497(d)
For: System and Process For Detecting a Load Of Clothes In An Automatic Laundry Machine	:	

This decision is in response to applicants' renewed request under 37 CFR 1.497(d), filed 04 January 2007, to correct inventorship by removing Mr. Thomas Carsten Gross as inventor. The renewed request under 37 CFR 1.497(d) is **GRANTED**.

BACKGROUND

On 12 March 2004, applicants filed international application PCT/BR04/00029, claiming a priority date of 13 March 2003.

On 12 September 2005, applicants filed a submission for entry into the national stage in the United States, accompanied by, *inter alia*, the US basic national fee.

On 27 April 2006, the Office mailed a Notice of Missing Requirements (Form DO/EO/905), indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and additional fees of $730 were required.

On 26 June 2006, applicants filed payment of the additional $730 and a declaration that identified and was executed by only two of the three inventors of record: Jorge Luiz Benine PENTEADO and Andre Luis MARTINS.

On 25 August 2006, the Office mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration was defective for failure to include the third inventor of record, Thomas Carsten GROSS.

On 27 November 2006, applicants filed the "Response to Notification of Defective Response and Petition Pursuant To 37 CFR 1.497(d) To Correct Inventorship" requesting removal of Thomas Carsten GROSS as an inventor of record, pursuant to 37 CFR 1.497(d).

On 30 November 2006, the Office mailed "Decision On Request Under 37 CFR 1.1497(d)" dismissing applicants' petition because the assignee had not properly established ownership pursuant to 37 CFR 3.73(b).

On 04 January 2007, applicants filed the instant "Request For Reconsideration" of the "Decision On Request Under 37 CFR 1.1497(d)" to correct inventorship pursuant to 37 CFR 1.497(d) including a "Statement Under 3.73(b)."

DISCUSSION

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 intent on his or her part; (2) the processing fee set forth in 37 CFR 1.17(i); and (3) if an assignment has been executed by any of the original inventors, the written consent of the assignee.

With the filing of applicants' renewed request, applicants have satisfied items (1) through (3) above. Applicants have presented an acceptable "Statement Under 3.73(b)" establishing ownership of the assignee under 37 CFR 3.73(b).

CONCLUSION

Applicants' renewed request under 37 CFR 1.497(d) is **GRANTED**.

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

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.

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

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

COPY MAILED

AUG 24 2007

OFFICE OF PETITIONS

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

In re Application of

David Paul Brisco, et al.
Application No. 10/549,410
Filed: April 27, 2006
Attorney Docket No. 25791.262.05

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 19, 2007.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: TODD MATTINGLY
KING & SPALDING, LLP
1100 LOUISIANA STREET
SUITE 4000
HOUSTON, TX 77002

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/06/09

TO SPE OF : ART UNIT 1793

SUBJECT : Request for Certificate of Correction for Appl. No.: 10549429 Patent No.: 7331372 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: the changes to column 13 (claim 6) do not apply since claim 6 cannot be dependent from itself nor to any claims having a higher number, as proposed.

1793

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE	Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/26/09

TO SPE OF : ART UNIT 1793

SUBJECT : Request for Certificate of Correction for Appl. No.: 10549429 Patent No.: 7331372 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

SPE Jessica Ward Art Unit 1793

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

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

MAILED

APR 16 2010

OFFICE OF PETITIONS

In re Application of
Wassyl Nowicky
Application No. 10/549,433
Filed: October 17, 2005
Attorney Docket No. P/4637-11

DECISION DISMISSING PETITION
UNDER 37 CFR 1.313(a)

This is a decision on the petition filed April 9, 2010, which is being treated 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 23, 2010, with the issue fee being due on or before May 23, 2010. 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 1625 for appropriate processing of the RCE filed April 9, 2010, and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 04/16/10

2 Serial/Patent # 10/549,433

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition 1464			$ 130.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 130.00

8 TO BE REFUNDED BY:

	Treasury Check
	Credit Deposit A/C #:

9 [ ][ ]--[ ][ ][ ][ ]

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

CREDIT CARD REFUND. The petition filed 4/9/10 is dismissed as moot.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Irvin Dingle TITLE: Paralegal

SIGNATURE: /Irvin Dingle/ PHONE: 2-3210

OFFICE: Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: RDL DATE: 4/16/10

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10549433 Total Records Found: 22

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
04/19/2010	00000001	4	1464	-$130.00	04/09/2010	OP
04/12/2010	00003016	4	1464	$130.00	04/09/2010	CC
04/12/2010	00003017	4	2801	$405.00	04/09/2010	CC
10/21/2009	00008479	4	2251	$65.00	10/20/2009	CC
07/02/2009	00007009	4	2801	$405.00	07/01/2009	CC
04/21/2009	00006218	4	1806	$180.00	04/20/2009	CC
03/04/2009	00005401	4	1251	$130.00	03/03/2009	CC
05/16/2008	00000010	1	2631	$150.00	09/15/2005	CK
05/16/2008	00000014	4	9204	-$675.00	09/15/2005	CK
05/16/2008	00000013	1	2615	$225.00	09/15/2005	CK
05/16/2008	00000012	1	2633	$100.00	09/15/2005	CK
05/16/2008	00000011	1	2642	$200.00	09/15/2005	CK
05/16/2008	00000009	1	1615	-$450.00	09/15/2005	OP
05/16/2008	00000006	1	1631	-$300.00	09/15/2005	OP
05/16/2008	00000007	1	1642	-$400.00	09/15/2005	OP
05/16/2008	00000008	1	1633	-$200.00	09/15/2005	OP
10/21/2005	00000557	1	2617	$65.00	10/17/2005	CK
10/04/2005	00000605	1	2614	$100.00	09/27/2005	CK
09/27/2005	00000088	1	1642	$400.00	09/15/2005	CK
09/27/2005	00000089	1	1633	$200.00	09/15/2005	CK
09/27/2005	00000087	1	1631	$300.00	09/15/2005	CK
09/27/2005	00000090	1	1615	$450.00	09/15/2005	CK

Adjustment date: 04/19/2010 LDIEP1
04/12/2010 INTEFSW 00001717 10549433
01 FC:1464 -130.00 OP

Refund Ref:
04/19/2010 0030082566

Credit Card Refund Total: $130.00

Am Exp..: XXXXXXXXXXX1007

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

S.C. JOHNSON & SON, INC.
1525 HOWE STREET
RACINE, WI 53403-2236

Mail Date: 04/20/2010

Applicant	: Heather R. Schramm	: DECISION ON REQUEST FOR
Patent Number	: 7610118	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/549,435	: 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 **574** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

COPY MAILED

OCT 19 2007

OFFICE OF PETITIONS

In re Application of	:	
David L. Shelton	:	
Application No. 10/549,441	:	DECISION ON PETITION
Filed: June 26, 2006	:	TO WITHDRAW
Attorney Docket No. 514712001600	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 23, 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 September 26, 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: NICHOLAS SLEPCHUK
PFIZER, INC.
EASTERN POINT ROAD
MS 8260-1611
GROTON, CT 06340

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

MAILED

JUL 16 2009

OFFICE OF PETITIONS

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

In re Application of	:	
Tadashi Sasahara	:	
Application No. 10/549,446	:	DECISION GRANTING PETITION
Filed: September 14, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1207-121	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 16, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 17, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3725 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

20 JUL 2006

Robert P. Renke
Artz & Artz, P.C.
28333 Telegraph Road, Suite 250
Southfield, MI 48034

In re Application of	:	
STOWE	:	
Application No.: 10/549,467	:	DECISION ON PETITION
PCT No.: PCT/DE04/00541	:	
Int. Filing Date: 17 March 2004	:	UNDER 37 CFR 1.181
Priority Date: 17 March 2003	:	
Atty Docket No.: WET 0129 PCT	:	
For: DEVICE FOR CLIMATE CONTROL OF A MOTOR VEHICLE SEAT	:	

This decision is in response to applicant's correspondence filed 12 May 2006 in the United States Patent and Trademark Office (USPTO). The submission is being treated as a petition under 37 CFR 1.181. No petition fee is required

BACKGROUND

On 17 March 2004, applicant filed international application PCT/DE04/00541, which claimed a priority date of 17 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 deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 17 September 2005.

On 14 September 2005, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee, an English translation of the international application, an Application Data Sheet, an Information Disclosure Statement and a preliminary amendment.

On 02 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 file an executed oath or declaration of the inventor. 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 12 May 2006, applicant filed the petition considered herein.

DISCUSSION

Applicant has provided a legible copy of the receipt postcard which shows a USPTO date stamp, "IAP6 Rec'd PCT/PTO 04 APR 2006" and clearly identifies in part: "Transmittal Letter (Original & 1 copy) SIGNED Declaration and Power of Attorney" as well as listing the applicant, serial number and attorney docket number. The evidence is sufficient to establish that the combined declaration and power of attorney was received in the USPTO on 04 April 2006. Applicant has certified that the presently filed copy of the declaration is a true and complete copy of the papers originally filed on 04 April 2006.

An examination of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States were satisfied on 04 April 2006. As such, it is proper to **GRANT** applicant's petition at this time.

CONCLUSION

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

The application will be given an international filing date of 17 March 2004 under 35 U.S.C. 363 and a date of **04 April 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The Form PCT/DO/EO/905 mailed 02 May 2006 is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision, namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) indicating a 371 date as detailed above.

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

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

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

MAILED

MAR 3 1 2010

OFFICE OF PETITIONS

In re Application of	:	DECISION ON REQUEST
Masuda et al.	:	FOR RECONSIDERATION OF
Patent Number: 7,563,782	:	PATENT TERM ADJUSTMENT
Issue Date: 07/21/2009	:	and
Application No. 10/549510	:	NOTICE OF INTENT TO ISSUE
Filing or 371(c) Date: 09/20/2005	:	CERTIFICATE OF CORRECTION
Attorney Docket Number: 125413	:	

This is a decision on the petition filed on filed September 18, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by three hundred forty-four (344) days. This requested correction includes an assertion that the Office erred in assessing a delay of 82 days pursuant to 37 CFR 1.704(c)(10).

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 forty-four (344) days is **GRANTED to the extent indicated herein**.

A review of the application file history reveals that Applicants filed a copy of a marked-up copy of the specification and substitute specification on May 1, 2009, along with a copy of a return-receipt postcard acknowledging that the marked-up copy of the specification and substitute specification were filed in this Office on September 20, 2005. Further to this, the file history confirms that the marked-up copy of the specification and substitute specification were submitted at the Examiner's request. A review of the application history further confirms that the copy of the specification and substitute specification were not otherwise filed under circumstances that constitute a failure to engage in reasonable efforts to conclude prosecution. The period of reduction of 82 days entered for the filing of the marked-up copy of the specification and substitute specification is not warranted and is being removed.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an

opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). 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 six hundred forty-eight **(648)** 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 : 7,563,782 B2

DATED : **July 21, 2009**

INVENTOR(S) : Masuda 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 262 days.

Delete the phrase "by 262 days" and insert – by 648 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/20/2010

Applicant	: Siegfried Nyssen	: DECISION ON REQUEST FOR
Patent Number	: 7597832	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/549,512	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1050** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

17 MAR 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

MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE WI 53202

In re Application of	:	
HASLAM	:	
Application No.: 10/549,519	:	DECISION
PCT No.: PCT/GB2004/000853	:	
Int. Filing Date: 01 March 2004	:	
Priority Date: 15 March 2003	:	
Attorney's Docket No.: 013344-9061-00	:	
For: IMPROVEMENTS IN AND RELATING TO	:	
TRAILER COUPLING	:	

This decision is in response to applicants' "PETITION UNDER 37 CFR 1.181 TO WITHDRAW HOLDING OF ABANDONMENT" filed in the United States Patent and Trademark Office (USPTO) on 21 September 2007.

BACKGROUND

On 01 March 2004, applicant filed international application PCT/GB2004/000853, which designated the United States and claimed a priority date of 15 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. The thirty-month period for paying the basic national fee in the United States expired at midnight on 15 September 2005.

On 14 September 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 25 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 inventor in compliance with 37 CFR 1.497(a)-(b) was required.

On 27 August 2007, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to timely respond to the Notification mailed 25 April 2006.

On 21 September 2007, applicants submitted the instant "PETITION UNDER 37 CFR 1.181 TO WITHDRAW HOLDING OF ABANDONMENT".

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 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." The docket report provided does not appear to be a master docket for the firm but rather the docket records for a single attorney in the firm.

CONCLUSION

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

The application remains abandoned.

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

0 7 JUL 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

MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE WI 53202

In re Application of	:	
HASLAM	:	
Application No.: 10/549,519	:	DECISION
PCT No.: PCT/GB2004/000853	:	
Int. Filing Date: 01 March 2004	:	
Priority Date: 15 March 2003	:	
Attorney's Docket No.: 013344-9061-00	:	
For: IMPROVEMENTS IN AND RELATING TO	:	
TRAILER COUPLING	:	

This decision is in response to applicants' renewed petition under 37 CFR 1.181 filed in the United States Patent and Trademark Office (USPTO) on 07 April 2008.

BACKGROUND

On 01 March 2004, applicant filed international application PCT/GB2004/000853, which designated the United States and claimed a priority date of 15 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. The thirty-month period for paying the basic national fee in the United States expired at midnight on 15 September 2005.

On 14 September 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 25 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 inventor in compliance with 37 CFR 1.497(a)-(b) was required.

On 27 August 2007, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to timely respond to the Notification mailed 25 April 2006.

On 21 September 2007, applicants submitted a "PETITION UNDER 37 CFR 1.181 TO WITHDRAW HOLDING OF ABANDONMENT".

On 17 March 2008, a decision was mailed dismissing without prejudice applicant's petition under 37 CFR 1.181. Specifically, it was noted that the docket report provided did not appear to be a master docket for the firm but rather the docket records for a single attorney in the firm.

On 07 April 2008, applicant submitted the instant renewed petition under 37 CFR 1.181.

DISCUSSION

If applicants can establish nonreceipt of the NOTIFICATION OF MISSING REQUIREMENTS, then the application was never abandoned. In such case, the holding of abandonment will be withdrawn pursuant to 37 CFR 1.181. See MPEP § 711.03(c), para. I.A. The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

As noted in the decision mailed 17 March 2008, items (1) and (2) have been met.

Item (3) has now been met as well. Although the petition indicates that the docket record provided is missing pages 1 and 2, these pages appear to be directed to attorney David Price for 24 June 2006, a day before an Office action would have been due in the instant case had the NOTIFICATION OF MISSING REQUIREMENTS been received. Accordingly, the NOTIFICATION OF MISSING REQUIREMENTS mailed 25 April 2006 and the NOTIFICATION OF ABANDONMENT mailed 27 August 2007 are hereby VACATED.

Declaration of the Inventor

The declaration of the inventor filed 21 September 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**.

The NOTIFICATION OF MISSING REQUIREMENTS mailed 25 April 2006 is VACATED.

For the reasons set forth above, the NOTIFICATION OF ABANDONMENT mailed 27 August 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.

/Daniel Stemmer/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJr : 11-07

HEXION SPECIALTY CHEMICALS, INC.
1600 SMITH STREET, P.O. BOX 4500
HOUSTON TX 77210-4500

COPY MAILED

NOV 26 2007

OFFICE OF PETITIONS

In re Application of	:	
Rainio	:	
Application No. 10/549,544	:	DECISION
Filed: 2 June, 2006	:	
Attorney Docket No. 05-02-FPP US	:	

This is a decision on the petition filed on 4 September and resubmitted on 1 October, 2007, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- on 17 January, 2007, the Examiner mailed a non-final Office action in the instant application (Application No. 10/549,544), with reply due on or before 17 April, 2007;

- On 21 March, 2007, Petitioner Richard Yuen (Reg. No. L0278—Limited Recognition) erroneously filed into another application (11/549,544) papers in the form of an amendment apparently intended for the instant application (10/549,544, also the 10/-series application), and did so with the incorrect application number on the FAX transmittal coversheet;

- thereafter, having reviewed the papers submitted, the Office mailed in the 11/-series application on 27 March, 2007, a Notice of Non-Compliant Amendment with a reply due on or before 27 April, 2007;

- on 3 May, 2007, Elizabeth Philip Dahm (Reg. No. 51,352), Counsel in the 10/-seies application, Noticed the Office as to the apparent error of the 21 March, 2007, filing by

Richard Yuen, and the inapplicability of the 27 March, 2007, Notice of Non-Compliant Amendment to the 11/-series application (and Counsel Dahm also authorized any request/fees required to make timely her reply therein);

- the Office mailed a Notice of Abandonment in the instant application on 23 August, 2007;

- on 4 September, 2007, Petitioner Richard Yuen erroneously filed into the 11/-series application papers in the form of the instant petition apparently intended for the instant 10/-series application in reply to the 23 August, 2007, Notice of Abandonment issued in the instant application, and did so again with the incorrect application number on the FAX transmittal coversheet—however, Petitioner Yuen did submit with the petition, *inter alia*, copies of the reply of 21 March, 2007, the Office FAX receipt acknowledgement of that date, and appears to have attempted to make such statements of timely filing as are required by the guidance in the Commentary set forth at MPEP §711.03(c)—and the reply appears to have borne the correct application number/identifiers required by the Office for acceptance of an otherwise mis-numbered submission to be considered timely filed;

- Petitioner resubmitted the instant petition on 1 October, 2007, with such showings, documents and statements as are required by the guidance in the Commentary set forth at MPEP §711.03(c).

(Notably, Petitioner appears not to acknowledge—or even recognize—his actions that triggered the Notice of Abandonment in this matter.)

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

---

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

(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]

[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5]

And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8]

The commentary at MPEP §711.03(c) provides:

* * *

> **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

---

[4] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[8] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

* * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the burdens herein.

CONCLUSION

Petitioner appears to have satisfied the burdens herein, and the petition as considered under 37 C.F.R. §1.181 is **granted**—the 23 August, 2007, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center 1700 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[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[9] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TOWNSEND AND TOWNSEND AND
CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

COPY MAILED

DEC 15 2009

OFFICE OF PETITIONS

In re Patent No. 7,550,496	:	
Matteucci, et al.	:	DECISION ON
Application No. 10/549,545	:	REQUEST FOR
Issue Date: June 23, 2009	:	RECONSIDERATION OF
Filed: May 26, 2006	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	AND NOTICE OF INTENT TO
021305-003900US	:	ISSUE CERTIFICATE OF
	:	CORRECTION

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d), filed August 21, 2009. Patentees request that the determination of patent term adjustment be corrected from seventy-eight (78) days to four hundred sixteen (416) days.

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

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one hundred forty-seven (147) days.

BACKGROUND

This application was filed on May 26, 2006. On June 23, 2009, the application matured into U.S. Patent No. 7,550,496 with a revised patent term adjustment of 78 days. The Office

determined that the 268 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 284 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 284 days for Office delay. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. The patent issued with a revised patent term adjustment of 78 days (284 days of Office delay - 206 days of applicant delay.)

On August 21, 2009, patentees timely submitted this request for reconsideration of patent term adjustment asserting that the correct number of days of patent term adjustment is 416 days, based in part, under the courts interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138,

---

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

> Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application[.]

[2] As of the date the patent issued on June 23, 2009, the application was pending three years and 268 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 restriction requirement was not mailed until May 5, 2008, fourteen months and 284 days after the date the all 35 U.S.C. 371 requirements were completed on May 26, 2006.

88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees asserts that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that the total non-overlapping PTO delay under § 154(b)(1)(A) & (B) is 552 (284 + 268) days as these periods do not occur on the same day. Accordingly, patentees assert entitlement to a patent term adjustment of 416 days.

Patentees further assert that the period reduction of 72 days under 37 CFR 1.704(c)(10) for filing an amendment under § 1.312 and drawings on April 13, 2009, after the mailing of the notice of allowance, is incorrect. Rather, the period adjustment set forth in § 1.703 should be reduced by only 2 days.

OPINION

Patentees dispute the reduction of 72 days for filing the amendment under § 1.312 on April 13, 2009, after the mailing of the notice of allowance pursuant to 37 CFR 1.704(c)(10). Specifically, patentees assert that the Office mailed a "Response to Rule 312 Communication" in response to the amendment on April 15, 2009. Patentees contend that the period of reduction should be 2 days (not 72 days), counting the number of days beginning on the filing date of the amendment under § 1.312, April 13, 2009, and ending of the mailing date of the "Response to Rule 312 Communication", April 15, 2009, in response to the amendment under § 1.312.

It is noted that 37 CFR 1.704(c)(10) provides that:

> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
>
> or
>
> (ii) Four months;

In this instance, the record reveals that the Office took action in response to the filing of amendment under § 1.312 on April 15, 2009. Accordingly, the period of adjustment of the term of the patent should have been reduced by 3 days, beginning on the date the amendment under 37 CFR 1.312 was filed, April 13, 2009 and ending on the mailing date of the response to the amendment under 37 CFR 1.312 was mailed, April 15, 2009. Accordingly, the period of reduction of 72 days will be removed and a period of reduction of 3 days will be entered.[5]

With regard to the argument under 37 CFR 1.702(b), 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).

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.

---

[5] It is noted that patentees assert that only 2 days of reduction to the patent term adjustment should be entered for the filing of the amendment under 37 CFR 1.312, however, the period of reduction to the patent term adjustment under 37 CFR 1.704(c)(10) begins on, and includes, the date the amendment under 37 CFR 1.312 was filed and ends on, and includes, the mailing date of the response to the amendment under 37 CFR 1.312. "When a period is indicated (in 37 CFR 1.703 or 1.704) as 'beginning' on a particular day, that day is included in the period, in that such day is 'day one' of the period and not 'day zero.'" MPEP 2731. "For example, a period beginning on April 1 and ending on April 10 is ten (and not nine) days in length." Id. Thus, in this instance, the period of reduction to the patent term adjustment is 3 days.

As explained in *Explanation of 37 CFR 1.703(f)*[6] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

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

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment

---

[6] 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.

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, May 26, 2006, the date of completion of all requirements under 35 USC 371(b), to June 23, 2009, the date of the issuance of the patent (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 284 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), 268 days of patent term adjustment accrued for Office issuance of the patent more than three years after the date of commencement of the national stage pursuant to 35 USC 371(f). All of the 268 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 284 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 284 days and the 268 days is neither permitted nor warranted. 284 days is the actual number of days issuance of the patent was delayed.

CONCLUSION

In view thereof, the patent term adjustment indicated on the patent should be 147 days (284 days of Office delay - 137 (52 + 82 + 3) days of applicant delay).

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction in order to

rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **147 days**.

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

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,550,496 B2

DATED : Jun. 23, 2009

INVENTOR(S) : Matteucci, 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 (78) days

Delete the phrase "by 78 days" and insert – by 147 days--

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

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

COPY MAILED

DEC 15 2009

OFFICE OF PETITIONS

In re Patent No. 7,527,336 :
Issued: May 5, 2009 :
Application No. 10/549,554 : PATENT TERM ADJUSTMENT
Filed: September 19, 2005 :
Dkt. No.: 026032-4923 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed March 26, 2009. Patentees request correction of the patent term adjustment from 399 days to 697 days. Patentees requested this correction on the sole basis that the Office would take 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**.

An application for patent term adjustment was timely filed March 26, 2009 in the above-identified application. However, prior to a decision on the merits of the application for patent term adjustment, the above-identified application matured into U.S. Pat. No. 7,527,336 on May 5, 2009. The patent issued with a patent term adjustment of 399 days. Applicants argued that in view of Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), the patent was entitled to an adjustment of 697 days (429 days pursuant to 35 USC 154(b)(1)(A) *plus* 298 days pursuant to 35 USC 154(b)(1)(B) *less* 30 days applicant delay). The application for patent term adjustment was predicated on a projected patent issuance date of July 14, 2009.

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 May 5, 2009, the application was pending three years and 228 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 429 days pursuant to 37 CFR 1.702(a)(1) is correct. At issue is whether patentees should accrue 228 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 429 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 228 days of delay in issuance of the patent under 37 CFR 1.702(b) overlaps with the period of 429 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

---

[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.

U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the date that national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, September 19, 2005, and ending on the date that the patent issued, May 5, 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 429 days prior to the issuance of the non-final Office action on January 22, 2008. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), the application was pending three years and 228 days prior to the issuance of the patent on May 5, 2009.

The 228 days of delay in issuance of the patent under 37 CFR 1.702(b) overlap with the 429 days of patent term adjustment under 37 CFR 1.702(a). Entry of both the 228 days and the 429 days is neither permitted nor warranted given that 429 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, having considered the 228 days of Office delay under the three-year pendency provision in conjunction with the 429 days of examination delay, reduced 30 days for applicant delay, the Office properly entered 399 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

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

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

Mail Date: 04/21/2010

Applicant	: Ingo Kienke	: DECISION ON REQUEST FOR
Patent Number	: 7527336	: RECALCULATION of PATENT
Issue Date	: 05/05/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/549,554	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **627** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

Paper No.

PERKINS COIE LLP
POST OFFICE BOX 1208
SEATTLE WA 98111-1208

MAILED
JUN 22 2010
OFFICE OF PETITIONS

In re Application of :
Wang et al. : DECISION ON
Application No. 10/549,594 : PETITION
Filed: September 19, 2005 :
Atty Docket No.63795.8008.US00:

This is a decision on the Petition for Revival of Application Abandoned Unintentionally Under 37 C.F.R. § 1.137(b) filed February 10, 2010.

The petition is **GRANTED**.

The above-identified application was abandoned for failure to timely file a proper reply to the final Office action mailed December 7, 2007. This Office action set a shortened statutory period for reply of three (3) months from the mail date of the action, with extensions of time obtainable under 37 CFR 1.136(a). No proper reply having been received and no extension of time obtained, the application became abandoned effective March 8, 2008. A courtesy Notice of Abandonment was mailed on June 23, 2008.

On petition, petitioner submitted the required reply in the form of a Request for Continued Examination (RCE and RCE Fee) and submission under §1.114 (in the form of an amendment); paid the petition fee; and made the required statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on February 10, 2010 was submitted subsequent to the

maximum extendable period for reply, this fee is unnecessary and is being refunded.

Technology Center AU 1793 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the RCE (and submission) submitted on petition filed February 10, 2010.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/21/2010

Applicant	: Gal Yadid	: DECISION ON REQUEST FOR
Patent Number	: 7652191	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/549,596	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/30/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **267** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

BASF CORPORATION
PATENT DEPARTMENT
1609 BIDDLE AVENUE
MAIN BUILDING
WYANDOTTE MI 48192

MAILED

JUN 25 2010

OFFICE OF PETITIONS

In re Application of	:	
Werner-Alfons JUNG et al.	:	
Application No. 10/549,624	:	DECISION ON PETITION
Filed: September 19, 2005	:	
Attorney Docket No. PAT-01142/BC1-0225	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 11, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed January 28, 2009, 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 February March 01, 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 election (2) the petition fee of $1,620.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the restriction requirement of January 28, 2009 is 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 election.

Michelle R. Eason
Paralegal Specialist
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
DRW Jun-10

MORRIS MANNING MARTIN LLP
3343 PEACHTREE ROAD, NE
1600 ATLANTA FINANCIAL CENTER
ATLANTA GA 30326

MAILED

JUN 15 2010

OFFICE OF PETITIONS

In re Application of	:	
Teunis Adrianus Kassenaar	:	
Application Number: 10/549647	:	ON PETITION
Filing Date: 09/20/2005	:	
Attorney Docket Number: 22173-70410	:	

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on March 24, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on December 19, 2009, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on September 18, 2009, which set a three (3)-month statutory period for reply. On January 6, 2010, Notice of Abandonment was mailed.

Receipt of the issue and publication fees filed on March 24, 2010 is acknowledged.

---

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

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

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

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

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

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

17 NOV 2006

SELDON & SCILLIERI
10940 WILSHIRE BLVD.
18TH FLOOR
LOS ANGELES CA 90024-3952

In re Application of	:	
HUBBARD et al.	:	
Application No.: 10/549,649	:	
PCT No.: PCT/US2004/006084	:	
Int. Filing Date: 19 March 2004	:	DECISION
Priority Date: 19 March 2003	:	
Attorney Docket No.: ASI/1400(US)	:	
For: SYSTEM FOR MEASURING AND	:	
INDICATING CHANGES IN THE RESISTANCE	:	
OF A LIVING BODY	:	

This is a decision on applicants' petition under 37 CFR 1.47(a) and applicants' request for status under 37 CFR 1.42, both filed 17 October 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 19 March 2004, applicants filed international application PCT/US2004/006084, which designated the United States and claims a priority date of 19 March 2003. A copy of the international application was communicated from the International Bureau to the USPTO on 04 November 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 19 September 2005.

On 15 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 declaration of inventors.

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 (Form PCT/DO/EO/905) indicating, *inter alia*, that the declaration of the inventors filed 15 September 2005 was not in compliance with 37 CFR 1.497(a)-(b) because the signature of one of the inventors was missing and because the citizenship and residence of the deceased inventor Lafayette Ron Hubbard was missing.

On 17 October 2006, applicants filed the instant petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, an assertion of small entity status, a petition/fee for a four-month extension of time, a statement of facts by Robert A. Selden, the surcharge under 37 CFR 1.492(h), and a Supplemental Sheet for the declaration of inventors filed 15 September 2005. The indication in the declaration of inventors that inventor Lafayette Ron Hubbard is deceased and the Supplemental Sheet have been treated as a request for status under 37 CFR 1.42.

DISCUSSION

Request for Status Under 37 CFR 1.42

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 provided. MPEP § 602.01. Accordingly, a replacement page or a supplemental page to the original declaration is not sufficient. In the instant case, a supplemental declaration including all of the information in the declaration of inventors filed 15 September 2005 in addition to the citizenship of the deceased inventor and signed by the legal representative for the deceased inventor is required. MPEP § 603, Example 3.

Petition Under 37 CFR 1.47(a)

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

Items (1)-(3) have been met.

Item (4) has not been met. The declaration of inventors filed 15 September 2005 is not in compliance with 37 CFR 1.497(a)-(b). The declaration must identify 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)). (Although the published international application lists the deceased inventor as Ron LAFAYETTE, it is clear from a review of international application PCT/US2004/006084 that the deceased inventor should have been indicated as Lafayette Ron HUBBARD in the published international application. The deceased inventor is identified properly in the declaration filed 15 September 2005.)

CONCLUSION

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

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

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

24 APR 2007

SELDON & SCILLIERI
10940 WILSHIRE BLVD.
18TH FLOOR
LOS ANGELES CA 90024-3952

In re Application of	:	
HUBBARD et al.	:	
Application No.: 10/549,649	:	
PCT No.: PCT/US2004/006084	:	
Int. Filing Date: 19 March 2004	:	DECISION
Priority Date: 19 March 2003	:	
Attorney Docket No.: ASI/1400(US)	:	
For: SYSTEM FOR MEASURING AND	:	
INDICATING CHANGES IN THE RESISTANCE	:	
OF A LIVING BODY	:	

This is a decision on applicants' submission filed in the United States Patent and Trademark Office (USPTO) on 15 March 2007 which includes a "PETITION TO REVIVE AND TO REFUND PETITION FEE", which has properly been treated as a petition under 37 CFR 1.181, a renewed petition under 37 CFR 1.47(a), and a request for status under 37 CFR 1.42.

BACKGROUND

On 19 March 2004, applicants filed international application PCT/US2004/006084, which designated the United States and claims a priority date of 19 March 2003. A copy of the international application was communicated from the International Bureau to the USPTO on 04 November 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 19 September 2005.

On 15 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 declaration of inventors.

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 (Form PCT/DO/EO/905) indicating, *inter alia*, that the declaration of the inventors filed 15 September 2005 was not in compliance with 37 CFR 1.497(a)-(b) because the signature of one of the inventors was missing and because the citizenship and residence of the deceased inventor Lafayette Ron Hubbard was missing.

On 17 October 2006, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, an assertion of small entity status, a petition/fee for a four-month extension of time, a statement of facts by Robert A. Selden, the surcharge under 37 CFR 1.492(h), and a Supplemental Sheet for the declaration of inventors filed 15 September 2005. The indication in the declaration of inventors that inventor Lafayette Ron Hubbard is deceased and the Supplemental Sheet was treated as a request for status under 37 CFR 1.42.

On 17 November 2006, a decision was mailed refusing applicants' request for status under 37 CFR 1.42 and dismissing without prejudice applicants' petition under 37 CFR 1.47(a). Specifically, as to the request for status under 37 CFR 1.42, it was noted that a replacement page or a supplemental page to the original declaration was not sufficient, and as to the petition under 37 CFR 1.47(a), it was noted that the declaration of inventors filed 15 September 2005 was not in compliance with 37 CFR 1.497(a)-(b).

On 15 March 2007, applicants filed the instant "PETITION TO REVIVE AND TO REFUND PETITION FEE", which has properly been treated as a petition under 37 CFR 1.181, a renewed petition under 37 CFR 1.47(a), and a request for status under 37 CFR 1.42.

DISCUSSION

Petition Under 37 CFR 1.181

In the "PETITION TO REVIVE AND TO REFUND PETITION FEE", applicants request that the NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) mailed 05 March 2007 be withdrawn. The NOTIFICATION was sent in error and is hereby VACATED.

Fees

The petition fee of $750 has been credited to Deposit account 01-2529. However, a two-month extension of time fee of $225 has been charged to this Deposit Account.

Request for Status Under 37 CFR 1.42

The submission filed 15 March 2007 has been reviewed and has been found in compliance with 37 CFR 1.42.

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 noted in the decision mailed 17 November 2006, items (1)-(3) have been met.

Item (4) has now been met. The declaration filed 15 September 2005 taken together with

the declaration filed 15 March 2007 are 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 05 March 2007 is VACATED.

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

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 **15 March 2007**.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

06 JUL 2006

Patterson Thuente Skaar & Christensen
4800 IDS Center
80 South Eight Street
Minneapolis MN 55402-2100

In re Application of	:	
EIDESMO, Terje et al.	:	
Application No.: 10/549,660	:	DECISION ON
PCT No.: PCT/GB04/01144	:	
Int. Filing Date: 17 March 2004	:	REQUEST
Priority Date: 17 March 2003	:	
Attorney's Docket No.: 1101.151US01	:	UNDER 37 CFR 1.42
For: METHOD AND APPARATUS FOR	:	
DETERMINING THE NATURE OF	:	
SUBMARINE RESERVOIRS	:	

This is a decision on applicants' 02 May 2006, submission of a declaration containing an indication that joint inventor Hans Magne Pedersen is deceased. The declaration has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 17 March 2004, applicants filed international application PCT/GB04/01144, which claimed a priority date of 17 March 2003. A copy of the international application was transmitted to the Office by the International Bureau on 30 September 2004. The deadline for entry into the national stage in the United States was 17 September 2005.

On 16 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 02 May 2006, applicants submitted a declaration of the inventors, with an indication that a joint inventor was deceased and the surcharge for late filing of the search fee, examination fee or the oath or declaration.

DISCUSSION

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

The declaration complies with 37 CFR 1.497(a)-(b) and 37 CFR 1.42. The declaration lists the inventors and their citizenships and the legal representatives and the legal representative's citizenship, residence and postal address. See 37 CFR 1.497.

CONCLUSION

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

The application has a date of 02 May 2006 under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4). This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.

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

REED SMITH LLP
3110 FAIRVIEW PARK DRIVE, SUITE 1400
FALLS CHURCH, VA 22042

MAILED

JUN 29 2009

OFFICE OF PETITIONS

In re Application of	:	
Jun SUDA, et al.	:	
Application No. 10/549,683	:	DECISION GRANTING PETITION
Filed: September 19, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **HIRA.0204**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 29, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 21, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1792 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

---

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

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

Juan Carlos A. Marquez
c/o Stites & Harbison PLLC
1199 North Fairfax Street
Suite 900
Alexandria, VA 22314-1437

Mail Date: 04/21/2010

Applicant	: Jun Suda	: DECISION ON REQUEST FOR
Patent Number	: 7625447	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/549,683	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **379** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,706	09/19/2005	Kuniharu Harada	3273-0214PUS1	7685

2292 7590 08/26/2009
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER
SERGENT, RABON A

ART UNIT	PAPER NUMBER
1796	

NOTIFICATION DATE	DELIVERY MODE
08/26/2009	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):

mailroom@bskb.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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

wk

Mailed : AUG 26 2009

In re Application of
Harada et al.
Serial No. 10/549,706
Filed: September 19, 2005
For: AQUEOUS SILYLATED URETHANE COMPOSITIONS, AQUEOUS ADGESIVES FOR WRAPPING, AND AQUEOUS CONTACT ADHESIVES

DECISION ON PETITION

This is a decision on the PETITION FILED UNDER 37 CFR 1.144 and 1.181 TO WITHDRAW THE RESTRICTION REQUIREMENT made January 4, 2009.

A review of the record indicates that the application was filed under 35 U.S.C. 371. The original claims (1-15) were drawn to a water based silylated urethane composition. A non-final office action was mailed out on June 19, 2008. Applicants responded on September 30, 2008. Claims 1-7, 9-13 and 15 were amended, claims 8 and 14 were cancelled and new claims 16-25 were added. Claims 16-25 are drawn to a method of contact adhesion using a water-based contact adhesive according to claim 15.

The Examiner issued an Office Communication on January 9, 2009. The Examiner's position was that the amendment to the claims was non-responsive per MPEP 821.03. The amended claims were not readable on the elected invention because Applicants have amended all the claims to change their scope from a composition to methods of using.

The Examiner further in the Communication established a lack of unity because of a lack of inventive step. The Examiner cited WO 93.23490. The Communication gave Applicant 30 days to respond from the mailing date. Extensions of time were available.

MPEP: 821.03 Claims for Different Invention Added After an Office Action

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

37 CFR 1.145 Subsequent presentation of claims for different invention.

If, after an office action on an application, the applicant presents claims directed to an invention distinct from and independent of the invention previously claimed, the applicant will be required to restrict the

claims to the invention previously claimed if the amendment is entered, subject to reconsideration and review as provided in §§ 1.143 and 1.144.

Applicant responded on January 29, 2009 asserting that there has been no restriction or no election in response. Applicants rely upon their Amendment filed September 30, 2008 for their response to the rejections of record. Applicants assert that claims 1-7 and 9-13 are limited to a method of wrapping of using the compositions originally claimed. Claims 15-26 are limited to a method of contact adhesion using those compositions. The inventions of current claims 1-7, 9-13 and 15-26 are therefore dominated by the scope of the invention originally covered by such claims. New composition claim 27 falls within the scope of the original claims. Applicants further assert that MPEP 817 should be followed for restriction requirement.

MPEP: 817 Outline of Letter for Restriction Requirement

The following outline should be used to set forth a requirement to restrict.

OUTLINE OF RESTRICTION REQUIRE-MENT

(A) Statement of the requirement to restrict and that it is being made under 35 U.S.C. 121

(1) Identify each group by Roman numeral.

(2) List claims in each group. Check accuracy of numbering of the claims; look for same claims in two groups; and look for omitted claims.

(3) Give short description of total extent of the subject matter claimed in each group, pointing out critical claims of different scope and identifying whether the claims are directed to a combination, subcombination, process, apparatus, or product.

(4) Classify each group.

The Examiner issued a final rejection on May 11, 2009 maintaining the restriction and withdrew claims 1-7, 9-13 and 15-16 from consideration. Claim 27 stands rejected.

DECISION

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. The claims originally presented and acted upon by the Office on their merits determine the invention elected by an applicant in the application, and in any request for continued examination (RCE) which has been filed for the application. Subsequently presented claims to an invention other than that acted upon should be treated as provided in MPEP § 821.03. Election becomes fixed when the claims in an application have received an action on their merits by the Office.

If the examiner finds that a national stage application lacks unity of invention under § 1.475, the examiner may in an Office action require the applicant in the response to that action to elect the invention to which the claims shall be restricted. Such requirement may be made before any action on the merits but may be made at any time before the final action at the discretion of the examiner. Review of any such requirement is provided under §§ 1.143 and 1.144.

Applicants have not given reason as to why the lack of unity was improper. Applicant arguments are drawn towards the formality of making the restriction. It is noted that MPEP 817 while outlining how a restriction requirement *should* be made does not mandate that restriction requirement must be made that way.

A review of the record indicates that the Examiner's action is consistent with the policy set forth by MPEP 821.03 and is reasonable.

Accordingly, the petition to withdraw the restriction requirement is **DENIED**.

/Gregory L Mills/
Gregory L. Mills, Acting Director
Technology Center 1700
Chemical and Materials Engineering

Gerald M. Murphy, Jr.
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

1 8 JUN 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

WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
ATTN: PATENT DOCKETING 32ND FLOOR
P.O. BOX 7037
ATLANTA, GA 30357-0037

In re Application of RAMMENSEE et al	:	
U.S. Application No.: 10/549,718	:	
PCT Application No.: PCT/EP2004/003077	:	
Int. Filing Date: 23 March 2004	:	DECISION
Priority Date Claimed: 24 March 2003	:	
Attorney Docket No.: BB-152	:	
For: TUMOUR-ASSOCIATED PEPTIDES	:	
BINDING TO MHC MOLECULES	:	

This is in response to applicant's "Petition to Withdraw Holding of Abandonment Under 37 C.F.R. §1.181" filed 17 August 2007.

BACKGROUND

On 23 March 2004, applicant filed international application PCT/EP2004/003077, which claimed priority of an earlier Germany application filed 24 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 24 September 2005.

On 16 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 27 April 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 28 June 2006, international application PCT/EP2004/003077 became abandoned as to the United States for failure to timely respond to the Notification of Missing Requirements.

On 17 August 2007, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The petition states that the Notification of Missing Requirements was never received.

MPEP 711.03(c), Section I. A., "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action" states in relevant part,

> 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.

In the present case, the petition includes a statement from the practitioner that the correspondence was not received and that a search of the practitioner's file records revealed that the correspondence was not received. However, the petition does not include a statement from the practitioner describing the docketing system of the practitioner's firm and establishing that the system is sufficiently reliable. Furthermore, the petition does not include a copy of the master docket record for the practitioner's firm, listing all replies docketed for the due date for reply to the Notification of Missing Requirements. Such docket record must indicate that no response was due on 27 June 2006 for the present application.

CONCLUSION

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

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

available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181".

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

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

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

26 AUG 2008

WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
ATTN: PATENT DOCKETING 32ND FLOOR
P.O. BOX 7037
ATLANTA, GA 30357-0037

In re Application of RAMMENSEE et al	:	
U.S. Application No.: 10/549,718	:	
PCT Application No.: PCT/EP2004/003077	:	
Int. Filing Date: 23 March 2004	:	DECISION
Priority Date Claimed: 24 March 2003	:	
Attorney Docket No.: BB-152	:	
For: TUMOUR-ASSOCIATED PEPTIDES	:	
BINDING TO MHC MOLECULES	:	

This is in response to applicant's "Renewed Petition Under 37 C.F.R. §1.181" filed 18 August 2008.

BACKGROUND

On 23 March 2004, applicant filed international application PCT/EP2004/003077, which claimed priority of an earlier Germany application filed 24 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 24 September 2005.

On 16 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 27 April 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 28 June 2006, international application PCT/EP2004/003077 became abandoned as to the United States for failure to timely respond to the Notification of Missing Requirements.

On 17 August 2007, applicant filed a petition under 37 CFR 1.181.

On 18 June 2008, this Office mailed a decision dismissing the 17 August 2007 petition.

On 18 August 2008, applicant filed the present renewed petition under 37 CFR 1.181.

DISCUSSION

The petition states that the Notification of Missing Requirements was never received.

MPEP 711.03(c), Section I. A., "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action" states in relevant part,

> 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.

In the present case, petitioner has previously supplied a statement from the practitioner that the correspondence was not received and that a search of the practitioner's file records revealed that the correspondence was not received. The renewed petition includes a statement from the practitioner describing the docketing system of the practitioner's firm and establishing that the system is sufficiently reliable (see affidavit of David Saliwanchik). Although Mr. Saliwanchik states that that copy of the firm's master docket report showing replies docketed for 27 June 2006 is no longer available, petitioner has provided a copy of the individual docket record for the present application. This individual docket record does not show that the Notification of Missing Requirements was received.

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 23 March 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 17 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
www.uspto.gov

27 JAN 2009

BAKER DONELSON BEARMAN, CALDWELL & BERKOWITZ, PC
555 ELEVENTH STREET, NW, SIXTH FLOOR
WASHINGTON, DC 20004

In re Application of RAMMENSEE et al	:	
U.S. Application No.: 10/549,718	:	
PCT Application No.: PCT/EP2004/003077	:	
Int. Filing Date: 23 March 2004	:	DECISION
Priority Date Claimed: 24 March 2003	:	
Attorney Docket No.: BB-152	:	
For: TUMOUR-ASSOCIATED PEPTIDES	:	
BINDING TO MHC MOLECULES	:	

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 03 December 2008.

BACKGROUND

On 23 March 2004, applicant filed international application PCT/EP2004/003077, which claimed priority of an earlier Germany application filed 24 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 24 September 2005.

On 16 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 27 April 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 28 June 2006, international application PCT/EP2004/003077 became abandoned as to the United States for failure to timely respond to the Notification of Missing Requirements.

On 17 August 2007, applicant filed a petition under 37 CFR 1.181.

On 26 August 2008, this Office mailed a decision dismissing the 17 August 2007 petition.

On 18 August 2008, applicant filed a renewed petition under 37 CFR 1.181.

On 26 August 2008, this Office mailed a decision granting the 18 August 2008 petition.

On 16 October 2008, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which indicated that applicant had failed to provide certain sequence listing material in response to the Notification of Missing Requirements.

On 17 November 2008, the present application became abandoned for failure to timely respond to the Notification of Defective Response.

On 03 December 2008, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

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

With regard to item (1), applicant has not provided the required reply. Specifically, the submitted sequence listing was found to contain errors.[1]

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 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

[1] The sequence listing error report is attached to this decision.

available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)". No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.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
PCT Legal Examiner
PCT Legal Office

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

Attachment: Sequence Listing Error Report

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

18 MAR 2009

BAKER DONELSON BEARMAN, CALDWELL & BERKOWITZ, PC
555 ELEVENTH STREET, NW, SIXTH FLOOR
WASHINGTON, DC 20004

In re Application of RAMMENSEE et al	:	
U.S. Application No.: 10/549,718	:	
PCT Application No.: PCT/EP2004/003077	:	
Int. Filing Date: 23 March 2004	:	DECISION
Priority Date Claimed: 24 March 2003	:	
Attorney Docket No.: BB-152	:	
For: TUMOUR-ASSOCIATED PEPTIDES	:	
BINDING TO MHC MOLECULES	:	

This is in response to applicant's "Renewed Petition Under 37 CFR 1.137(b)" filed 11 February 2009.

BACKGROUND

On 23 March 2004, applicant filed international application PCT/EP2004/003077, which claimed priority of an earlier Germany application filed 24 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 24 September 2005.

On 16 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 27 April 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 28 June 2006, international application PCT/EP2004/003077 became abandoned as to the United States for failure to timely respond to the Notification of Missing Requirements.

On 17 August 2007, applicant filed a petition under 37 CFR 1.181.

On 26 August 2008, this Office mailed a decision dismissing the 17 August 2007 petition.

On 18 August 2008, applicant filed a renewed petition under 37 CFR 1.181.

On 26 August 2008, this Office mailed a decision granting the 18 August 2008 petition.

On 16 October 2008, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which indicated that applicant had failed to provide certain sequence listing material in response to the Notification of Missing Requirements.

On 17 November 2008, the present application became abandoned for failure to timely respond to the Notification of Defective Response.

On 03 December 2008, applicant filed a petition under 37 CFR 1.137(b).

On 27 January 2009, this Office mailed a decision dismissing the 03 December 2008 petition.

On 11 February 2009, 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 renewed petition is accompanied by the required reply.

CONCLUSION

For the reasons 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 23 March 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 17 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

08 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

Buchanan Ingersoll PC
(Including Burns, Doane, Swecker & Mathis, LLP)
P.O. Box 1404
Alexandria, VA 22313-1404

In re Application of Ignacio BLANCO BLANCO Application No.: 10/549,759 Filing Date: 19 September 2005 Attorney Docket No.: 034284-003 For: USE ALPHA-1 ANTITRYPSIN FOR THE PREPARATION OF MEDICAMENTS FOR THE TREATMENT OF FIBROMYALGIA	DECISION ON PETITION UNDER 37 CFR 1.182

This decision is in response to applicant's "Petition to Convert 35 U.S.C. 371 Application to 35 U.S.C. 111 Application" filed in the United States Patent and Trademark Office on 06 October 2005, which is being treated as a Petition under 37 CFR 1.182. The $400 petition fee will be charged to Deposit Account 02-4800, as authorized.

BACKGROUND

On 19 September 2005, applicant filed a Transmittal Letter to the United States Designated/Elected Office Concerning a Filing Under 35 U.S.C. 371 (Form PTO-1390) requesting processing of the instant application as a national stage application of an international application under 35 U.S.C. § 371 accompanied by: a declaration; a description, claims, and abstract. However, the Transmittal Letter did not identify the international application (by application number) of which the instant application papers are to be treated as the national stage. The papers submitted 19 September 2005 have been assigned application number 10/549,759.

On 06 October 2005, applicant filed "Petition to Convert 35 U.S.C. 371 Application to 35 U.S.C. 111 Application" which indicated that, "the application was inadvertently designated as a §371 application, when it should have been filed as a utility application claiming benefit of an earlier foreign filed application under 37 U.S.C. §119."

DISCUSSION

As stated above, the Transmittal Letter did not identify the international application (by application number) of which the instant application papers are to be treated as the national stage, therefore, this application cannot presently be processed under 35 U.S.C. §371. However, the transmittal letter of 19 September 2005 was clearly an application for a United States patent. Applicant erred in identifying the application as

a national stage application. The application papers contained all the elements necessary to obtain a filing date under 35 U.S.C. 111(a) and 37 CFR 1.53(b). Since applicant cannot proceed under 35 U.S.C. 371 and applicant has filed the necessary papers under 35 U.S.C. 111(a), it is appropriate in this instance to grant applicant's petition, construed as a petition under 37 CFR 1.182, to accept the papers filed on 19 September 2005 as an application filed under 35 U.S.C. 111(a).

CONCLUSION

As so construed, the above-noted petition is **GRANTED**.

This application is being forwarded to the Office of Initial Patent Examination for processing as an application filed under 35 U.S.C. 111(a) with a filing date of 19 September 2005.

Anthony Smith

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Jessica M Sinnott
E I du Pont de Nemours & Company
Legal Patents
Wilmington, DE 19898

Mail Date: 04/27/2010

Applicant	: Richard Walker Browne	: DECISION ON REQUEST FOR
Patent Number	: 7620211	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/549,781	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1094** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

MCCORMICK, PAULDING & HUBER, LLP
CITY PLACE II
185 ASYLUM STREET
HARTFORD, CT 06103

COPY MAILED

AUG 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Peter ALEX, et al	:	
Application No. 10/549,786	:	DECISION ON PETITION
Filed: June 13, 2006	:	
Docket No. 5284-0006WOUS	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 10, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 11, 2009.

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

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

This application is being referred to Technology Center AU 3751 for appropriate action by the Examiner in the normal course of business.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Dickinson Wright PLLC
James E. Ledbetter, Esq.
International Square
1875 Eye Street, NW., Suite 1200
WASHINGTON, DC 20006

Mail Date: 04/21/2010

Applicant	: Krishnan Ramu	: DECISION ON REQUEST FOR
Patent Number	: 7579734	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/549,800	: 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 **538** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/20/2010

Applicant	: Yoshihiro Koizumi	: DECISION ON REQUEST FOR
Patent Number	: 7614729	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/549,802	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **37** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

MORRISON & FOERSTER LLP
555 West Fifth Street
Suite 3500
Los Angeles, CA 90013-1024

COPY MAILED

SEP 28 2006

OFFICE OF PETITIONS

In re Application of	:	
HESKE, et al.	:	
Application No. 10/549,820	:	DECISION ON PETITION
Filed: September 20, 2005	:	TO WITHDRAW
Attorney Docket No. 297912005600	:	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 30, 2006.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). While the reasons may be provided by referencing a specific portion of 37 CFR 10.40, the reasons must deal with actions by the client. The reasons set forth in the request, "Application transferred to another firm," are not appropriate since it is not clear that the client initiated the transfer, or that the client knowingly or freely assents to the transfer to new counsel.

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

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

cc: PROSKAUER ROSE LLP
1001 Pennsylvania Avenue, N.W.
Suite 400 South
Washington, D.C. 20036-2396

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES CA 90013-1024

COPY MAILED
DEC 14 2006
OFFICE OF PETITIONS

In re Application of	:	
HESKE, et al.	:	
Application No. 10/549,820	:	DECISION ON PETITION
Filed: September 20, 2005	:	TO WITHDRAW
Attorney Docket No. 297912005600	:	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, 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 Todd W. Wight on behalf of all attorneys of record who are associated with Customer No. 25224. All attorneys/agents associated with the Customer No. 25224 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 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: NORBERT HESKE
DORFSTRABE 22A
KOTTGEISERING, 82288
GERMANY

cc: PROSKAUER ROSE LLP
1001 PENNSYLVANIA AVE, N.W.,
SUITE 400 SOUTH
WASHINGTON, DC 20004

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
10/549,820	09/20/2005	Norbert Heske	297912005600

CONFIRMATION NO. 3682

OC000000021597735

25224
MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES, CA 90013-1024

Date Mailed: 12/13/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/03/2006.

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

PVolpe

PATRICIA A VOLPE
OP (571) 272-6825

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES, CA 90013-1024

COPY MAILED
DEC 14 2006
OFFICE OF PETITIONS

In re Application of	:	
HESKE, et al.	:	
Application No. 10/549,820	:	DECISION ON REQUEST FOR
Filed: September 20, 2005	:	REVOCATION OF POWER
Attorney Docket No. 297912005600	:	OF ATTORNEY
	:	

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed November 10, 2006.

The request is **NOT APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The request cannot be approved because the 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 November 10, 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 the undersigned at 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: **PROSKAUER ROSE LLP**
1001 PENNSYLVANIA AVE, N.W.,
SUITE 400 SOUTH
WASHINGTON, DC 20004

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

VINCENT BELUSKO
MORRISON & FOERSTER, LLP
555 W FIFTH ST.
SUITE 3500
LOS ANGELES, CA 90013

COPY MAILED

JUL 07 2008

In re Application of	:	
Norbert Heske, et al.	:	
Application No. 10/549,820	:	DECISION ON PETITION
Filed: September 20, 2005	:	TO WITHDRAW
Attorney Docket No. 297912005600	:	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 22, 2008.

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 December 21, 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: TODD E. WIGHT
RUTAN & TUCKER, LLP
611 ANTON BOULEVARD
SUITE 1400
COSTA MESA, CA 92626-1931

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton, NJ 08543-5312

Mail Date: 04/21/2010

Applicant	: John Alan Gervais	: DECISION ON REQUEST FOR
Patent Number	: 7617326	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/549,825	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1076** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

1 2 JAN 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

Davis Wright Tremaine LLP
865 Figueroa Street
Suite 2400
Los Angeles CA 90017-2566

In re Application of	:	
KAVALLARIS et al.	:	
U.S. Application No. 10/549,831	:	
PCT No.: PCT/AU04/00331	:	
Int. Filing Date: 18 March 2004	:	DECISION ON REQUEST
Priority Date: 18 March 2003	:	
Attorney Docket No.: 69544-2	:	
For: DETERMINING DRUG RESISTANCE	:	

This decision is issued in response to applicants' "Petition to Correct Inventorship in Patent Application (under 37 CFR 1.48(a)(1)" filed 30 November 2006, which is being treated as a Request under 37 CFR 1.497(d). The $130 petition fee has been charged to counsel's deposit account.

BACKGROUND

On 18 March 2004, applicants filed international application no. PCT/AU04/00331 which claimed a priority date of 18 March 2003. The international application named Maria Kavallaris as an applicant/inventor. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 18 September 2005.

On 16 September 2005, applicants filed a transmittal letter for entry into the national stage accompanied by, *inter alia:* the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 08 June 2006, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 30 November 2006, applicants filed a "Petition to Correct Inventorship in Patent Application (under 37 CFR 1.48(a)(1)" which included declaration executed by: Maria Kavallaris and Nicole Verrills.

DISCUSSION

As defined in 37 CFR 1.9(a)(3), a U.S. national stage application must first comply with the requirements of 35 U.S.C. 371(c) to constitute a "nonprovisional" application, therefore, applicants' request will be treated under 37 CFR 1.497(d). The present submission seeks to correct the inventorship so as to add inventor Nicole Verrills to the application. Where, as here, the inventorship in the national stage declaration is not consistent with the inventorship in the international application, applicants must correct the inventorship pursuant to 37 CFR 1.497(d), which states the following:

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

Applicants have satisfied items (1); (2); (3) and (4).

CONCLUSION

The request under 37 CFR 1.497(d) is **GRANTED**.

A review of the application papers reveals that applicants have completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application will be given an international application filing date of 18 March 2004 and a date of **30 November 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.

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

01/12/2007 SBASHEIR 00000002 040258 10549831
01 FC:2617 65.00 DA

Adjustment date: 01/12/2007 SBASHEIR
12/01/2006 INTEFSW 00001352 040258 10549831
01 FC:2051 65.00 CR

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20081215

DATE : December 15, 2008

TO SPE OF : ART UNIT 3748

SUBJECT : Request for Certificate of Correction on Patent No.: 7293412

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

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

Thank You For Your Assistance **Certificates of Correction Branch**

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/THOMAS E DENION/
Supervisory Patent Examiner.Art Unit 3748

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

WINSTEAD PC
P.O. BOX 50784
DALLAS TX 75201

COPY MAILED

DEC 0 4 2009

OFFICE OF PETITIONS

In re Application of	:	
Fritz Fuchs	:	
Application No. 10/549,836	:	NOTICE
Filed: April 7, 2006	:	
Attorney Docket No. 27793-00102USPX	:	

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 Terri Johnson at (571) 272-2991.

for

Chris Bottorff
Petitions Examiner
Office of Petitions

1 1 OCT 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

61060
WINSTEAD PC
P.O. Box 50784
Dallas, TX 75201

In re Application of:
PEDRETTI *et al*
U.S. Application No.: 10/549,840
PCT No.: PCT/CH2004/00110
Int. Filing Date: 02 March 2004
Priority Date: 21 March 2006
Attorney Docket No.: 27793-00100USPX
For: LIFTING BODY FOR AN AIRSHIP

DECISION

This decision is in response to applicants' "Request for Corrected Filing Receipt," filed in the United States Patent and Trademark Office on 05 March 2007. It has been treated as a petition under 37 CFR 1.10(c).

BACKGROUND

On 03 April 2006, applicants filed several papers including a declaration in compliance with 37 CFR 1.497(a) and (b). These papers were denoted as received in the Office on 31 March 2006.

On 25 May 2006, the Office mailed a Notification of Acceptance (Form PCT/DO/EO/903) and a Filing Receipt indicating that the requirements under 35 U.S.C. 371 were satisfied on 31 March 2006.

On 05 March 2007, applicants filed a request to correct the filing receipt.

DISCUSSION

Applicants request that the receipt date of the declaration be amended to 03 April 2006. The requirements for a petition to correct a receipt date based on Express Mail records are set forth in 37 CFR 1.10(c). The section states as follows:

(c) 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

Director 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.

Items (1), (2) and (3) have been met.

The petition was filed promptly. The Express Mail mailing label number was listed on the correspondence. Applicants have provided a copy of the Express Mailing mailing label with the "date-in" listed as 03 April 2006 and the label is also stamped by the USPS as received on 03 April 2006.

CONCLUSION

For the reasons listed above, applicants' petition under 37 CFR 1.10(c) to correct the receipt date of the declaration to 03 April 2006 is **GRANTED**.

The Notification of Acceptance (Form PCT/DO/EO/903) and Filing Receipt mailed 25 May 2006 are both **VACATED**.

This application is being forwarded to the Office of Patent Application Processing for the mailing of a new Form PCT/DO/EO/903 and Filing Receipt.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCGLEW & TUTTLE, PC
P.O. BOX 9227
SCARBOROUGH STATION
SCARBOROUGH NY 10510-9227

COPY MAILED

JAN 19 2007

OFFICE OF PETITIONS

Applicant: Perini
Appl. No.: 10/549,843
International Filing Date: March 22, 2004
Title: APPARATUS AND METHOD FOR CAUSING PAPER WEBS TO TEAR OFF WITHIN REWINDING MACHINES
Attorney Docket No.: 71933
Pub. No.: US 2006/0169733 A1
Pub. Date: August 3, 2006

This is a decision on the request for a "Corrected Notice of Publication of Application, filed on August 30, 2006, for the above-identified application

The request is DISMISSED.

Applicant requests that the Notice of Publication of Application be corrected because the word "Method" is misprinted as "Methdo" in the title of the invention.

The Notice of Publication cannot be reprinted a new title as requested, as there is not a method to regenerate the Notice. The notice was printed with the title as indicated on the Filing Receipt mailed May 1, 2006. To avoid this type of problem in the future, applicant's representative should make request a corrected filing receipt.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAVID SMALL
LOCATA CORPORATION
9 ISLAND VIEW
IRVINE CA 92604

COPY MAILED
JAN 07 2009

In re Application of David Small Application No.10/549,845 Filed: September 13, 2005 For: SYSTEM AND METHOD FOR MULTIPATH MITIGATION USING CLUSTERED POSITIONING SIGNALS	:	DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 19, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed September 18, 2007, is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results

in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed 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) 272-3208.

This application is being referred to the Office of Data Management to be processed into a patent.

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

WILEY REIN LLP,
ATTN: PATENT ADMINISTRATION
1776 K STREET NW
WASHINGTON DC 20006

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

Heller Ehrman LLP
1717 Rhode Island Avenue, NW
Washington, D.C. 20036-3001

COPY MAILED

JUN 0 6 2007

OFFICE OF PETITIONS

In re Application of	:	
Hans-Peter Buchstaller et al.	:	
Application No. 10/549,852	:	DECISION ON PETITION
Filed: September 23, 2005	:	TO WITHDRAW
Attorney Docket No. 24945-0023	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 5, 2006.

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

A review of the file record indicates that the power of attorney to Heller Ehrman LLP has been revoked by the assignee of the patent application on December 20, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Baker & Daniels LLP**
805 15th Street, NW
Suite 700
Washington, D.C. 20005

UNITED STATES PATENT and TRADEMARK OFFICE

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

06 JUL 2006

VARNUM, RIDDERING, SCHMIDT & HOWLETT LLP
333 BRIDGE STREET, NW
P.O. BOX 352
GRAND RAPIDS MI 49501-0352

In re Application of	:	DECISION ON
LEIBOVITZ Eitan	:	
Application No.: 10/549,861	:	
PCT No.: PCT/IL2004/000082	:	
Int. Filing Date: 28 January 2004	:	PETITION UNDER
Priority Date: 10 February 2003	:	
Attorney's Docket No.: TsivionP16US0	:	
For: HOIST FOR CONSTRUCTION	:	
MATERIAL	:	37 CFR 1.137(b)

This decision is in response to applicant's "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. 1.137(b)," filed on 22 September 2005. The required fee of $65.00 (the surcharge under 1.492(h) for late filing of the executed declaration) has been charged to petitioner's Deposit Account.

BACKGROUND

On 28 January 2004, this international application was filed, which claimed priority to earlier application filed on 10 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 10 August 2005. This international application became abandoned with respect to the United States at midnight on 10 August 2005 for failure to pay the required basic national fee.

On 22 September 2005, applicant filed the instant petition under 37 CFR 1.137(b) and Transmittal letter for entry into the national stage in the United States, which was accompanied by the basic national fee, an executed declaration and the petition fee.

DISCUSSION

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

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

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

DECISION

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

The required fee of $65.00 (the surcharge under 1.492(h) for late filing of the declaration) has been charged to Deposit Account No.: 22-0257 as authorized in the petition.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **22 September 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
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Silicon Valley Patent Group LLP
18805 Cox Avenue
Suite 220
Saratoga, CA 95070

Mail Date: 04/21/2010

Applicant	: Victor Higgs	: DECISION ON REQUEST FOR
Patent Number	: 7589834	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/549,865	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/28/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **435** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Silicon Valley Patent Group LLP
18805 Cox Avenue
Suite 220
Saratoga, CA 95070

Mail Date: 05/18/2010

Applicant : Victor Higgs
Patent Number : 7589834
Issue Date : 09/15/2009
Application No : 10/549,865
Filed : 07/28/2006

: 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 **463** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581415
MINNEAPOLIS MN 55458

COPY MAILED

SEP 18 2007

OFFICE OF PETITIONS

Applicant: Steer et al.
Appl. No.: 10/549,867
International Filing Date: April 2, 2003
Title: METHODS OF PROMOTING CELL VIABILITY
Attorney Docket No.: 110.01990101
Pub. No.: 2006/0204481 A1
Pub. Date: September 14, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on October 12, 2006, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error in that on the cover page of the application the name of the second inventor is missing and the residence of the first named inventor is incorrectly identified in section (76), the correspondence address is incorrect in section (76), the inventors are not correctly identified as 'et al'in section (12), and there is incorrect foreign priority data listed in section (30).

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

The errors noted by the requestor on the front page of the publication in the omission of the second named inventor and the error in the residence of the first named inventor, the error in the correspondence address, and the incorrect foreign priority data listed in section (30) may be Office errors, but none of these errors are material Office error under 37 CFR 1.221. 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.

[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).

Applicant is advised that he may want to file application papers that are clearer, as some of the errors may be due to the poor quality of the text in the Declaration and Power of Attorney, as it is difficult to read. Applicants have been advised to file applications having cleaner and larger text with sufficient clarity and contrast to permit reproduction, such as electronic reproduction by digital imaging and optical character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, 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 (voice).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

11 JUL 2006

FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

In re Application of JANOWSKI et al. Application No.: 10/549,873 PCT No.: PCT/US04/03605 Int. Filing: 05 February 2004 Priority Date: 05 February 2003 Attorney Docket No.: 79982 For: LOW PROFILE SPINAL FIXATION SYSTEM	DECISION ON PETITION UNDER 37 CFR 1.137(b)

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

Applicants' statement that the "entire delay in entering the national phase, from the due date of 5 August, 2005 until the filing of the grantable petition under 37 CFR 1.137(b)(3), was unintentional" has been interpreted as meaning that "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. If this is an incorrect interpretation in view of the rules, petitioner is required to promptly notify this office.

A review of the application file reveals that the basic national fee of $150 has been provided. The required petition fee of $750 was 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
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

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN VA 22102

COPY MAILED

JUL 23 2007

OFFICE OF PETITIONS

In re Application of	:	
MOONEN, Benny	:	
Application No. 10/549,896	:	DECISION ON PETITION
Filed: September 20, 2005	:	TO WITHDRAW
Attorney Docket No. **449122082500**	:	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 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.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **BENNY MOONEN**
BOOMGAARDIAAN 26
B-3582 KOERSEL
BELGIUM

cc: **BELL, BOYD & LLOYD LLC**
ATTN: KEVIN R. SPIVAK
70 WEST MADISON STREET
SUITE 3100
CHICAGO, ILLINOIS 60602-4207

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
10/549,896	09/20/2005	Benny Moonen	449122082500

CONFIRMATION NO. 7140

OC000000024923322

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 07/20/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/25/2007.

- 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 R. Eason

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

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

20 DEC 2006

NATIONAL STARCH AND CHEMICAL COMPANY
P.O. BOX 6500
BRIDGEWATER NJ 08807-3300

In re Application of	:	
MUSA	:	
Application No.: 10/549,899	:	
PCT No.: PCT/US2004/001192	:	DECISION
Int. Filing Date: 16 January 2004	:	
Priority Date: None	:	
Attorney's Docket No.: 3070.EEM	:	
For: MALEIMIDE RESIN WITH CYANURATE CORE	:	

This decision is in response to applicant's submission filed via facsimile transmission on 01 December 2006.

BACKGROUND

On 16 January 2004, applicant filed international application PCT/US2004/001192, which designated the United States and did not claim a priority date. A copy of the international application was communicated to the USPTO from the International Bureau on 25 August 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 17 July 2006 (16 July 2006 being a Sunday).

On 16 September 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 01 December 2006, applicant filed the instant submission which includes a petition under 37 CFR 1.181.

DISCUSSION

The petition requests that the attorney docket number, international application number and international filing date be changed. However, the attorney docket number, international application number and international filing date for the instant application currently match the information that the petition requests it be changed to. Accordingly, the petition is MOOT.

However, it is noted that although the postcard receipt lists a "Pub. App.; Declaration & POA; . . . ; IDS; PTO-1449", these items do not appear in the file. Applicant is requested to provide true copies of the documents filed 16 September 2005 along with a statement that the copies are true copies.

Applicant should use application number 10/549,899 in all future communications with the Patent and Trademark Office in regards to the U.S. national stage of international application PCT/US2004/001192.

CONCLUSION

For the reasons set forth above, applicants' petition under 37 CFR 1.181 is **DISMISSED** as **MOOT**.

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

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

0 5 MAR 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

NATIONAL STARCH AND CHEMICAL COMPANY
P.O. BOX 6500
BRIDGEWATER NJ 08807-3300

In re Application of	:	
MUSA	:	
Application No.: 10/549,899	:	
PCT No.: PCT/US2004/001192	:	DECISION
Int. Filing Date: 16 January 2004	:	
Priority Date: None	:	
Attorney's Docket No.: 3070.EEM	:	
For: MALEIMIDE RESIN WITH CYANURATE CORE	:	

This decision is in response to applicant's submission filed on 05 January 2007.

BACKGROUND

On 16 January 2004, applicant filed international application PCT/US2004/001192, which designated the United States and did not claim a priority date. A copy of the international application was communicated to the USPTO from the International Bureau on 25 August 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 17 July 2006 (16 July 2006 being a Sunday).

On 16 September 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 01 December 2006, applicant filed a submission which included a petition under 37 CFR 1.181 and an itemized date-stamped postcard receipt.

On 20 December 2006, a decision was mailed dismissing applicant's petition as moot. The decision also noted that although the postcard receipt listed a "Pub. App.; Declaration & POA; . . . ; IDS; PTO-1449", these items did not appear in the file. Applicant was requested to provide true copies of the documents filed 16 September 2005 along with a statement that the copies are true copies.

On 05 January 2007, applicant filed the instant submission which includes copies of a published application, declaration and POA, an IDS and PTO-1449.

DISCUSSION

Applicant has provided sufficient evidence to establish that on 16 September 2005,

applicant filed a published application, declaration and POA, an IDS and PTO-1449. The proof is in the form of the copy of the receipt for the above-identified application which bears a USPTO date stamp of 16 September 2005 and which itemizes a "Pub. App.; Declaration & POA; . . . ; IDS; PTO-1449" and identifies the above-captioned application number, docket number, and applicant. Further, practitioner states that the copy of the published application, declaration and POA, IDS and PTO-1449 filed 05 January 2007 are true copies of the published application, declaration and POA, IDS and PTO-1449 originally filed 16 September 2005. Therefore, in view of the date-stamped receipt and practitioner's statement, the published application, declaration and POA, IDS and PTO-1449 received on 05 January 2007 may properly be accepted as originally received in the USPTO on 16 September 2005.

The declaration filed 16 September 2005 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.

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

0 4 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

23416
ROBERTS, MLOTKOWSKI & HOBBES
P. O. Box 10064
McLean VA 22102-8064

In re Application of :
PAPAIOANNOU *et al* :
U.S. Application No.: 10/549,905 :
PCT No.: PCT/GR2002/000045 :
Int. Filing Date: 22 August 2002 : **DECISION**
Priority Date: 22 August 2002 :
Attorney Docket No.: None :
For: DECORATIVE BALLOON ASSEMBLY :

This decision is in response to applicants' petition under 37 CFR 1.47 and 37 CFR 1.137(b) filed 20 September 2005.

BACKGROUND

On 20 September 2005, applicants filed papers to enter the national stage of PCT/GR2002/000045 which were accompanied by, *inter alia*, a petition under 37 CFR 1.137(b) and a $1,500.00 petition fee; a petition under 37 CFR 1.47(a) and a $200.00 petition fee; a declaration signed by two of the three named inventors; and a copy of a letter dated 02 September 2005 sent by the nonsigning inventor.

On 16 May 2006, 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 that 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 is 20 September 2005.

On 07 December 2007, a "Request for Status of Petition and Submission of Copy of the Petition" was mailed.

DISCUSSION

A review of the subject application shows that applicants filed a petition to revive under 37 CFR 1.137(b) and a petition under 37 CFR 1.47(a) with the national stage papers on 20 September 2005. No decision has been made on either petition.

These petitions will be decided in turn.

Petition to Revive Under 37 CFR 1.137(b)

A petition to revive pursuant to 37 CFR 1.137(b) requires: (1) a proper reply, (2)

> has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney . . .
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made . . .
>
> Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. . . . When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts . . .
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted.

In this case, the letter by the nonsigning inventor mailed 02 September 2005 does <u>not</u> yet constitute a written refusal to join as there is no evidence that Mr. Tsambaos received a complete copy of the subject application as required. *See above*.

Applicants must provide documentary evidence that a complete copy of the subject application (including specification, claims and drawings) were first presented (or attempted to be presented) to the nonsigning inventor prior to the purported written refusal. For this reason, item (2) of 37 CFR 1.47(a) is not yet satisfied.

<u>CONCLUSION</u>

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

The Form PCT/DO/EO/903 mailed 16 May 2006 was sent prematurely and is

the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply to the filing of a grantable petition pursuant to this paragraph was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

Applicants submitted paperwork to enter the national stage of PCT/GR2002/000045 along with the appropriate national stage fees. This is considered an appropriate response. Applicants provided the petition fee of $1,500.00. Applicants' statement in the petition meets the requirement of 37 CFR 1.137(b)(3). A terminal disclaimer is not required. All items of 37 CFR 1.137(b) have been met.

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

Petition Under 37 CFR 1.47(a)

A petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the missing joint inventor cannot be located or refuses to cooperate; (3) a statement of the last known address of the nonsigning joint inventor; (4) and an oath or declaration executed by the signing joint inventors on their behalf and on behalf of the nonsigning joint inventors. Items (1), (3) and (4) are complete.

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

With regards to item (3), the last known address of co-inventor Dr. Dionysios Tsambaos is recorded on the declaration as:

University of Patras School of Medicine
Department of Dermatology
P.O. Box 1413, Rio 26504
Patras, Greece

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

Regarding item (2), applicants submitted a copy of a letter dated 02 September 2005 sent by the nonsigning inventor. A review of the letter shows that the nonsigning inventor has affirmatively rejected joining the subject application. No other evidence was provided.

Applicants' burden in showing that an inventor refuses to cooperate is explained in section 409.03(d) of the MPEP. Several pertinent segments are listed below:

A refusal by an inventor to sign an oath or declaration when the inventor

10/549, 905

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.

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

0 3 OCT 2008

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

25570
ROBERTS, MLOTKOWSKI SAFRAN & COLE, P.C.
Intellectual Property Dept.
P. O. Box 10064
McLean VA 22102-8064

In re Application of	:	
PAPAIOANNOU *et al*	:	
U.S. Application No.: 10/549,905	:	
PCT No.: PCT/GR2002/000045	:	
Int. Filing Date: 22 August 2002	:	**DECISION**
Priority Date: 22 August 2002	:	
Attorney Docket No.: 13907.02	:	
For: POLYAMINE CONJUGATES WITH	:	
ACIDIC RETINOIDS AND	:	
PREPARATION THEREOF	:	

This decision is in response to applicants' renewed petition under 37 CFR 1.47(a) filed 04 August 2008.

BACKGROUND

On 04 February 2008, a decision[1] dismissing applicants' 37 CFR 1.47(a) petition was mailed. Applicants were given two months to respond.

On 04 August 2008, applicants filed a renewed petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a four-month extension and fee and other documentary evidence in support of the renewed petition.

DISCUSSION

Applicants' petition under 37 CFR 1.47(a) was dismissed for failing to show that a complete copy of the above-captioned application including specification, claims and drawings were presented to the nonsigning inventor. As such, no refusal could be shown. All other requirements of 37 CFR 1.47(a) were satisfied in the initial petition.

In the renewed petition, the 37 CFR 1.47(a) applicants provided evidence that a complete copy of the subject application was sent to the nonsigning inventor on 18 July 2008 by mail and also via email. The documents provided to Dr. Dionysios Tsambaos included instructions that a response was due by 01 August 2008. Failure to respond would be considered a refusal to cooperate.

---

[1] The decision mailed 04 February 2008 erroneously identified the title and docket number.

Petitioners state in the petition that no reply was received from Dr. Tsambaos.

The conduct of Dr. Tsambaos constitutes a refusal to cooperate as contemplated by section 409.03(d) of the MPEP. Applicants have now provided sufficient evidence to meet the requirements of item (2) of 37 CFR 1.47(a).

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 22 August 2002 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 20 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 and will be published in the Official Gazette.

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

0 3 OCT 2008

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

Dr. Dionysios Tsambaos
Clinics of Dermatology
Medical Sector
University of Patras
Patras 26504 Greece

In re Application of
PAPAIOANNOU *et al*
U.S. Application No.: 10/549,905
PCT No.: PCT/GR2002/000045
Int. Filing Date: 22 August 2002
Priority Date: 22 August 2002
Attorney Docket No.: 13907.02
For: POLYAMINE CONJUGATES WITH ACIDIC RETINOIDS AND PREPARATION THEREOF

Dear Mr. Santini:

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

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

ROBERTS, MLOTKOWSKI SAFRAN & COLE, P.C.
Intellectual Property Dept.
P. O. Box 10064
McLean VA 22102-8064

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

FISH & RICHARDSON PC
PO BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED
MAR 04 2010
OFFICE OF PETITIONS

In re Application of	:	
Kim, et al.	:	
Application No. 10/549,934	:	ON PETITION
Filed: September 20, 2005	:	
Patent No. 7,484,382	:	
Issued: February 3, 2009		

This is in response to the "PETITION UNDER 37 C.F.R. 1.67 AND 1.182 TO PLACE SUPPLEMENTAL DECLARATION AND SWORN STATEMENT IN FILE", filed November 9, 2009.

The petition is **GRANTED**.

Petitioner's arguments and cited case law have been reviewed and found to be persuasive. The supplemental declaration and sworn statement will be placed into the file.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

23 DEC 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

In re Application of ENSOLI	:	
U.S. Application No.: 10/549,958	:	
PCT Application No.: PCT/EP02/04303	:	
Int. Filing Date: 18 April 2002	:	DECISION
Priority Date Claimed: 18 April 2001	:	
Attorney Docket No.: 11340-007-999	:	
For: USE OF INHIBITORS OF THE PROTEASE	:	
OF THE HUMAN IMMUNODEFICIENCY	:	
VIRUS (HIV)...	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 C.F.R. § 1.137(b)" filed 15 September 2005.

BACKGROUND

On 18 April 2002, applicant filed international application PCT/EP02/04303, which claimed priority of an earlier Italy application filed 18 April 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 07 November 2002. The thirty-month period for paying the basic national fee in the United States expired on 18 October 2004.

International application PCT/EP02/04303 became abandoned as to the United States for failure to timely pay the basic national fee.

On 15 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 reply under 35 U.S.C. 371.

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

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

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

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 18 April 2002, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 15 September 2005.

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

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

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

2 9 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

KAGAN BINDER, PLLC
SUITE 200, MAPLE ISLAND BUILDING
221 MAIN STREET NORTH
STILLWATER MN 55082

In re Application of	:	
STOTZEL et al.	:	
Application No.: 10/549,969	:	
PCT No.: PCT/EP2004/002856	:	DECISION
Int. Filing Date: 18 March 2004	:	
Priority Date: 19 March 2003	:	
Attorney Docket No.: VOS0042/US	:	
For: RHEOLOGICAL ADDITIVE	:	

This decision is in response to applicants' "PETITION UNDER 37 CFR 1.182 TO CORRECT TRANSLATION OF NATIONAL STAGE PATENT APPLICATION" filed in the United States Patent and Trademark Office (USPTO) on 07 May 2007, which has properly been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 18 March 2004, applicants filed international application PCT/EP2004/002856 which claimed a priority date of 19 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.

On 16 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 purported English translation of the international application.

On 07 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 a declaration of inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) were required.

On 08 September 2006, applicants filed a submission including a declaration of inventors and the surcharge under 37 CFR 1.492(h).

On 07 November 2006, the 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 of 08 September 2006 and a 35 U.S.C. 371 date of 08 September 2006.

On 07 May 2007, applicants filed the instant "PETITION UNDER 37 CFR 1.182 TO CORRECT TRANSLATION OF NATIONAL STAGE PATENT APPLICATION" requesting that the accompanying English translation be substituted for the purportedly defective English translation filed 16 September 2005. This submission has properly been treated as a petition under 37 CFR 1.181.

DISCUSSION

In view of the petition and specification filed with the 07 May 2007 submission, it is apparent that the translation filed 16 September 2005 was not sufficient. Thus, the requirements of 35 U.S.C. 371(c) for entry into the national stage in the United States of America were not completed as of the 35 U.S.C. 102(e) and 371 dates indicated in the NOTIFICATION OF ACCEPTANCE mailed 07 November 2006. Accordingly, the 07 November 2006 NOTIFICATION OF ACCEPTANCE is hereby VACATED.

The fee for filing an English translation of an international application later than thirty months from the priority date of $130.00 under 37 CFR 1.492(f) has been charged to Deposit Account 50-1775.

CONCLUSION

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

The NOTICE OF ACCEPTANCE mailed 07 November 2006 is VACATED.

The English translation of the international application filed 07 May 2007 will be used rather than the translation filed 16 September 2005.

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) of **07 May 2007**.

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

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

05/30/2007 SBASHEIR 00000001 501775 10549969
Sale Ref: 00000001 DA#: 501775 10549969
01 FC:1618 130.00 DA

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

Willkie Farr & Gallagher, LLP
Intellectual Property Legal Assistants
787 Seventh Avenue
New York, NY 10019-6099

COPY MAILED

AUG 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Gordon L. Monsen et al.	:	
Application No. 10/549,983	:	DECISION ON PETITION
Filed: February 21, 2006	:	TO WITHDRAW
Attorney Docket No. 114594-02WOUS	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 21, 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 David D. Lee, on behalf of all attorneys/agents associated with customer number 38492. All attorneys/agents associated with customer number 38492 have been withdrawn.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the first signing inventor at the address noted on the oath and declaration. A courtesy copy of this decision will be mailed to address as indicated in the request to withdraw. If this firm would like to receive future correspondence, the proper power of attorney documents must be submitted or if an assignee has intervened compliance with 37 CFR 3.73(b) must be satisfied.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Gordon L. Monsen
2861 Bodder Road
Riegelsville, PA 18077

cc: Gordon L. Monsen
The Norseman Group
800 Lanidex Plaza Ste. 110
Parsippany, NJ 07054

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
10/549,983	02/21/2006	Gordon L. Monsen	114594-02WOUS

CONFIRMATION NO. 3432

POWER OF ATTORNEY NOTICE

38492
WILLKIE FARR & GALLAGHER LLP
INTELLECTUAL PROPERTY LEGAL ASSISTANTS
787 SEVENTH AVE
NEW YORK, NY 10019-6099

OC000000031559706

Date Mailed: 08/13/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/21/2008.

- 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.

/kainabinet/

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

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

MURATA MANUFACTURING COMPANY, LTD.
C/O KEATING & BENNETT, LLP
1800 ALEXANDER BELL DRIVE
SUITE 200
RESTON, VA 20191

MAILED

OCT 02 2009

OFFICE OF PETITIONS

In re Application of	:	
Norio SAKAI et al.	:	
Application No. 10/549,986	:	ON PETITION
Filed: September 19, 2005	:	
Attorney Docket No. 36856.1370	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 1, 2009, to revive the above identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the corrected drawings in a timely manner in reply to the Notice of Allowance mailed February 26, 2009, which set a statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, by operation of law, the above-identified application became abandoned on May 27, 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 Corrected Drawings; (2) the petition fee of $1620; and (3) the required statement of unintentional delay have been received. Accordingly, the Corrected Drawings are accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Ella Colbert at (571) 272-6741or in her absence, the undersigned at (571) 272-7099.

The application file is being referred to the Office of Patent Publication.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MURATA MANUFACTURING COMPANY, LTD.
C/O KEATING & BENNETT, LLP
1800 Alexander Bell Drive
SUITE 200
Reston, VA 20191

Mail Date: 04/20/2010

Applicant	: Norio Sakai	: DECISION ON REQUEST FOR
Patent Number	: 7649252	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/549,986	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **222** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

SMITH-HILL AND BEDELL, P.C.
16100 NW CORNELL ROAD, SUITE 220
BEAVERTON, OR 97006

COPY MAILED

JUL 15 2009

OFFICE OF PETITIONS

In re Application of	:	
Bruce Stanley Gunton	:	
Application No. 10/549,989	:	ON PETITION
Filed: November 7, 2005	:	
Attorney Docket No. SWIN 3311	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 11, 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 December 3, 2008, which set a shortened statutory period for reply of three (3) months. Two-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on May 4, 2009.

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

This matter is being referred to Technology Center AU 2837 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/21/08

TO SPE OF : ART UNIT 2877 Toatley Gregory (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/550004 Patent No.: 7362433

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

_____
Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

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

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

Comments: _____

Zachary Smith
SPE

2882
Art Unit

2 9 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

John C. Eisenhart
Ked & Associates, LLP
P.O. Box 221200
Chantilly, VA 20153-1200

In re Application of	:	
LOPEZ MUNOZ	:	
Application No.: 10/550,007	:	DECISION ON PETITION
PCT No.: PCT/ES04/00111	:	
Int. Filing Date: 11 March 2004	:	UNDER 37 CFR 1.181
Priority Date: 24 March 2003	:	
Attorney Docket No.: MDR-0049	:	
For: METHOD FOR THE PRODUCTION OF A	:	
DIGITAL PRINTING INK AND PRODUCT	:	
THUS PRODUCED	:	

This decision is in response to applicant's petition to withdraw the holding of abandonment filed 14 May 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 11 March 2004, applicant filed international application PCT/ES04/00111, which claimed priority of an earlier application filed 24 March 2003. A copy of the international application was transmitted to the United States from the International Bureau (IB) on 07 October 2004. Pursuant to 37 CFR 1.485, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 24 September 2005.

On 23 September 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the international application as filed and an Information Disclosure Statement.

On 23 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 inventor, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date and provide payment of the surcharge for providing an oath or declaration later than thirty months from the priority date. Applicant was afforded two months to file a proper response.

On 03 May 2007, applicant was mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) informing applicant that applicant had failed to respond to the Form PCT/DO/EO/905 mailed 23 May 2006 within the time period set therein and that above-

identified application was abandoned as to the United States.

On 14 May 2007, applicant filed the present petition to withdraw the holding of abandonment arguing that a response had been filed on 23 June 2006.

DISCUSSION

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. Here, applicant has provided a copy of the date-stamped postcard receipt, as well as, a complete copy of the prior filing and certification that the copy currently provided is a true and complete copy of the papers filed on 23 June 2006. The postcard identifies the application by serial number, title, inventor and attorney docket number. Among the items listed on the receipt is: "Executed Declaration and Power of Attorney" The receipt is stamped "OIPE IAP40 Patent & Trademark Office JUN 23 2006." Thus, it is clear that applicant filed an executed declaration and power of attorney on 23 June 2006 and it is proper to grant applicant's petition to withdraw the holding of abandonment for failure to file a response.

CONCLUSION

For the reasons detailed above, applicant's petition under 37 CFR 1.181 is **GRANTED**.

The Form PCT/DO/EO/909 mailed 03 May 2007 is hereby **VACATED**.

The application has an international filing date of 11 March 2004 under 35 U.S.C. 363 and will be given a date of **23 June 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision, namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) and a corrected filing receipt indicating the correct 371 date as detailed above.

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

05/29/2007 SBASHEIR 00000001 160607 10550007
Sale Ref: 00000001 DAH: 160607 10550007
01 FC:2617 65.00 DA

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

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

COPY MAILED

JAN 05 2009

OFFICE OF PETITIONS

In re Application of	:	
Ikenaga et al.	:	DECISION ON PETITION
Application No. 10/550,017	:	
Filed: June 29, 2006	:	
Attorney Docket No. 1155-0286PUS1	:	

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.182 TO CHANGE NAME OF INVENTOR," filed September 2, 2008, along with payment of the issue fee.

Petitioners state that the name of inventor Hiroshi TAKAYASU has changed to Hiroshi HOYA due to marriage. The petition includes the required petition fee of $400. The petition includes a declaration by inventor Takayasu attesting to the change of name by virtue of marriage to Hoya, a certified copy of the Family Register (Court Order) and an English translation of said Order.

MPEP 605.04(c) provides that:

> In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. Applicants are also strongly encouraged to submit an application data sheet (37 CFR 1.76) showing the new name. The petition should be directed to the attention of the Office of Petitions. The petition must include an appropriate petition fee and a statement signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a copy of the court order.

The instant petition meets the requirements of MPEP 605.04(c).

Accordingly, the petition is **GRANTED**.

The inventor's name is changed in the records of the Office to Hiroshi HOYA.

Petitioners have also submitted a supplemental Application Data Sheet (ADS). For future reference, petitioner is reminded that a supplemental ADS should be signed as required pursuant to 37 CFR 1.33(b).

The application is being forwarded to the Office of Data Management for processing into a patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BIRCH STEWART KOLASCH & BIRCH
P. O. Box 747
Falls Church, VA 22040-0747

COPY MAILED

JAN 30 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Yasushi Tohi et al. :
Application No. 10/550,021 :
Filed: September 23, 2005 :
Attorney Docket No. 1155-0311PUS1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed 05 October 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of 04 April 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three-month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is 05 October 2007.

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

Telephone inquiries concerning this decision should be directed to Allen C. Ho at (571) 272-6052.

This application is being referred to Technology Center AU 1796 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment filed on 04 October 2007 in accordance with 37 CFR 1.114.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 06/15/2010

Applicant	: Risto Tuominen	: DECISION ON REQUEST FOR
Patent Number	: 7663215	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/550,023	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **788** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

2 6 DEC 2007

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

21999
KIRTON AND MCCONKIE
60 East South Temple
Suite 1800
Salt Lake City, UT 84111

In re Application of :
DOUGLAS, Paul :
U.S. Application No.: 10/550,035 :
PCT No.: PCT/GB2004/001183 :
Int. Filing Date: 18 March 2004 : **DECISION**
Priority Date: 21 March 2003 :
Attorney Docket No.: 7881.19 :
For: JAW CRUSHER :

This decision is in response to the "Petition Under 37 CFR §1.47(b)" and "Petition for Revival . . . Under 37 CFR 1.137(b)" submitted on 23 October 2007.

BACKGROUND

On 02 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/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a $65.00 surcharge fee was required. Petitioners were given two-months to respond with extensions of time available pursuant to 37 CFR 1.136(a).

On 23 October 2007, applicant submitted a petition under 37 CFR 1.47(b) which was accompanied by, *inter alia*, a $200.00 petition fee; a $65.00 surcharge fee; a petition to revive under 37 CFR 1.137(b) with fee; and exhibits A - N.

DISCUSSION

The time limit (with extensions) to respond to the Form PCT/DO/EO/905 mailed 02 June 2006 expired on 02 January 2007. No response was filed during this period.

Accordingly, the above-captioned application is hereby **ABANDONED**.

In the instant response filed 23 October 2007, applicant submitted a petition to revive under 37 CFR 1.137(b) and a petition under 37 CFR 1.47(b).

Petition to Revive Under 37 CFR 1.137(b)

A petition to revive pursuant to 37 CFR 1.137(b) requires: (1) a proper reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the

required reply from the due date for the reply to the filing of a grantable petition pursuant to this paragraph was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

Applicant submitted a petition under 37 CFR 1.47(b) for the nonsigning inventor along with a $65.00 surcharge fee. This is an appropriate response to the Form PCT/DO/EO/905 mailed 02 June 2006. Applicants provided the petition fee for a small entity of $750.00. Applicants' statement in the petition meets the requirement of 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Thus, all requirements of 37 CFR 1.137(b) are completed.

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

Petition Under 37 CFR 1.47(b)

A petition under 37 CFR 1.47(b) requires (1) a petition fee, (2) factual proof that the inventor refuses to execute the application or cannot be located, (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 nonsigning 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.

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

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

17 Woodvile Road
Hartshorne, Derbyshire
DE11 7ET, United Kingdom

With regard to item (6), section 409.03(g) of the Manual of Patent Examining Procedure (MPEP) states that "[i]rreparable damage may be established by a showing (a statement) that a filing date is necessary to preserve the rights of the party or to prevent irreparable damage." In the petition, the 37 CFR 1.47(b) applicant includes such a statement.

Thus, items (1), (3), and (6) of 37 CFR 1.47(b) are completed.

Regarding item (2), the 37 CFR 1.47(b) applicant claims that the sole inventor, Paul Douglas, refuses to cooperate. Petitioner's burden in showing that an inventor refuses to cooperate is explained in section 409.03(d) of the MPEP. Several pertinent segments are listed below:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made . . .
>
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. **If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. (Emphasis added)**

The "Witness Statement" by Mr. Martin Mark Neilson, indicates that a complete copy of the application was forwarded to Mr. Douglas on 04 September 2007. Petitioner states that the documents were delivered on 07 September 2007. A review of the evidence verifies that a complete copy of the international application was received by Mr. Douglas on 07 September 2007. Mr. Neilson also states that the attorney for Mr. Douglas (Walker Morris) has contacted them concerning the subject application and requests certain monies for Mr. Douglas's cooperation. However, petitioner has not provided copies of the correspondence with Walker Morris concerning the subject application. This evidence is required to make a determination whether a refusal to cooperate has occurred. *See above in bold.*

The 37 CFR 1.47(b) applicant must provide copies of all relevant correspondence between Mr. Douglas's representative and themselves with regards to the subject application in any renewed petition. For this reason, item (2) of 37 CFR 1.47(a) is not yet satisfied.

Regarding item (4), the 37 CFR 1.47(b) applicant provided a declaration listing the name, residence, mailing address and citizenship of the sole inventor. The declaration was signed by Evan R. Witt, the attorney for applicant on behalf of the inventor. A power of attorney signed by the Director of Extec Screens and Crushers Limited was provided. This is not yet sufficient. Section 409.03(b) of the MPEP states that "[w]here the oath or declaration is being signed on behalf of an assignee, see MPEP § 324." Section 324 of the MPEP states, in part:

The submission establishing ownership must be signed by a party authorized to act on behalf of the assignee. The submission under 37 CFR 3.73(b) may be signed on behalf of the assignee in the following manner if the assignee is an organization (e.g., corporation, partnership, university, government agency, etc.):

(A) The submission may be signed by a person in the organization having apparent authority to sign on behalf of the organization. 37 CFR 3.73(b)(2)(ii) . . . A person having a title (manager, director, administrator, general counsel) that does not clearly set forth that person as an officer of the assignee is not presumed to have authority to sign the submission on behalf of the assignee.

(B) The submission may be signed by any person, **if the submission sets forth that the person signing is authorized (or empowered) to act on behalf of the assignee, i.e., to sign the submission on behalf of the assignee.** 37 CFR 3.73(b)(2)(i).

An attorney is <u>not</u> a position that is assumed to have the authority to sign for the assignee. Moreover, Mr. Witt has <u>not</u> set forth that he is authorized to act on behalf of the assignee. The power of attorney is not sufficient in this regard. As such, item (4) is not yet satisfied.

With regards to item (5), section 409.03(f) of the MPEP 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 . . .

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, the 37 CFR 1.47(b) applicant claims proprietary interest in the above-captioned national stage application of PCT/GB2004/01183 because the inventor made the invention while he was an employee of INHOCO 2723 Ltd. (INHOCO) and had signed an employment agreement ("Agreement") transferring any invention to INHOCO. The 37 CFR 1.47(b) applicant also submitted an extract confirming that INHOCO changed its name to Extec Holdings Limited on 18 February 2003. Extec Holdings Limited assigned its interest in the subject application to Extec Screens and Crushers Ltd. on 17 September 2007 (Exhibit N).

A review of the Agreement shows that it was dated 11 December 2002 and signed by Mr. Douglas. Section 14.2 of the Agreement provides that any invention created or discovered by Mr. Douglas in the course of the employment shall belong to INHOCO. The Witness Statement by Mr. Ian Frazier submitted as exhibit J states that "[t]he three US patent applications . . . name Paul Douglas as inventor or co-inventor, and have been derived from International patent applications made in the name of Extec . . . as applicant, also naming Paul Douglas as inventor." However, the 37 CFR 1.47(b) applicant has not provided a statement of a person having firsthand knowledge of the facts that the invention was made by Mr. Douglas in the scope of his duties while employed by the 37 CFR 1.47(b) applicant (or assignee).

The 37 CFR 1.47(b) applicant also provided a copy of an assignment (Exhibit M) dated 31 August 2005 whereby Paul Douglas assigned all his interest in Extec Holdings Limited to Extec Holdings Limited. However, the above-captioned application was first submitted as a British patent application (0306492.0) on 21 March 2003. The assignment was not signed until 31 August 2005 and it is vague as to what intellectual property rights it encompasses. Thus, it is not clear whether this assignment applies to the subject application. A legal memorandum prepared by an attorney familiar with the law of the jurisdiction involved as discussed in section 409.03(f) of the MPEP may be required to certify that the subject invention was transferred to the 37 CFR 1.47(b) applicant.

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

All of the requirements of 37 CFR 1.47(b) are not yet complete.

CONCLUSION

Applicant's petition under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

10/550,035

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

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

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

01 APR 2008

21999
KIRTON AND MCCONKIE
60 East South Temple
Suite 1800
Salt Lake City, UT 84111

In re Application of
DOUGLAS, Paul
U.S. Application No.: 10/550,035
PCT No.: PCT/GB2004/001185
Int. Filing Date: 18 March 2004
Priority Date: 21 March 2003
Attorney Docket No.: 7881.19
For: JAW CRUSHER

DECISION

This decision is in response to the "Renewed Petition Under 37 CFR §1.47(a)" submitted on 07 February 2008.

BACKGROUND

On 26 December 2007, a decision dismissing applicant's petition under 37 CFR 1.47(b) was mailed. Applicant was given two months to respond with extensions of time available under 37 CFR 1.136(a).

On 07 February 2008, applicant filed a renewed petition under 37 CFR 1.47(b) which contained, *inter alia*, a Witness Statement by Martin Mark Neilson (Exhibit A) with accompanying attachments (a) - (bb) and Exhibits B - D containing a Witness Statement and Legal Memorandum by Mr. Ian Frazer English.

DISCUSSION

As previously noted, a petition under 37 CFR 1.47(b) requires (1) a petition fee, (2) factual proof that the inventor refuses to execute the application or cannot be located, (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 nonsigning 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) of 37 CFR 1.47(b) have previously been completed.

Regarding item (2) of 37 CFR 1.47(a). applicant failed to provide copies of the correspondence with the nonsigning inventor's counsel, Walker Morris, concerning the subject application. As a result, this item was not yet satisfied.

In the renewed petition, applicant has provided the requested documents and also submitted another Witness Statement by Mr. Neilson explaining his position in this matter. A review of the evidence and Witness Statement shows that the letter from Walker Morris dated 26 September 2007 states that Mr. Douglas would be willing to sign the applicable documents if the assignee pays the nonsigning inventor the sum of £4,096.58. The assignee states that Mr. Douglas is being unreasonable and uncooperative with this demand and refuses to pay.

37 CFR 1.47 does not require petitioners to pay inventors to sign required Declaration. That is a private matter between the parties. The evidence submitted provides a sufficient basis to conclude that Mr. Douglas's conduct constitutes a refusal to join. *See* § 409.03(d) MPEP. Petitioners previously submitted evidence showing that a complete copy of the subject application was presented to the nonsigning inventor on 07 September 2007.

Item (2) of 37 CFR 1.47(a) is now satisfied.

Regarding item (4), the 37 CFR 1.47(b) applicant provided a declaration listing the name, residence, mailing address and citizenship of the sole inventor. The new declaration was signed by Ian Frazier English, Solicitor and Chief Legal Counsel of Extec Screens and Crushers Limited on behalf of the inventor. Mr. Evan R. Witt states in the petition that "[a]pplicants submit that Mr. English has authority to sign the Declaration on behalf of the assignee." This statement is sufficient to demonstrate that Mr. English has the authority to sign for the 37 CFR 1.47(b) applicant. *See* 37 CFR 3.73(b)(2)(I). A review of the declaration shows that the declaration meets the requirements of section 409.03(b) of the MPEP and is in compliance with 37 CFR 1.497(a) and (b). Item (4) of 37 CFR 1.47(b) is complete.

With regards to item (5), the prior decision noted that "the 37 CFR 1.47(b) applicant has not provided a statement of a person having firsthand knowledge of the facts that the invention was made by Mr. Douglas in the scope of his duties while employed by the 37 CFR 1.47(b) applicant (or assignee)." In addition. it was also not clear whether the assignment submitted in the 18 September 2007 petition applies to the subject application. The decision noted that a legal memorandum prepared by an attorney familiar with the law of the jurisdiction involved may be required to certify that the subject invention was transferred to the 37 CFR 1.47(b) applicant.

In the renewed petition, applicant submitted a legal memorandum by Mr. Ian Frazer English, a Solicitor and Chief Legal Counsel to the 37 CFR 1.47(b) applicant. Mr. English confirms that the subject invention was made by Mr. Douglas during his employment by "predecessor companies of Extec Screens and Crushers Limited." This statement is acceptable.

Mr. English also affirms that the rights in the above-captioned application were transferred by assignment to Extec Screens and Crushers Limited (a copy of this assignment was previously furnished). Moreover, Mr. English concludes that under United Kingdom law that all rights and title to the subject application are transferred from Paul Douglas to Extec Screens and Crushers Limited. In the Witness Statement, Mr. English explains which British statute (U.K. Patents Act 1977, Section 39(1)) was relied upon to make his determination. This memorandum meets the requirements of section 409.03(f) of the MPEP. The 37 CFR 1.47(b) applicant has demonstrated sufficient proprietary interest in the subject application. Item (5) of 37 CFR 1.47(b) is complete.

Accordingly, the 37 CFR 1.47(b) applicant has now met all of the requirements of 37 CFR 1.47(b).

CONCLUSION

Applicant's 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 the non-signing inventor at the last known address of record as set forth in the papers filed 23 October 2007 and a notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 18 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 February 2007.

This application is being forwarded to the Office of Patent Applications Processing for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

United States Patent and Trademark Office

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

KIRTON AND MCCONKIE
60 EAST SOUTH TEMPLE,
SUITE 1800
SALT LAKE CITY, UT 84111

19 MAR 2007

In re Application of	:	
Douglas	:	
Application No.: 10/550,036	:	DECISION
PCT No.: PCT/GB04/01185	:	
Int. Filing Date: 18 March 2004	:	ON
Priority Date: 21 March 2003	:	
Attorney Docket No.: 7881.18	:	PETITION
For: Jaw Crusher	:	

This is in response to the petition under 37 CFR 1.47(a) filed on 07 February 2007, which has been treated under 37 CFR 1.47(b).

BACKGROUND

This international application was filed on 18 March 2004, claimed an earlier priority date of 21 March 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 21 September 2005. Applicants filed *inter alia* the basic national fee on 21 September 2005.

On 09 August 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration compliant with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(h).

DISCUSSION

Treatment under 37 CFR 1.47(b) is appropriate because the sole inventor has not executed the application. 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 addresses of the inventors, (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.

Regarding **requirement (1)**, the $200.00 petition fee was paid on 07 February 2007.

Regarding **requirement (2)**, petitioner urges that the absence on the declaration of the signature of inventor Douglas be excused because he allegedly "refuses to execute the declaration." Counsel's attention is respectfully drawn to MPEP 409.03(d), which states in part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands

> exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 CFR 1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP § 106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted. Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal. When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition

Review of the petition and accompanying papers reveals that petitioner has not provided evidence, of the type described at MPEP 409.03(d), showing that Mr. Douglas in fact refused to execute the declaration after being presented with it and a complete copy of the application papers. Specifically, the evidence (including Mr. Orr's letter dated 14 November 2006) tends to show that a copy of a declaration document directed to this application was sent to Mr. Douglas. However, the evidence does not unambiguously show that he was presented with a complete copy of this particular application. Mr. Orr's letter dated 28 November 2006 indicated that copies of "the three basic PCT cases on which the US filings were made" were being sent to Mr. Douglas, and provided the titles of the applications in question. However, the letter did not identify with adequate specificity that a copy of this particular application was being sent (for instance, by identifying its application number and filing date, to differentiate it from any other application which might share the same title). Since it is not clear that Mr. Douglas refused to execute the declaration (or even that he failed to return an executed oath or declaration after being presented with a complete copy of this particular application along with the oath or declaration), requirement (2) has not been satisfied.

Therefore, it would not be appropriate to conclude on the basis of the present record that requirement (2) has been satisfied.

Regarding **requirement (3)**, the petition includes a statement of the last known address of Paul Douglas. Accordingly, requirement (3) has been satisfied.

Regarding **requirement (4)**, MPEP 409.03(b)(A) states that

> The 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP § 324. An inventor may not authorize another individual to act as his or her agent to sign the application oath or declaration on his or her behalf. Staeger v. Commissioner, 189 USPQ 272 (D.D.C. 1976), In re Striker, 182 USPQ 507 (Comm'r Pat. 1973). Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).

Petitioner has not filed a declaration naming Mr. Douglas as the sole inventor and signed on his behalf by an appropriate person as defined under MPEP 409.03(b)(A). It is noted that copies of declaration documents are included in the petition as evidence of the contents of certain correspondence allegedly sent to Mr. Douglas, but none of these declarations have been signed on his behalf. As such, requirement (4) has not been satisfied.

Regarding **requirement (5)**, MPEP 409.03(f) states that

> 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). 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. In re Gray, 115 USPQ 80

(Comm'r Pat. 1956). An assignment to a 37 CFR 1.47(b) applicant for the sole purpose of obtaining a filing date for a 37 CFR 1.47(b) application is not considered an assignment within the meaning of 35 U.S.C. 118 and 37 CFR 1.47(b).

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.

If the invention has not been assigned, or if there is no written agreement to assign, the 37 CFR 1.47(b) applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter. A proprietary interest obtained other than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

Petitioner asserts (in part) that Extec Screens & Crushers Limited ("Extec") is the "assignee of this patent application." However, petitioner has submitted neither an assignment executed by Mr. Douglas, nor pointed out where in the records of the USPTO such an assignment has been recorded (e.g., by reel and frame number). Nor has petitioner presented an acceptable statement under 37 CFR 3.73(b). The petition contends that ownership of the instant application resides with Extec by dint of Mr. Douglas' employment, but no copy of any pertinent employment agreement has been provided. Counsel also has not provided an appropriate legal memorandum demonstrating Extec's alleged proprietary interest in this application. The statements by Ian Frazer English and William McLean Orr do not constitute acceptable legal memoranda because they do not show why title would be awarded to Extec by application of the relevant law to the specific facts of this case, with copies of the relevant evidence and authority attached. As such, requirement (5) has not been satisfied.

Petitioner has not included a showing or statement demonstrating irrevocable harm per **requirement (6)**.

DECISION

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

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

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

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

2 6 DEC 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

21999
KIRTON AND MCCONKIE
60 East South Temple
Suite 1800
Salt Lake City, UT 84111

In re Application of :
DOUGLAS, Paul :
U.S. Application No.: 10/550,036 :
PCT No.: PCT/GB2004/001185 :
Int. Filing Date: 18 March 2004 : **DECISION**
Priority Date: 21 March 2003 :
Attorney Docket No.: 7881.18 :
For: JAW CRUSHER :

This decision is in response to the "Renewed Petition Under 37 CFR §1.47(b)" filed 18 September 2007.

BACKGROUND

On 19 March 2007, a decision dismissing applicant's petition under 37 CFR 1.47(b) was mailed. Applicant was given two months to respond with extensions of time available under 37 CFR 1.136(a).

On 18 September 2007, applicant submitted a renewed petition under 37 CFR 1.47(b) which was accompanied by, *inter alia*, a four-month extension of time with fee and exhibits A - J.

DISCUSSION

As previously noted, a petition under 37 CFR 1.47(b) requires (1) a petition fee, (2) factual proof that the inventor refuses to execute the application or cannot be located, (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 nonsigning 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) and (3) of 37 CFR 1.47(b) were completed in the initial petition.

With regard to item (6), section 409.03(g) of the Manual of Patent Examining Procedure (MPEP) states that "[i]rreparable damage may be established by a showing (a statement) that a filing date is necessary to preserve the rights of the party or to prevent irreparable damage." In the petition, the 37 CFR 1.47(b) applicant includes such a statement. Thus, item (6) is complete.

Regarding item (2), the 37 CFR 1.47(b) applicant claims that the sole inventor, Paul Douglas, refuses to cooperate. As previously noted, petitioner's burden in showing that an inventor refuses to cooperate is explained in section 409.03(d) of the MPEP. A pertinent segment is listed below:

> 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. (Emphasis added)**

The "Witness Statement" by Mr. Martin Mark Neilson dated 05 September 2007 indicates that a complete copy of the application was forwarded to Mr. Douglas on 22 August 2007. Petitioner states that the documents were delivered on 25 August 2007. A review of the evidence verifies that a complete copy of the international application was received by Mr. Douglas on 25 August 2007. In the affidavit, Mr. Neilson states that no response has been received from the nonsigning inventor or Walker Morris, his representatives.

However, in a similar U.S. application (No. 10/550,035), Mr. Neilson in a "Witness Statement" dated 18 October 2007 states that Walker Morris has contacted them by letter on 25 September 2007 and requests certain monies for Mr. Douglas's cooperation. As requested in the decision mailed in U.S. application No. 10/550,035, petitioner must provide copies of all the correspondence with Walker Morris concerning the subject application. This evidence is required to make a determination whether a refusal to cooperate has occurred. *See above in bold.*

For this reason, item (2) of 37 CFR 1.47(a) is not yet satisfied.

Regarding item (4), the 37 CFR 1.47(b) applicant provided a declaration listing the name, residence, mailing address and citizenship of the sole inventor. The declaration was signed by Evan R. Witt, the attorney for applicant on behalf of the inventor. A power of attorney signed by the Director of Extec Screens and Crushers Limited was provided. This is not sufficient. Section 409.03(b) of the MPEP states that "[w]here the oath or declaration is being signed on behalf of an assignee, see MPEP § 324." Section 324 of the MPEP states, in part:

> The submission establishing ownership must be signed by a party authorized to act on behalf of the assignee. The submission under 37 CFR 3.73(b) may be signed on behalf of the assignee in the following manner if the assignee is an organization (e.g., corporation, partnership, university, government agency, etc.):

(A) The submission may be signed by a person in the organization having apparent authority to sign on behalf of the organization. 37 CFR 3.73(b)(2)(ii) . . . A person having a title (manager, director, administrator, general counsel) that does not clearly set forth that person as an officer of the assignee is not presumed to have authority to sign the submission on behalf of the assignee.

(B) The submission may be signed by any person, **if the submission sets forth that the person signing is authorized (or empowered) to act on behalf of the assignee, i.e., to sign the submission on behalf of the assignee.** 37 CFR 3.73(b)(2)(i).

An attorney is not a position that is assumed to have the authority to sign for the assignee. Moreover, Mr. Witt has not set forth that he is authorized to act on behalf of the assignee. The power of attorney is not sufficient in this regard. As such, item (4) is not yet satisfied.

With regards to item (5), section 409.03(f) of the MPEP 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 . . .

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, the 37 CFR 1.47(b) applicant claims proprietary interest in the above-captioned national stage application of PCT/GB2004/01185 because the inventor made the invention while he was an employee of INHOCO 2723 Ltd. (INHOCO) and had signed an employment agreement ("Agreement") transferring any invention to INHOCO. The 37 CFR 1.47(b) applicant also submitted an extract (Exhibit H) confirming that INHOCO changed its name to Extec Holdings Limited on 18 February 2003. Extec Holdings Limited assigned its interest in the subject application to Extec Screens and Crushers Ltd. on 17 September 2007 (Exhibit J).

A review of the Agreement shows that it was dated 11 December 2002 and signed by Mr. Douglas. Section 14.2 of the Agreement provides that any invention created or discovered by Mr. Douglas in the course of the employment shall belong to INHOCO. The Witness Statement by Mr. Ian Frazier submitted as exhibit F states that "[t]he three US patent applications . . . name Paul Douglas as inventor or co-inventor, and have been derived from International patent applications made in the name of Extec . . . as applicant, also naming Paul Douglas as inventor." However, the 37 CFR 1.47(b) applicant has not provided a statement of a person having firsthand knowledge of the facts that the invention was made by Mr. Douglas in the scope of his duties while employed by the 37 CFR 1.47(b) applicant (or assignee).

The 37 CFR 1.47(b) applicant also provided a copy of an assignment (Exhibit I) dated 31 August 2005 whereby Paul Douglas assigned all his interest in Extec Holdings Limited to Extec Holdings Limited. However, the above-captioned application was first submitted as a British patent application (0306491.2) on 21 March 2003. The assignment was not signed until 31 August 2005 and it is vague as to what intellectual property rights it encompasses. Thus, it is not clear whether this assignment applies to the subject application. A legal memorandum prepared by an attorney familiar with the law of the jurisdiction involved as discussed in section 409.03(f) of the MPEP may be required to certify that the subject invention was transferred to the 37 CFR 1.47(b) applicant.

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

All of the requirements of 37 CFR 1.47(b) are not yet complete.

CONCLUSION

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. Extensions of time are available.

10/550,036

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.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

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

01 APR 2008

21999
KIRTON AND MCCONKIE
60 East South Temple
Suite 1800
Salt Lake City, UT 84111

In re Application of
DOUGLAS, Paul
U.S. Application No.: 10/550,036
PCT No.: PCT/GB2004/001185
Int. Filing Date: 18 March 2004
Priority Date: 21 March 2003
Attorney Docket No.: 7881.18
For: JAW CRUSHER

DECISION

This decision is in response to the "Renewed Petition Under 37 CFR §1.47(a)" submitted on 07 February 2008.

BACKGROUND

On 26 December 2007, a decision dismissing applicant's petition under 37 CFR 1.47(b) was mailed. Applicant was given two months to respond with extensions of time available under 37 CFR 1.136(a).

On 07 February 2008, applicant filed a renewed petition under 37 CFR 1.47(b) which contained, *inter alia*, a Witness Statement by Martin Mark Neilson (Exhibit A) with accompanying attachments (a) - (bb) and Exhibits B - D containing a Witness Statement and Legal Memorandum by Mr. Ian Frazer English.

DISCUSSION

As previously noted, a petition under 37 CFR 1.47(b) requires (1) a petition fee, (2) factual proof that the inventor refuses to execute the application or cannot be located, (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 nonsigning 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) of 37 CFR 1.47(b) have previously been completed.

Regarding item (2) of 37 CFR 1.47(a). applicant failed to provide copies of the correspondence with the nonsigning inventor's counsel, Walker Morris, concerning the subject application. As a result, this item was not yet satisfied.

In the renewed petition, applicant has provided the requested documents and also submitted another Witness Statement by Mr. Neilson explaining his position in this matter. A review of the evidence and Witness Statement shows that the letter from Walker Morris dated 26 September 2007 states that Mr. Douglas would be willing to sign the applicable documents if the assignee pays the nonsigning inventor the sum of £4,096.58. The assignee states that Mr. Douglas is being unreasonable and uncooperative with this demand and refuses to pay.

37 CFR 1.47 does not require petitioners to pay inventors to sign required Declaration. That is a private matter between the parties. The evidence submitted provides a sufficient basis to conclude that Mr. Douglas's conduct constitutes a refusal to join. *See* § 409.03(d) MPEP. Petitioners previously submitted evidence showing that a complete copy of the subject application was presented to the nonsigning inventor on 07 September 2007.

Item (2) of 37 CFR 1.47(a) is now satisfied.

Regarding item (4), the 37 CFR 1.47(b) applicant provided a declaration listing the name, residence, mailing address and citizenship of the sole inventor. The new declaration was signed by Ian Frazier English, Solicitor and Chief Legal Counsel of Extec Screens and Crushers Limited on behalf of the inventor. Mr. Evan R. Witt states in the petition that "[a]pplicants submit that Mr. English has authority to sign the Declaration on behalf of the assignee." This statement is sufficient to demonstrate that Mr. English has the authority to sign for the 37 CFR 1.47(b) applicant. *See* 37 CFR 3.73(b)(2)(I). A review of the declaration shows that the declaration meets the requirements of section 409.03(b) of the MPEP and is in compliance with 37 CFR 1.497(a) and (b). Item (4) of 37 CFR 1.47(b) is complete.

With regards to item (5), the prior decision noted that "the 37 CFR 1.47(b) applicant has not provided a statement of a person having firsthand knowledge of the facts that the invention was made by Mr. Douglas in the scope of his duties while employed by the 37 CFR 1.47(b) applicant (or assignee)." In addition. it was also not clear whether the assignment submitted in the 18 September 2007 petition applies to the subject application. The decision noted that a legal memorandum prepared by an attorney familiar with the law of the jurisdiction involved may be required to certify that the subject invention was transferred to the 37 CFR 1.47(b) applicant.

In the renewed petition, applicant submitted a legal memorandum by Mr. Ian Frazer English, a Solicitor and Chief Legal Counsel to the 37 CFR 1.47(b) applicant. Mr. English confirms that the subject invention was made by Mr. Douglas during his employment by "predecessor companies of Extec Screens and Crushers Limited." This statement is acceptable.

Mr. English also affirms that the rights in the above-captioned application were transferred by assignment to Extec Screens and Crushers Limited (a copy of this assignment was previously furnished). Moreover, Mr. English concludes that under United Kingdom law that all rights and title to the subject application are transferred from Paul Douglas to Extec Screens and Crushers Limited. In the Witness Statement, Mr. English explains which British statute (U.K. Patents Act 1977, Section 39(1)) was relied upon to make his determination. This memorandum meets the requirements of section 409.03(f) of the MPEP. The 37 CFR 1.47(b) applicant has demonstrated sufficient proprietary interest in the subject application. Item (5) of 37 CFR 1.47(b) is complete.

Accordingly, the 37 CFR 1.47(b) applicant has now met all of the requirements of 37 CFR 1.47(b).

CONCLUSION

Applicant's 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 the non-signing inventor at the last known address of record as set forth in the papers filed 23 October 2007 and a notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 18 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 February 2007.

This application is being forwarded to the Office of Patent Applications Processing for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

06 DEC 2005

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

ASTRAZENECA R&D BOSTON
35 GATEHOUSE DRIVE
WALTHAM, MA 02451-1215

In re Application of GRAVESTOCK et al	:	
U.S. Application No.: 10/550,038	:	
PCT Application No.: PCT/GB04/01132	:	DECISION
Int. Filing Date: 16 March 2004	:	
Priority Date Claimed: 20 March 2003	:	
Attorney Docket No.: 100869-1P US	:	
For: ANTIBACTERIAL OXALIDINONES	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 23 September 2005.

BACKGROUND

On 16 March 2004, applicant filed international application PCT/GB04/01132, which claimed priority of an earlier United Kingdom application filed 20 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 20 September 2005.

International application PCT/GB04/01132 became abandoned as to the United States for failure to timely pay the basic national fee.

On 21 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 reply under 35 U.S.C. 371.

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

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

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

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 16 March 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 21 September 2005.

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

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

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

#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

06 DEC 2005

ASTRAZENECA R&D BOSTON
35 GATEHOUSE DRIVE
WALTHAM, MA 02451-1215

In re Application of GRAVESTOCK et al	:	
U.S. Application No.: 10/550,039	:	
PCT Application No.: PCT/GB04/01119	:	DECISION
Int. Filing Date: 16 March 2004	:	
Priority Date Claimed: 20 March 2003	:	
Attorney Docket No.: 100870-1P US	:	
For: ANTIBACTERIAL 1,3-OXAZOLIDIN-2-ONE DERIVATIVES	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 23 September 2005.

BACKGROUND

On 16 March 2004, applicant filed international application PCT/GB04/01119, which claimed priority of an earlier United Kingdom application filed 20 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 20 September 2005.

International application PCT/GB04/01119 became abandoned as to the United States for failure to timely pay the basic national fee.

On 21 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) and an executed declaration.

On 23 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 reply under 35 U.S.C. 371.

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

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

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

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 16 March 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 21 September 2005.

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

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

04 JAN 2007

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

In re Application of De MEUTER et al. Application No.: 10/550,073 PCT No.: PCT/EP04/02983 Int. Filing: 22 March 2004 Priority Date: 21 March 2003 Attorney Docket No.: 19790-002US1 For: DIRECT COMPRESSIBLE TREHALOSE SOLIDS	DECISION ON RESPONSE TO NOTIFICATION OF DEFECTIVE RESPONSE

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 "Response to Notification of Defective Response" Under 35 U.S.C. 371 in the U.S. Designated/Elected Office (DO/US) filed on 26 October 2006 in the United States Patent and Trademark Office (USPTO). Applicant's request for a three month extension of time is granted.

BACKGROUND

On 26 May 2006, a Notification of Missing Requirements was mailed to applicants indicating that, *inter alia*, an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) and 37 CFR §§1.66 or 1.68, was required.

On 24 July 2006, a Response to the Notification of Missing Requirements was filed in the USPTO accompanied by an executed declaration.

On 05 September 2006, a Notification of Defective Response was mailed indicating that the current declaration had an alteration made to the first inventor's name which was not legible. Applicant was asked to clarify the alteration.

On 26 October 2006, in an attempt to clarify the declaration, counsel, on behalf of applicant, submitted a statement indicating that "the inventor added her middle name, 'Emilienne'".

DISCUSSION

A review of the declaration reveals that the declaration executed by inventor De Meuter 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 De Meuter were not dated and initialed or signed. Therefore, a new acceptable oath or declaration executed by Pascale Adolphine Emilienne De Meuter, in compliance with 37 CFR 1.497(a) and (b), is required to satisfy the requirements of 35 U.S.C. 371 (c)(4) for entrance into the national stage in the United States.

CONCLUSION

A new acceptable oath or declaration executed by Pascale Adolphine Emilienne De Meuter, in compliance with 37 CFR 1.497(a) and (b), is required to satisfy the requirements of 35 U.S.C. 371 (c)(4) for entrance into the national stage in the United States.

Applicant is required to complete the response within a time limit of ONE MONTH from the date of this Notification. There is no time remaining to respond to the Notification of Missing Requirements. The time period for response set forth in the Notification of Missing Requirements has expired. Therefore, no extensions of time limit are available under 37 CFR 1.136.

This application will be held in the PCT Legal Office, Office of PCT Legal Administration to await applicant's further reply, that is, a newly executed oath or declaration by inventor De Meuter, in compliance with 37 CFR 1.497(a) and (b).

Cynthia M. Kratz

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

2 5 JUN 2007

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

In re Application of De MEUTER et al. Application No.: 10/550,073 PCT No.: PCT/EP04/02983 Int. Filing: 22 March 2004 Priority Date: 21 March 2003 Attorney Docket No.: 19790-002US1 For: DIRECT COMPRESSIBLE TREHALOSE SOLIDS	DECISION ON RESPONSE TO NOTIFICATION OF DEFECTIVE RESPONSE

This decision is in response to applicant's "Response to Notification of Defective Response" filed on 05 February 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 26 May 2006, a Notification of Missing Requirements was mailed to applicants indicating that, *inter alia*, an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), and the surcharge for filing the oath or declaration after the thirty month period was required.

On 24 July 2006, a Response to the Notification of Missing Requirements was filed in the USPTO accompanied by an executed declaration.

On 05 September 2006, a Notification of Defective Response was mailed indicating that the current declaration had an alteration made to the first inventor's name which was not legible. Applicant was asked to clarify the alteration. Applicant was advised to complete a response within a time limit of one month or the time remaining in the response set forth in the Notification (26 December 2006).

On 26 October 2006, in an attempt to clarify the declaration, counsel, on behalf of applicant, submitted a statement indicating that "the inventor added her middle name, 'Emilienne'". On 4 January 2007, a decision on the submission was mailed, indicating that the USPTO does not accept a declaration that has been altered and requiring a new oath or declaration.

On 5 February 2007, applicant filed the instant response.

DISCUSSION

A review of the declaration reveals that the declaration executed by inventor De Meuter was altered and illegible. Applicant was advised on 05 September 2006 that the alteration made to the first inventor's name was not legible. Thereafter on 04 January 2007, applicant was again advised that the declaration was unacceptable with the alteration.

The submission on 5 February 2007 did not address the legibility issue on the declaration and remains outstanding. As previously indicated, the alteration cannot be initialed and dated subsequent to the signing of the 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. Applicant did not provide a newly executed declaration in compliance with 37 CFR 1.497(a) and (b). Thus, the application is abandoned. The time limit under the 905 has expired and applicant has not provided a proper reply; a new acceptable oath or declaration executed by Pascale Adolphine Emilienne De Meuter, in compliance with 37 CFR 1.497(a) and (b).

CONCLUSION

The application is **ABANDONED**. The application will be forwarded to the United States Designated/Elected Office for further processing including issuance of Notification of Abandonment (Form PCT/DO/EO/909).

A petition to revive the unintentionally abandoned application under 37 CFR 1.137(b) may be filed with the proper reply. The proper reply is a newly executed oath or declaration, executed by Pascale Adolphine Emilienne De Meuter, in compliance with 37 CFR 1.497(a) and (b), to satisfy the requirements of 35 U.S.C. 371 (c)(4) for entrance into the national stage in the United States.

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.

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

0 9 OCT 2007

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

In re Application of DeMeuter et al. Application No.: 10/550,073 PCT No.: PCT/EP04/02983 Int. Filing: 22 March 2004 Priority Date: 21 March 2003 Attorney Docket No.: 19790-002US1 For: DIRECT COMPRESSIBLE TREHALOSE SOLIDS	DECISION ON PETITION TO REVIVE UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 20 August 2007 in the above-captioned application is hereby **GRANTED** as follows:

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

A review of the application file reveals that the declaration, in compliance with 37 CFR 1.497(a) and (b) has been provided. The required petition fee of $1500 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **20 August 2007.**

Cynthia M. Kratz

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

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

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

Mail Date: 07/15/2010

Applicant	: Stephan Lausterer	: DECISION ON REQUEST FOR
Patent Number	: 7661073	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/550,078	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/07/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HODES, PESSIN & KATZ , P.A
901 DULANEY VALLY ROAD , SUITE 400
BALTIMORE MD 21204

COPY MAILED

JUN 0 4 2009

OFFICE OF PETITIONS

In re Application of	:	
De Schrijver, Aster	:	
Application No. 10/550,081	:	ON PETITION
Filed: September 19, 2005	:	
Attorney Docket No. 025239.012	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 3, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 3754 for further processing of the Request for Continued Examination under 37 CFR 1.114 filed concurrently with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

07 AUG 2007

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

In re Application of:	:	
LOECKLE, Gerhard, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/550,084	:	
PCT No.: PCT/DE2003/003499	:	
International Filing Date: 18 October 2003	:	
Claimed Priority Date: 19 March 2003	:	
Attorney's Docket No.: 10191/3769	:	
For: APPARATUS FOR TRIGGERING	:	
RESTRAINT DEVICES	:	

This communication is issued in response to applicants' "Petition Under 37 CFR 1.182 & Response To Communication" filed 09 July 2007. Applicants have submitted $130 as the petition fee; however, the appropriate petition fee is $400. Deposit Account No. 11-0600 will be charged the additional $270 necessary to complete the petition fee.

BACKGROUND

In a communication mailed by this Office on 18 January 2007, applicants were informed that the declaration filed 21 August 2006 was not acceptable under 37 CFR 1.497 for failure to properly identify the inventors of record herein. Specifically, the inventor identified on the published international application as Sabine AUST was identified on the declaration as Sabine "Brandenburger gels Aust." The communication stated that a petition under 37 CFR 1.182 was required to change the name of record for this inventor.

On 09 July 2007, applicants filed the "Petition Under 37 CFR 1.182 & Response To Communication" considered herein (with required extension fee).

DISCUSSSION

Copies of certified German documents (and an English translation of such materials) accompanied the petition filed by applicants' on 09 July 2007. These materials confirm that, as a result of marriage, the name of the inventor identified on the published international application as Sabine AUST has been changed to Sabine BRANDENBURGER. This submission, in combination with the applicable petition fee, satisfies the requirements for a grantable petition under 37 CFR 1.182 to change the name of record for inventor Sabine AUST to Sabine BRANDENBURGER.

CONCLUSION

Applicants' petition under 37 CFR 1.182 to change the name of record for inventor Sabine AUST to Sabine BRANDENBURGER is **GRANTED**.

Based on the above, the declaration filed 21 August 2006 is now acceptable 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 21 August 2006.

Richard M. Ross
PCT Petitions Attorney
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

CHRISTIAN D. ABEL
ONSAGERS AS
POSTBOKS 6963 ST. OLAVS PLASS
NORWAY N-013-0 NO NORWAY

In re Application of: LANGELAND, BJARTE Serial No.: 10/550,106 Filed: Sep. 21, 2005 Docket: P18966 USPC Title: HINGED AND SEGMENTED PIPE	DECISION ON PETITION TO WITHDRAW OF HOLDING OF FINALITY

This is a decision on the petition filed on Apr. 10, 2008 to withdraw the finality of the Office Action of Apr. 3, 2008. The petition is being considered pursuant to 37 CFR 1.181 and no fee is required for the petition.

The petition is **granted**.

In the petition, the applicant requested the examiner to withdraw the finality of the Office action mailed on Apr. 3, 2008. In support of his petition, the applicant argues that the final Office action was improper because the examiner failed to treat the amended claims 1-10 of the amendment of Oct. 11, 2004 concurrently filed with the Demand in the PCT phase of the application. This amendment was filed Sep. 21, 2005 as part of the national stage application under 35 U.S.C. 371.

After a careful review of the file history, the preliminary amendment of amended claims 1-10 was never acknowledged and examined by the examiner in the non-final Office action of Oct. 9, 2007. The examiner in fact never treated the amended claims 1-10 as filed with the national stage application. Therefore, claims 1-10 of the amendment filed on Jan. 8, 2008 were not twice rejected in the Office action mailed on Apr. 3, 2008.

Under the circumstances, the relief the applicant requested, namely the withdrawal of the finality of the Apr. 3, 2008 Office Action, is granted. However, the applicant has further amended claims 1-10 in the amendment filed Jan. 8, 2208 in response to the non-final Office action of Oct. 9, 2007. In response, the examiner promulgated an Office action on Apr. 3, 2008. Since the finality of the Office actions mailed on Apr. 3, 2008 is premature and thus the finality of the action is hereby withdrawn. The period to respond to the last Office action of Apr. 3, 2008 remains

unchanged. Since the finality is being withdrawn, any amendment responding to the Office action dated Apr. 3, 2008 will be treated as a 37 CFR § 1.111 amendment. The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3754 for further processing. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED

Frederick R. Schmidt, Director
Technology Center 3700

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 AUG 2009

ERICSSON INC.
6300 LEGACY DRIVE
M/S EVR 1-C-11
PLANO, TX 75024

In re Application of TAORI et al	:	
U.S. Application No.: 10/550,108	:	
PCT Application No.: PCT/EP2004/002985	:	
Int. Filing Date: 19 March 2004	:	DECISION
Priority Date Claimed: 19 March 2003	:	
Attorney Docket No.: P16378-US2	:	
For: A SYSTEM AND METHOD FOR STORING	:	
AND ACCESSING MULTIMEDIA MESSAGES	:	

This is in response to applicant's petition under 37 CFR 1.181 filed 27 May 2009.

BACKGROUND

On 19 March 2004, applicant filed international application PCT/EP2004/002985, which claimed priority of an earlier United States application filed 19 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 19 September 2005.

On 19 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 02 October 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, *inter alia*, additional claims fees in the amount of $1,500.00 were due.

On 13 April 2007, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which indicated that additional claims fees in the amount of $1,500.00 were due.

On 20 May 2009, 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 Defective Response.

On 27 May 2009, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The transmittal letter (Form PTO-1390) filed on 19 September 2005 contained a general authorization to charge any required fees to Deposit Account No. 50-1379. A review of USPTO records reveals that Deposit Account No. 50-1379 had sufficient funds to cover a charge of $1,500.00 on 02 October 2006, the mailing date of the Notification of Missing Requirements. Accordingly, the Notification of Missing Requirements should not have required the submission of additional claims fees.

CONCLUSION

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

The portion of the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 02 October 2006 which required the submission of additional claims fees is hereby VACATED.

The Notification of Defective Response (Form PCT/DO/EO/916) mailed 13 April 2007 is hereby VACATED.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 20 May 2009 is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 19 March 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 27 November 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

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.
10/550,128	10/18/2005	Susumu Kobayashi	F-8789	1361

28107 7590 06/26/2008
JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK, NY 10168

EXAMINER
TRAN, HANH VAN

ART UNIT	PAPER NUMBER
3637	

MAIL DATE	DELIVERY MODE
06/26/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

MAILED
FROM DIRECTORS OFFICE

JUN 25 2008

TECHNOLOGY CENTER 3600

Jordan and Hamburg LLP
122 East 42nd Street
Suite 4000
New York, New York 10168

In re Application of:
Susumu Kobayashi
Application No. 10/550,128
Filed: October 18, 2005
For: RAIL FIXING PART STRUCTURE

: DECISION ON PETITION
: REGARDING REQUEST
: TO WITHDRAW FINALITY

This is in response to applicant's petition, filed on March 26, 2008, to request the withdrawal of the finality of the final rejection mailed on January 28, 2008 as being improper.

The petition is **DENIED**.

Applicant alleges that the finality was improper because claim 1, as amended by the amendment filed on November 05, 2007, merely placed the claim in better form without changing the scope of the claim. In other words, the changes made in claim 1 were not substantive. Applicant alleges that by changing the language of "being resin" to "comprising resin", applicant merely made a formalistic change, not a substantive change. Similarly, other changes made in claim 1 such as changing the wording of "a flange provided at said rail" to "said rail comprising a flange", "extending" to "extends", "said metal rail fixed to said drawer" to "said metal rail is fixed to said drawer", and "ribs provided at a side surface of said drawer" to "said drawer has said ribs at a side surface of said drawer" are not substantive changes.

Applicant alleges that as the changes made in claim 1 were not made to overcome the examiners' rejection, the amendment would not necessitate a new ground of rejection. Therefore, the examiner's new rejection of claim 1 cannot be made final. As a result, the finality of the office action mailed on January 28, 2008 was improper.

A review of the application reveals that original claims 1-3 were rejected on 102(b) on Hays in the first Office action mailed on July 05, 2007. Subsequently, applicant submitted an amendment on November 05, 2007 amending claims 1-3 and adding new claims 4-10. The examiner rejected claims 1-3, and 7 on 103(a) over US patent 6,217,139 to Henriott et al. in

view of US patent 6,010,200 to Hays, and claims 4-6 and 8-10 on 102 (b) as being anticipated by US patent 6,217,139 to Henriott et al. in the final Office action mailed on January 28, 2008. On March 26, 2008 applicant filed the instant petition requesting the withdrawal of the finality of the final rejection mailed on January 28, 2008 as being improper.

In close review of the amendment dated November 05, 2007, it is noted that some changes made in claim 1 such as "extending" to "extends", and "said metal rail fixed to said drawer" to "said metal rail is fixed to said drawer" are not consider substantive changes. Applicant is correct in considering that these changes are merely formalistic in nature. However, other changes such as "being resin" to "comprising resin", "a flange provided at said rail" to "said rail comprising a flange", and "ribs provided at a side surface of said drawer" to "said drawer has said ribs at a side surface of said drawer" are clearly substantive changes. The language of "being resin" is a closed ended limitation whereas the language of "comprising resin" is an open ended limitation which is much broader in scope. The language of "a flange provided at said rail" does not require a flange to be a part of the rail whereas "said rail comprising a flange" requires a flange to be a part of the rail. As such, these changes are clearly substantive in scope. Similarly, the language of "ribs provided at a side surface of said drawer" does not required the ribs to be a part of the drawer whereas "said drawer has said ribs at a side surface of said drawer" requires the ribs to be a part of the drawer. Again, this change is clearly substantive in scope.

Taken as a whole, the amendment to claim 1 is clearly substantive in nature by changing the scope of the claim.

MPEP § 706.07(a) states that:

> "second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims, nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p)."

Since the amendment to claim 1 clearly changed the scope of the claim, it necessitates a new ground of rejection.

Based on the above facts, it is determined that the amendment filed on November 5, 2007 was substantive in scope and the changes made to claim 1 were substantive in nature. The amendment therefore necessitates a new ground of rejection. The finality of the rejection mailed on January 28, 2008 is deemed proper.

SUMMARY: The petition is DENIED.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Lanna Mai at 571-272-6867.

Kathy Matecki

Kathy Matecki, Director
Technology Center 3600
(571) 272-5250

lm/tl: 5/30/08

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.
10/550,128	10/18/2005	Susumu Kobayashi	F-8789	1361

28107 7590 06/27/2008
JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK, NY 10168

EXAMINER
TRAN, HANH VAN

ART UNIT	PAPER NUMBER
3637	

MAIL DATE	DELIVERY MODE
06/27/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Jordan and Hamburg LLP
122 East 42nd Street
Suite 4000
New York, New York 10168

MAILED
FROM DIRECTORS OFFICE

JUN 26 2008

TECHNOLOGY CENTER 3600

In re Application of:
Susumu Kobayashi
Application No. 10/550,128
Filed: October 18, 2005
For: RAIL FIXING PART STRUCTURE

: DECISION ON PETITION
: REGARDING REQUEST
: TO WITHDRAW FINALITY

This is in response to applicant's petition, filed on March 26, 2008, to request the withdrawal of the finality of the final rejection mailed on January 28, 2008 as being improper.

The petition is **DENIED**.

Applicant alleges that the finality was improper because claim 1, as amended by the amendment filed on November 05, 2007, merely placed the claim in better form without changing the scope of the claim. In other words, the changes made in claim 1 were not substantive. Applicant alleges that by changing the language of "being resin" to "comprising resin", applicant merely made a formalistic change, not a substantive change. Similarly, other changes made in claim 1 such as changing the wording of "a flange provided at said rail" to "said rail comprising a flange", "extending" to "extends", "said metal rail fixed to said drawer" to "said metal rail is fixed to said drawer", and "ribs provided at a side surface of said drawer" to "said drawer has said ribs at a side surface of said drawer" are not substantive changes.

Applicant alleges that as the changes made in claim 1 were not made to overcome the examiners' rejection, the amendment would not necessitate a new ground of rejection. Therefore, the examiner's new rejection of claim 1 cannot be made final. As a result, the finality of the office action mailed on January 28, 2008 was improper.

A review of the application reveals that original claims 1-3 were rejected on 102(b) on Hays in the first Office action mailed on July 05, 2007. Subsequently, applicant submitted an amendment on November 05, 2007 amending claims 1-3 and adding new claims 4-10. The examiner rejected claims 1-3, and 7 on 103(a) over US patent 6,217,139 to Henriott et al. in

view of US patent 6,010,200 to Hays, and claims 4-6 and 8-10 on 102 (b) as being anticipated by US patent 6,217,139 to Henriott et al. in the final Office action mailed on January 28, 2008. On March 26, 2008 applicant filed the instant petition requesting the withdrawal of the finality of the final rejection mailed on January 28, 2008 as being improper.

In close review of the amendment dated November 05, 2007, it is noted that some changes made in claim 1 such as "extending" to "extends", and "said metal rail fixed to said drawer" to "said metal rail is fixed to said drawer" are not consider substantive changes. Applicant is correct in considering that these changes are merely formalistic in nature. However, other changes such as "being resin" to "comprising resin", "a flange provided at said rail" to "said rail comprising a flange", and "ribs provided at a side surface of said drawer" to "said drawer has said ribs at a side surface of said drawer" are clearly substantive changes. The language of "being resin" is a closed ended limitation whereas the language of "comprising resin" is an open ended limitation which is much broader in scope. The language of "a flange provided at said rail" does not require a flange to be a part of the rail whereas "said rail comprising a flange" requires a flange to be a part of the rail. As such, these changes are clearly substantive in scope. Similarly, the language of "ribs provided at a side surface of said drawer" does not required the ribs to be a part of the drawer whereas "said drawer has said ribs at a side surface of said drawer" requires the ribs to be a part of the drawer. Again, this change is clearly substantive in scope.

Taken as a whole, the amendment to claim 1 is clearly substantive in nature by changing the scope of the claim.

MPEP § 706.07(a) states that:

> "second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims, nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p)."

Since the amendment to claim 1 clearly changed the scope of the claim, it necessitates a new ground of rejection.

Based on the above facts, it is determined that the amendment filed on November 5, 2007 was substantive in scope and the changes made to claim 1 were substantive in nature. The amendment therefore necessitates a new ground of rejection. The finality of the rejection mailed on January 28, 2008 is deemed proper.

SUMMARY: The petition is DENIED.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Lanna Mai at 571-272-6867.

Kathy Matecki

Kathy Matecki, Director
Technology Center 3600
(571) 272-5250

lm/tl: 5/30/08

F-8789 Ser. No. 10/550,128

Sir:

Applicant hereby petitions the Director to invoke supervisory authority pursuant to 37 CFR §1.181(a) in the above identified application to have the Examiner remove the finality of the Office Action of January 28, 2008.

MPEP § 706.07(a) states that a second or subsequent action on the merits should not be made final when the Examiner introduces a new ground of rejection that is neither necessitated by Applicant's amendment of the claims nor based on information submitted in an information disclosure statement.

No information disclosure statement was filed after the Amendment of November 1, 2007.

The changes to claim 1 in the Amendment of November 1, 2007 were done for the purposes of placing the claim in better form and did not necessitate a new ground of rejection. However, the Office Action of January 28, 2008 rejects claim 1 as obvious over U.S. Patent No. 6,217,139 (Henriott et al.) in view of U.S. Patent No. 6,010,200 (Hays). Henriott et al. was applied for the first time in the Office Action of January 28, 2008 and was, therefore, not previously utilized by the USPTO to reject claim 1 of the present application. The amendments to claim 1 which were made in the Amendment of November 1, 2007 are below:

PAGE 2/5 * RCVD AT 3/26/2008 12:18:40 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-4/16 * DNIS:2738300 * CSID:12129537733 * DURATION (mm-ss):01-34

1. (Currently Amended) A rail fixing part structure, comprising:

a metal rail slidably supporting a drawer housed in a body, said drawer comprising ~~being~~ synthetic resin and said rail comprising a flange; and

ribs, wherein

said metal rail is fixed to said drawer[[;]],

~~a flange provided at said rail,~~ said flange extends ~~extending~~ toward said drawer; and

said drawer has said ribs ~~provided~~ at a side surface of said drawer, said ribs vertically sandwiching said flange.

The changes to claim 1 were made to place the claim in better form and were not made to overcome the Examiner's rejection. In the Amendment of November 1, 2007, Applicant submitted that Hays (which was previously cited against claim 1 by itself) did not disclose the limitation of the ribs sandwiching the flange. This limitation was present before and after the amendments to claim 1 and, therefore, the use of a new reference is improper in a final office action.

Moreover, the change of the drawer "being resin" to "comprising resin" is merely formal, not substantive, and, consequently, is not a patentable difference over Hays which states that the drawers are made of resin. The change of "a flange provided at said rail" to "said rail comprising a flange" is merely formal, not substantive, and, consequently, is not a patentable difference since the

PAGE 3/5 * RCVD AT 3/26/2008 12:18:40 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-4/16 * DNIS:2738300 * CSID:12129537733 * DURATION (mm-ss):01-34

Examiner stated in the Office Action of July 5, 2007 that Hays disclosed a rail with a flange. Changing "extending" to "extends" and changing "said metal rail fixed to said drawer" to "said metal rail is fixed to said drawer" are merely formalistic changes. Changing "ribs provided at a side surface of said drawer" to introducing the ribs earlier in the claim and reciting "said drawer has said ribs at a side surface of said drawer" are also merely formalistic changes.

Thus, the changes to claim 1 were done for formalistic reasons and did not include any new or modified limitations that would require new art to be applied against claim 1.

Applicant's attorney contacted the Examiner to withdraw the finality of the final Office Action and the Examiner suggested that a request to withdraw the finality of the Office Action of January 28, 2008 be filed.

PAGE 4/5 * RCVD AT 3/26/2008 12:18:40 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-4/16 * DNIS:2738300 * CSID:12129537733 * DURATION (mm-ss):01-34

Accordingly, in light of the above, Applicant respectfully requests that the finality of the Office Action dated January 28, 2008 be withdrawn.

Respectfully submitted,

Jordan and Hamburg LLP

By C. Bruce Hamburg
C. Bruce Hamburg
Reg. No. 22,389
Attorney for Applicants

and,

By Ricardo Unikel
Ricardo Unikel
Reg. No. 52,309
Attorney for Applicants

Jordan and Hamburg LLP
122 East 42nd Street
New York, New York 10168
(212) 986-2340

PAGE 5/5 * RCVD AT 3/26/2008 12:18:40 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-4/16 * DNIS:2738300 * CSID:12129537733 * DURATION (mm-ss):01-34

RECEIVED
CENTRAL FAX CENTER

MAR 2 6 2008

Docket No. F-8789

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Susumu KOBAYASHI
Serial No.	:	10/550,128
Filed	:	October 18, 2005
For	:	RAIL FIXING PART STRUCTURE
Group Art Unit	:	3637
Examiner	:	Hanh Van Tran
Confirmation No.	:	1361
Customer No.	:	000028107
Allowance Date	:	

Certificate of Facsimile Transmission Under 37 CFR 1.8

I hereby certify that this correspondence is being transmitted in accordance with 37 CFR §1.6(d) to the United States Patent Office addressed to COMMISSIONER FOR PATENTS, P.O. Box 1450, Alexandria, VA 22313-1450 on March 26, 2008 to facsimile no. 571-273-8300.

TOTAL NUMBER OF PAGES TRANSMITTED: 5
PLEASE TRANSMIT ACKNOWLEDGMENT TO 212 953 7733

Ricardo Unikel (Signature)

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

PETITION UNDER 37 C.F.R 1.181(a) TO INVOKE SUPERVISORY AUTHORITY

f8789 per 181(a) premature finality (PC22) wpd

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

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

COPY MAILED
JAN 08 2009

Applicant: Maravic, et al.
Appl. No.: 10/550,141
Filing Date: March 13, 2006
Title: SYNCHRONIZATION AND CHANNEL ESTIMATION WITH SUB-NYQUIST SAMPLING IN ULTRA-WIDEBAND COMMUNICATION SYSTEMS
Attorney Docket: 080466
Pub. No.: US 2006/0193371 A1
Pub. Date: August 31, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on March 31, 2008, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on the front page of the publication wherein an inventor's name, Martin Vetterli, is missing.

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

The request for corrected publication, received on March 31, 2008, was not timely filed under 37 CFR 1.221(b).

Furthermore, the application is currently under an abandoned status for failure to meet the all the filing requirements.

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

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

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

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

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

Mark D. Polutta

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

10 FEB 2009

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

SQUIRE, SANDERS & DEMPSEY L.L.P.
1 MARITIME PLAZA, SUITE 300
SAN FRANCISCO CA 94111

In re Application of	:	DECISION ON
OKUBO et al.	:	
Serial No.: 10/550,153	:	
PCT No.: PCT/JP04/03934	:	PETITION UNDER
Int. Filing Date: 23 March 2004	:	
Priority Date: 25 March 2003	:	
Attorney's Docket No.: 38915.00045	:	37 CFR 1.10(c)
For: METHOD OF ANALYZING ELECTROLYIC	:	
COPPER PLATING SOLUTION AND	:	
ANALYZING DEVICE...		

This decision is in response to applicant's "Request for Corrected Filing Receipt" treated as a Petition under 37 CFR 1.10(c) to correct filing date, filed 22 May 2008, to accord a filing date of 19 May 2005 to the above-identified application papers. No petition fee is required.

BACKGROUND

Applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee. These papers were accorded a filing date of 20 September 2005.

On 12 May 2006, a Notification of Acceptance was mailed to applicant, indicating that the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements was 20 September 2005 and that the date of completion of all 35 U.S.C. 371 requirements was 25 September 2005.

On 08 April 2008, applicant filed a request for corrected filing receipt, treated as a petition under 37 CFR 1.10(c) requesting a corrected filing date of 19 September 2005, which included a copy of the Customer Receipt of the "Express Mail" mailing label #EV700301509US.

DISCUSSION

A review of the application file reveals that applicant filed a transmittal letter for entry into the national stage. No indication of the Express Mail #EV700301509US appears therein. A review of the USPTO finance records for this application indicates that the basic national fee was

paid.

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 Director 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 requests that the national stage papers be accorded a filing date of 19 September 2005. A review of the Express Mail label #EV700301509US reveals that it was addressed to the "Mail Stop PCT, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450". The Customer Copy of the Express Mail label bears a USPS barrel stamp of "SEP 19 2005" and a "Date-In" of "9/19/05".

However, this is insufficient evidence to establish with reasonable certainty that the national stage papers were deposited with the United States Postal Service as an "Express Mail" Mailing on 19 September 2005. Specifically, the number of the "Express Mail" mailing label does not appear to have been placed on any paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail. Since there is no indication of the "Express Mail" label number appearing on the Transmittal Letter or any other correspondence which ties the "Express Mail" label and the papers together, it cannot be concluded that the national stage papers were deposited on 19 September 2005. The requirements of 37 CFR 1.10(c) are not satisfied and the filing date of the National stage papers remain the date the papers were received or 20 September 2005.

The filing date of the application is the international filing date, 23 March 2005. The 35 U.S.C. 371 date is the date that all of the requirements of 35 U.S.C. 371(c) are completed. *See* MPEP §1893.03(b) regarding The Filing Date of a U.S. National Stage Application. [1]

---

[1] An international application designating the U.S. has two stages (international and national) with the filing date being the same in both stages. Often the date of entry into the national stage is confused with the filing date. *It should be borne in mind that the filing date of the international stage application is also the filing date for the national stage application.* Specifically, 35 U.S.C. 363 provides that "An international application designating the United States shall have the effect, from its international filing date under Article 11 of the treaty, of a national

Moreover, a review of the application file reveals that the declaration is unacceptable. The given name of the applicant as listed on the published international application is "Yuka MIZUNO." The declaration, filed on 19 September 2005, identifies and is signed by "Yuka YAMADA". The executed declaration is not in compliance with 37 CFR 1.497(a) and (b) as the declaration does not name the same inventive entity as identified in the published international application. Thus, the declaration does not satisfy the requirements of 35 U.S.C. 371 (c)(4) for entrance into the national stage in the United States.

It does not appear that applicant filed a request pursuant to PCT Rule 92*bis* to change the name of the inventor as no Notification of the Recording of a Change (Form PCT/IB/306) has been submitted which indicates that the name change was accepted. The declaration of inventors submitted by applicants on 19 September 2005 is not in compliance with 37 CFR 1.497(a) and (b) and is unacceptable. A new declaration, identifying all inventors and their citizenship, residency and mailing addresses is required. Should applicant wish to correct the third inventor's name to Yuka Yamada, a petition under 37 CFR 1.182 is required. See MPEP §605.04(c).

CONCLUSION

Applicant's petition requesting that the national stage papers be accorded a receipt date of 19 September 2005 is **DISMISSED WITHOUT PREJUDICE.**

The 12 May 2006 Notification of Acceptance is hereby **VACATED**.

For the reasons, set forth above, the declaration of inventors submitted by applicants on 19 September 2005 is not in compliance with 37 CFR 1.497(a) and (b) and is unacceptable. A new

---

application for patent regularly filed in the Patent and Trademark Office except as otherwise provided in section 102(e) of this title." PCT Article 11(3) provides that "...an international filing date shall have the effect of a regular national application in each designated State as of the international filing date, which date shall be considered to be the actual filing date in each designated State". 37 CFR 1.496(a) , first sentence, reads "International applications which have complied with the requirements of 35 U.S.C. 371(c) will be taken up for action based on the date onwhich such requirements were met." Thus, when the file wrapper label or PALM bib-data sheet and filing receipt are printed, the information is read from the PALM data base and the information printed in the filing date box is the date of receipt of 35 U.S.C. 371(c)(1),(c)(2) and (c)(4) requirements rather than the actual international filing date. The NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495 (Form PCT/DO/EO/903) indicates the date of receipt of the 35 U.S.C. 371(c)(1), (c)(2),and (c)(4) requirements, and it also indicates the date of completion of all 35 U.S.C. 371 requirements, which is further explained below. Filing receipts are mailed concurrently with the mailing of the Form PCT/DO/EO/903. The "Application Filing Date" field formerly displayed in PAIR was changed to "Filing or 371(c) Date" to clearly indicate that for international applications that enter the national stage under 35 U.S.C. 371, the information displayed in this field is the date of receipt of the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements. Applicants are quite often confused as to the true filing date and will ask for corrected filing receipts thinking that the information thereon is wrong. This explanation should offer some clarity. For most legal purposes, the filing date is the PCT international filing date.

declaration is required or in the alternative, a petition under 37 CFR 1.182 is required to correct the third inventor's name to Yuka YAMADA.

The application will be held in the PCT Legal Office to await applicant's further reply.

Applicant must respond within ONE (1) MONTH from the mail date of this decision.

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

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

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

1 2 MAY 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SQUIRE, SANDERS & DEMPSEY L.L.P.
1 MARITIME PLAZA, SUITE 300
SAN FRANCISCO CA 94111

In re Application of	:	DECISION ON
OKUBO et al.	:	
Serial No.: 10/550,153	:	
PCT No.: PCT/JP04/03934	:	PETITION UNDER
Int. Filing Date: 23 March 2004	:	
Priority Date: 25 March 2003	:	
Attorney's Docket No.: 38915.00045	:	37 CFR 1.182
For: METHOD OF ANALYZING ELECTROLYIC	:	
COPPER PLATING SOLUTION AND	:	
ANALYZING DEVICE...		

This decision is in response to applicant's "Petition under 37 CFR 1.182" filed on 09 March 2009 in the United States Patent and Trademark Office.

BACKGROUND

Applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee. These papers were accorded a filing date of 20 September 2005.

On 08 April 2008, applicant filed a request for corrected filing receipt. A decision dismissing petition was mailed on 10 February 2009. The decision indicated that the declaration was unacceptable. The given name of the applicant as listed on the published international application is "Yuka MIZUNO." The declaration, filed on 20 September 2005, identifies and is signed by "Yuka YAMADA". The executed declaration is not in compliance with 37 CFR 1.497(a) and (b) as the declaration does not name the same inventive entity as identified in the published international application. Thus, the declaration did not satisfy the requirements of 35 U.S.C. 371 (c)(4) for entrance into the national stage in the United States.

On 09 March 2009, applicant filed a petition under 37 CFR 1.182 to correct the inventor's name.

DISCUSSION

A review of the application file reveals that the given name of the applicant as listed on the published international application is "Yuka MIZUNO." The declaration, filed on 12 November 2007, was signed by "Yuka YAMADA" and was unacceptable.

Applicant now submits declaration by the inventor Yuka MIZUNO indicating that her name changed due to her marriage.

CONCLUSION

For the above reasons, the petition under 37 CFR 1.182 to change the respective inventor's name to Yuka YAMADA is **GRANTED**. The declaration submitted on 20 September 2005 now meets the requirements of 37 CFR 1.497(a) and (b) and is acceptable.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 20 September 2005.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

VERENIUM C/O MOFO S.D.
12531 HIGH BLUFF DRIVE, SUITE 100
SAN DIEGO CA 92130-2040

COPY MAILED

AUG 03 2007

OFFICE OF PETITIONS

In re Application of	:	
GRAY, et al.	:	
Application No. 10/550,155	:	DECISION ON PETITION
Filed: October 4, 2006	:	TO WITHDRAW
Attorney Docket No. **D1990-IN**	:	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 26, 2007.

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

A review of the file record indicates that the power of attorney to **VERENIUM C/O MOFO S.D.** has been revoked by the assignee of the patent application on April 9, 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: **VERENIUM CORPORATION**
4955 DIRECTORS PLACE
SAN DIEGO, CA 92121

UNITED STATES PATENT AND TRADEMARK OFFICE

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

07 FEB 2007

MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606

In re Application of CHARLIER et al	:	
U.S. Application No.: 10/550,158	:	
PCT Application No.: PCT/EP2004/003000	:	DECISION
Int. Filing Date: 22 March 2004	:	
Priority Date Claimed: 20 March 2003	:	
Attorney Docket No.: 30607/41527	:	
For: CARBON NANOSTRUCTURES...	:	

This is in response to applicant's "Request to Correct Inventorship Under 37 C.F.R. § 1.48(a)" filed 10 October 2006, which is being treated under 37 CFR 1.497(d).

BACKGROUND

On 22 March 2004, applicant filed international application PCT/EP2004/003000, which claimed priority of an earlier Germany application filed 20 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 20 September 2005.

On 20 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 08 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 10 October 2006, applicant filed the present petition under 37 CFR 1.497(d).

DISCUSSION

The petition states that Laurent Fulcheri should be added as an inventor.

37 CFR 1.497(d) (effective 07 November 2000) states,

> If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in 37 CFR 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (see §3.73(b) of this chapter).

With regard to item (1) above, the requisite statement has been provided.

With regard to item (2) above, the requisite processing fee has been provided.

With regard to item (3) above, although written consent of the purported assignees Timcal S.A. and Armines Assn. has been provided, proof of ownership of the assignees has not been established. See 37 CFR 3.73(b). Although the petition states that copies of the assignment agreements are attached, such assignment agreements are not present in the application file.

CONCLUSION

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

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are NOT available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.497(d)". No additional petition fee is required.

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

Bryan 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
www.uspto.gov

10 APR 2007

MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606

In re Application of CHARLIER et al	:	
U.S. Application No.: 10/550,158	:	
PCT Application No.: PCT/EP2004/003000	:	DECISION
Int. Filing Date: 22 March 2004	:	
Priority Date Claimed: 20 March 2003	:	
Attorney Docket No.: 30607/41527	:	
For: CARBON NANOSTRUCTURES. . .	:	

This is in response to applicant's "Renewed Petition Under 37 C.F.R. § 1.497(d)" filed 05 April 2007.

BACKGROUND

On 22 March 2004, applicant filed international application PCT/EP2004/003000, which claimed priority of an earlier Germany application filed 20 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 20 September 2005.

On 20 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 08 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 10 October 2006, applicant filed a petition under 37 CFR 1.497(d).

On 07 February 2007, this Office mailed a decision dismissing the 10 October 2006 petition.

On 05 April 2007, applicant filed the present renewed petition under 37 CFR 1.497(d).

DISCUSSION

The petition states that Laurent Fulcheri should be added as an inventor.

37 CFR 1.497(d) (effective 07 November 2000) states,

> If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in 37 CFR 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (see §3.73(b) of this chapter).

Applicant has previously satisfied items (1) and (2) above.

With regard to item (3) above, written consent of the purported assignees Timcal S.A. and Armines Assn. has been provided and proof of ownership of the assignees has been established by the copy of the assignment agreement filed with the renewed petition.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.497(d) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 22 March 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 10 October 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

United States Patent and Trademark Office

13 FEB 2007

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

FRIEDRICH KUEFFNER
317 MADISON AVENUE, SUITE 910
NEW YORK NY 10017

In re Application of	:	
Schiele	:	
Application No. 10/550,166	:	
PCT No.: PCT/EP04/02971	:	
Int. Filing Date: 22 March 2004	:	DECISION
Priority Date: 21 March 2003	:	
Atty. Docket No.: KW-17PCT	:	
For: Coating Device For Water-Based Lacquer That Is Dried By Near-Infrared Light	:	

This is in response to the correspondence filed on 22 August 2006.

BACKGROUND

This international application was filed on 22 March 2004, claimed an earlier priority date of 21 March 2003, and designated the U.S. The International Bureau communicated 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 21 September 2005. Applicant filed, *inter alia*, the basic national fee on 20 September 2005.

On 08 May 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant, requiring the filing of an oath or declaration compliant with 37 CFR 1.497(a) and (b), a surcharge under 37 CFR 1.492(h), a processing fee under 37 CFR 1.492(i), and an acceptable English translation of the international application (noting that "The number of claims in the international Application and the number of claims in the translation are not the same.").

On 26 June 2006, a Response was filed, including a declaration and the surcharge under 37 CFR 1.492(h).

On 10 August 2006, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed to applicant, again requiring a processing fee under 37 CFR 1.492(i) and an acceptable English translation of the international application (again noting that "The number of claims in the International Application and the number of claims in the translation are not the same.").

DISCUSSION

Applicants request withdrawal of the Notification of Defective Response because

> ... applicant respectfully points out that the claims were amended during the international phase of the above-identified International Application. Specifically, during the international phase, original claims 1 - 6 were replaced by new claims 1 - 5. Accordingly, the submitted translation of the amended pages incorporated inth the International Application is the correct translation of the claims of the International Application as amended. Furthermore, it is respectfully pointed out

that a translation of the original International Application with 1 - 6 has also been submitted in the present application.

Review of the Image File Wrapper for this application reveals that the published international application (in the German language) includes 6 claims, while the translation filed on 20 September 2005 included 5 claims, as well as a marked-up copy of a set of 5 claims. No set of 6 claims, corresponding to the claim set present in the published international application, is currently of record in the application file. In the event that applicant believes that the absence of a 6-claim set is the result of error, submission of a copy of the 6-claim set and proof of its date of filing would be appropriate.

With regard to counsel's argument that the 5-claim set is the appropriate set of claims for the translation, counsel is advised that the translation of the international application referred to by 35 U.S.C. 371(c)(2) is a translation of the international application as filed (or as published), while the requirement to furnish translations of annexes to the international application arises separately, under 35 U.S.C. 371(c)(5). Since the published international application included 6 claims, while the translation only includes 5, the translation clearly is not a proper translation of the international application as filed (or published). Therefore, the translation does not satisfy the requirements of 35 U.S.C. 371(c)(2). As such, the mailing of both the Notification of Missing Requirements on 08 May 2006 and the Notification of Defective Response on 10 August 2006 was appropriate. Since applicants have not timely complied with the requirements set by those Notifications, this international application stands **ABANDONED** with respect to the national stage in the United States.

CONCLUSION

The application is **ABANDONED**.

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

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

2 5 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

FRIEDRICH KUEFFNER
317 MADISON AVENUE, SUITE 910
NEW YORK NY 10017

In re Application of	:	
Schiele	:	
Application No. 10/550,166	:	
PCT No.: PCT/EP04/02971	:	
Int. Filing Date: 22 March 2004	:	DECISION
Priority Date: 21 March 2003	:	
Atty. Docket No.: KW-17PCT	:	
For: Coating Device For Water-Based Lacquer	:	
That Is Dried By Near-Infrared Light	:	

This is in response to the "Request For Withdrawal Of Holding Of Abandonment" filed on 21 March 2007.

DISCUSSION

In a Decision mailed on 13 February 2007, applicants' request for withdrawal of the Notification of Defective Response filed on 22 August 2006 was treated as follows:

> Review of the Image File Wrapper for this application reveals that the published international application (in the German language) includes 6 claims, while the translation filed on 20 September 2005 included 5 claims, as well as a marked-up copy of a set of 5 claims. No set of 6 claims, corresponding to the claim set present in the published international application, is currently of record in the application file. In the event that applicant believes that the absence of a 6-claim set is the result of error, submission of a copy of the 6-claim set and proof of its date of filing would be appropriate.
>
> With regard to counsel's argument that the 5-claim set is the appropriate set of claims for the translation, counsel is advised that the translation of the international application referred to by 35 U.S.C. 371(c)(2) is a translation of the international application as filed (or as published), while the requirement to furnish translations of annexes to the international application arises separately, under 35 U.S.C. 371(c)(5). Since the published international application included 6 claims, while the translation only includes 5, the translation clearly is not a proper translation of the international application as filed (or published). Therefore, the translation does not satisfy the requirements of 35 U.S.C. 371(c)(2). As such, the mailing of both the Notification of Missing Requirements on 08 May 2006 and the Notification of Defective Response on 10 August 2006 was appropriate. Since applicants have not timely complied with the requirements set by those Notifications, this international application stands **ABANDONED** with respect to the national stage in the United States.
>
> In response, applicants argue that

As stated in the response to Notification of Missing Requirements dated May 8, 2006, it is respectfully submitted that the application was filed on September 20, 2005 with an English translation of the original International application and an English translation of the application as amended during the International phase.

The English translation of the original International application contains claims 1-6 and the English translation of the amended version contains claims 1-5.

A copy of the translation of the International application as filed is attached hereto. Also attached is a copy of the translation of the application as amended.

In view of the fact that a translation of the International application was filed with the original papers, it is respectfully submitted that the abandonment of the application should be withdrawn.

In view of applicants' arguments, an additional review of the contents of the IFW has been conducted but, as was the case previously, no copy of a 6-claim claim set appears to have been present in the application file prior to receipt of the instant (21 March 2007) correspondence. Although applicants suggest that a translation of the originally-filed claims was submitted along with the correspondence filed on 20 September 2005, no additional evidence (e.g., a properly itemized and date-stamped return postcard receipt) has been adduced to show that such a translation was in fact received. In the absence of such evidence, it would not be appropriate to conclude that the translation of the 6 original claims was actually timely filed in the USPTO and, as such, this international application remains **ABANDONED** with respect to the national stage in the United States.

CONCLUSION

The application remains **ABANDONED**.

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

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

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

0 1 OCT 2007

FRIEDRICH KUEFFNER
317 MADISON AVENUE, SUITE 910
NEW YORK NY 10017

In re Application of	:	
Schiele	:	
Application No. 10/550,166	:	
PCT No.: PCT/EP04/02971	:	
Int. Filing Date: 22 March 2004	:	DECISION
Priority Date: 21 March 2003	:	
Atty. Docket No.: KW-17PCT	:	
For: Coating Device For Water-Based Lacquer	:	
That Is Dried By Near-Infrared Light	:	

This is in response to the renewed "Request For Withdrawal Of Holding Of Abandonment" filed on 02 July 2007.

DISCUSSION

In a Decision mailed on 25 May 2007, applicant's 21 March 2007 request for withdrawal of the holding of abandonment (and withdrawal of the requirement to furnish an English translation) was dismissed without prejudice because

> In view of applicants' arguments, an additional review of the contents of the IFW has been conducted but, as was the case previously, no copy of a 6-claim claim set appears to have been present in the application file prior to receipt of the instant (21 March 2007) correspondence. Although applicants suggest that a translation of the originally-filed claims was submitted along with the correspondence filed on 20 September 2005, no additional evidence (e.g., a properly itemized and date-stamped return postcard receipt) has been adduced to show that such a translation was in fact received. In the absence of such evidence, it would not be appropriate to conclude that the translation of the 6 original claims was actually timely filed in the USPTO and, as such, this international application remains **ABANDONED** with respect to the national stage in the United States.

Petitioner now presents a "Declaration" of Matthew Lingley which states in part

> that I have prepared the National phase of the above-identified International application for filing;
>
> that the papers included a translation of the International application with six claims...

Petitioner also provides a copy of a return postcard receipt which is stamped as "Rec'd PCT/PTO 20 SEP 2005." Inspection of the postcard receipt reveals that it itemizes *inter alia* an "Int. Application w/English Translation." MPEP 503 explains in part that

> 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.

In the instant case, the official record of the USPTO (i.e., the IFW) indicates that the translated claim set filed on 20 September 2005 consisted of five claims. The postcard evidence proffered to show otherwise is not sufficient to overcome the contrary indication on the official record because said postcard does not specifically itemize the number of claims included in the translation. As such, it does not clearly show that the correspondence filed on 20 September 2005 included a translation including a different number of claims than the 5 shown on the official record. As such, it would be inappropriate on the basis of the present record to conclude that the English translation filed on 20 September 2005 included 6 claims.

CONCLUSION

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

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

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

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

2 7 FEB 2008

FRIEDRICH KUEFFNER
317 MADISON AVENUE, SUITE 910
NEW YORK NY 10017

In re Application of	:	
Schiele	:	
Application No. 10/550,166	:	
PCT No.: PCT/EP04/02971	:	
Int. Filing Date: 22 March 2004	:	DECISION
Priority Date: 21 March 2003	:	
Atty. Docket No.: KW-17PCT	:	
For: Coating Device For Water-Based Lacquer	:	
That Is Dried By Near-Infrared Light	:	

The petition to revive under 37 CFR 1.137(b) filed 07 January 2008 in the above-captioned application is hereby **GRANTED** as follows:

Applicant states that "The entire period of the abandonment of this application was unintentional." This is being construed as 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." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement is not correct. 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. Petitioner's Deposit Account is being charged in the amount of $130.00 for the processing fee under 37 CFR 1.492(i), as authorized by the Transmittal Letter filed on 20 September 2005. Petitioner has paid the petition fee. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing. The date of this application under 35 U.S.C. 371(c)(1), (2) and (4) is **21 March 2007** (i.e., the date an English translation of the claims was received).

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

12/4/07

Robert E Bushnell
Attorney at Law
Suite 300
1522 K Street NW
Washington DC 20005-1202

In re Application of: Sul, Young-Taek Serial No.: 10/550,197 Filed: Sep. 21, 2005 Docket: P57672 Title: HELICAL IMPLANT	DECISION ON PETITION SEEKING REVERSAL OF OBJECTION TO DRAWINGS

This is a decision on the petition filed on May 14, 2007 seeking reversal of the objection to the drawings. The petition is being considered pursuant to 37 CFR 1.181. No fee is required.

The petition is **DISMISSED**.

In the petition, petitioner requests review of the examiner's objection to the drawings under MPEP 608.02(g). The examiner objected to the drawings for failing to designate by a legend such as "prior art" next to Figs. 6-8. Petitioner believes that the objection to the drawings is in error and requests the drawing objection be withdrawn.

The record shows that:

In the non-final Office action of Aug. 4, 2006 and again in the final Office action of Apr. 10, 2007, the examiner requested that applicant to designate by a legend such as "Prior Art" next to Figs. 6-8. The applicant refused to do so because the applicant believes that Figures 6-8 are not "Prior Art". On May 14, 2007, the current petition was filed to request withdrawal of the drawing objection. In the petition, petitioner presented four arguments, which will be addressed in this decision.

Discussion and Analysis

Under the heading of "Description of the Related Art" on pages 1-3 of the specification, the applicant explained Fig. 6 -8 as a conventional helical implant. The following relevant passages have been reproduced from page 2 of the specification.

" Fig. 6 is an enlarged view showing thread inclines of a conventional implant. Although various modifications in construction of the implant are well known in the art, a helical implant formed with threads 10b on the outer surface thereof is generally used in the art. As shown in the figure, according to the conventional helical implant, the threads 10b have thread inclines 10a, each having a fiat surface, to which surface preparation is not applied, and the thread inclines 10a of two adjacent threads 10b form an inclined angle of thread of approximately 60*.

Fig. 7 is a vertical sectional view of the conventional implant and Fig 8 is a traverse sectional view of the conventional implant showing and example of the conventional implant disclosed in EP 1992 0 850 168."

First, petitioner argues that the term "prior art" is defined by statute not by the MPEP. Specifically, petitioner states nothing in any paragraph of § 102 sets forth that subject matter "which is old" constitutes prior art, as asserted by the Examiner. Petitioner also argues the age of the subject matter does not convert that subject matter into prior art, as the term "Prior Art" is defined by the law of the United States. Consequently, the Examiner's sole rational for imposing the requirement that Figs. 6-8 be labeled as "Prior Art" is contrary to statute and improper.

In response to this first argument, according to the Webster dictionary, "conventional" means "lacking originality," or put another way in accordance with U.S. patent intellectual property jargon, it is a reflection that whatever lacks originality is old. Thus, if applicant says something is "conventional", this means it is old. The statement is an admission. As noted in the admitted prior art material in MPEP 2129[1], admitted prior art may be used for purposes of anticipation and obviousness regardless of whether the admitted prior art would otherwise qualify as prior art under the statutory categories of 35 U.S.C. 102. One may argue that Fig. 6 is not a printed publication, or known to others, etc. (i.e., does not fall into any of the paragraphs in 35 U.S.C. 102), but the Examiner may still use it to make a rejection if applicant has stated that the referenced admission is old, i.e., "conventional". Under the MPEP 2129 and applicable case law, the Examiner has treated Fig. 6 as the work of another and is treatable as prior art to applicant as well. Therefore, Fig. 6 is considered to be "Prior Art". Petitioner, it is noted, did not dispute this presumption that Fig. 6 is the work of another.

With regard to Figs. 7 and 8, based on the above passage from page 2 of the specification, the applicant references a 1992 disclosure therein and surely that is prior art in accordance with MPEP 2129 II.[2] No discussion of these drawings is further provided under the detailed description of the preferred embodiments. Therefore, Figs. 7 and 8 are considered to be "Prior Art" because undoubtedly EP 1992 0850168 is a publication and is a form of "Prior Art". Also,

---

[1] MPEP 2129 (I) Admissions as Prior Art I. ADMISSIONS BY APPLICANT CONSTITUTE PRIOR ART A statement by an applicant during prosecution identifying the work of another as "prior art" is an admission that that work is available as prior art against the claims, regardless of whether the admitted prior art would otherwise qualify as prior art under the statutory categories of 35 U.S.C. 102. Riverwood Int 'l Corp. v. R.A. Jones & Co., 324 F.3d 1346, 1354, 66 USPQ2d 1331, 1337 (Fed Cir. 2003). However, even if labeled as "prior art," the work of the same inventive entity may not be considered prior art against the claims unless it falls under one of the statutory categories. Id.; see also Reading & Bates Construction Co. v. Baker Energy Resources Corp., 748 F.2d 645, 650, 223 USPQ 1168, 1172 (Fed. Cir. 1984) ("[W]here the inventor continues to improve upon his own work product, his foundational work product should not, without a statutory basis, be treated as prior art solely because he admits knowledge of his own work. It is common sense that an inventor, regardless of an admission, has knowledge of his own work."). Consequently, the examiner must determine whether the subject matter identified as "prior art" is applicant's own work, or the work of another. In the absence of another credible explanation, examiners should treat such subject matter as the work of another.

[2] MPEP 2129 II. IDISCUSSION OF PRIOR ART IN SPECIFICATION Where the specification identifies work done by another as "prior art," the subject matter so identified is treated as admitted prior art. In re Nomiya, 509 F.2d 566, 571, 184 USPQ 607, 611 (CCPA 1975) (holding applicant's labeling of two figures in the application drawings as "prior art" to be an admission that what was pictured was prior art relative to applicant's improvement).

the claims as originally filed define "A helical implant formed with threads thereon...". Figs 7 - 8 do illustrate the same conventional helical implant which formed with threads thereon that are the preamble for the claims. This illustrates that the applicant designated "conventional implants" as an admission of prior art in accordance with MPEP 2129 III[3]. Therefore, Figs. 7 and 8 are considered to be implied "Prior Art" as a matter of law. In the case Sjolund v. Musland, 6 USPQ2d 2020 (Fed. Cir. 1988), the Court held "It was uncontroverted that many relevant devices were old and the jury must have accepted their status as prior art. The first of these devices is the conventional king crab trap. The description of the prior art in the '071 patent states that "[c]onventional crab traps have been used in their present form for many years." This same trap is defined in the preamble of claim 1, which is a Jepson claim. Since the preamble of a Jepson claim is impliedly admitted to be prior art, see Pentec, Inc. v. Graphic Controls Corp., 776 F.2d 309, 315, 227 USPQ 766, 770 (Fed.Cir. 1985); Reading & Bates Construction Co. v. Baker Energy Resources Corp ., 748 F.2d 645, 649-50, 223 USPQ 1168, 1172 (Fed.Cir. 1984); In re Ehrreich , 590 F.2d 902, 909-910, 200 USPQ 504, 510 (CCPA 1979), and the specification confirms this implied admission, the jury must have accepted the conventional trap as prior art, as a matter of law. Here, this applicant clearly admits, under the heading "description of related art" (page 2 of the specification), Figs. 6-8 illustrate a conventional helical implant and defined in the preamble of the original claim 1. In view of the totality of the original specification and original claims, Figs. 6-8 constitute "Prior Art".

Second, petitioner argues that Figures 6-8 are not themselves believed to constitute "Prior Art" as that term is defined by either 35 U.S.C. § 102 or 35 U.S.C. § 103. The Examiner has introduced no evidence into the record of this application which would either contradict the applicant's belief or establish that Figures 6-8 constitute prior art, as that term is defined by 35 U.S.C. §103(a) of the statute, by its reference to § 102 of the statute. The argument is not persuasive. Nowhere in the specification does the applicant disclose the origin of the subject matter of Fig. 6. In absence of another credible explanation by the applicant, the examiners treated the subject matter of Fig. 6 as the work of another. Therefore, Fig. 6 is deemed to be "Prior Art". With regard to Figs. 7 and 8, based on the above passage from page 2 of the specification, the applicant references a 1992 disclosure EP 1992 0850168 which is prior art in accordance with MPEP 2129 II and as discussed above. Therefore, Figs. 7 and 8 are considered to be "prior art".

Third, petitioner argues that Figures 6-8 are simply abstract representations of the art prepared by the applicant in an effort to illustrate applicant's discovery of problems plagued in the art in accordance with 37 C.F.R. § 1.83(b); this discovery is itself, together with Applicant's

---

[3] MPEP 2129 III. JEPSON CLAIMS Drafting a claim in Jepson format (i.e., the format described in 37 CFR 1.75(e); see MPEP § 608.01(m)) is taken as an implied admission that the subject mater of the preamble is the prior art work of another. In re Fout, 675 F.2d 297, 301, 213 USPQ 532, 534 (CCPA 1982) (holding preamble of Jepson-type claim to be admitted prior art where applicant's specification credited another as the inventor of the subject matter of the preamble). However, this implication may be overcome where applicant gives another credible reason for drafting the claim in Jepson format. In re Ehrreich, 590 F.2d 902, 909-910, 200 USPQ 504, 510 (CCPA 1979) (holding preamble not to be admitted prior art where applicant explained that the Jepson format was used to avoid a double patenting rejection in a co-pending application and the examiner cited no art showing the subject matter of the preamble). Moreover, where the preamble of a Jepson claim describes applicant's own work, such may not be used against the claims. Reading & Bates Construction Co. v. Baker Energy Resources Corp., 748 F.2d 645, 650, 223 USPQ 1168, 1172 (Fed. Cir. 1984); Ehrreich, 590 F.2d at 909-910, 200 USPQ at 510.

abstraction of the art represented by Figures 6-8, part of the applicant's invention. By identifying deficiencies in the prior art and then addressing those deficiencies, applicant completes the inventive process. As such, applicant's effort to identify deficiencies or other undesirable features in the art, does not constitute "Prior Art" as that term is defined under 35 USC §103, and 35 USC §§102(a)-(g). This line of argument is not convincing. Again, nowhere in the specification does the applicant mention the subject matter of Fig. 6 is the applicant's own old machine which the disclosed and claimed improvement is based on in accordance with 37 CFR 1.183 (b)[4]. With regard to Figs. 7 and 8, repeating again, the applicant makes reference to a 1992 disclosure EP 1992 0850168 on page 2 of the specification, the 1992 disclosure EP 1992 0850168 clearly is considered to be prior art treatable under 35 USC §103 and 35 USC § 102.

Fourth, petitioner argues that the applicant has never made any statement which could be construed as a declaration against interest or an admission that Figures 6-8 were "Prior Art". Petitioner also argues that the applicant devised the subject matter of Figs. 6-8. The evidence lies in the fact that the only existence of Figures 6-8 are in the present application and it's parent priority document Korean Application Serial No. 10-2003-0018745 filed on Mar. 26, 2003 and International Application No. PCT/KR04/000519 filed on Mar. 12, 2004. It is noted that nowhere in the specification does the applicant mention the subject matter of Figs. 6-8 was devised by the applicant. In the absence of another credible explanation in the specification, the examiner has treated Figs. 6-8 as the work of another. Not only is this proper, but the examiner would be remiss if he hadn't. If applicant is attributing the work to himself, attention is directed to affidavit practice under 37 CFR § 1.132 and MPEP 716.10.

Petitioner has exemplified other applications where decisions on petition have granted similarly raised objections as in the present application. Decisions on petition under 37 CFR § 1.181 are not precedential and are each decided on their own merit. See In re The Boulevard Entertainment, Inc., 334 F.3d 1336, 1343; 67 USPQ2d 1475, 1480 (Fed. Cir. 2003).

Conclusion

For the foregoing reasons, the relief requested by petitioner will not be granted. Specifically, the examiner's objection to the drawings in the final Office action dated Apr. 10, 2007 is proper.

The application is being forwarded to Supervisory Patent Examiner of Art Unit 3732 to await a response from applicant to the Office action mailed Nov. 26. 2007. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

[4] 37 CFR § 1.83 Content of drawing. (b) When the invention consists of an improvement on an old machine the drawing must when possible exhibit, in one or more views, the improved portion itself, disconnected from the old structure, and also in another view, so much only of the old structure as will suffice to show the connection of the invention therewith.

The petition is dismissed.

Karen M. Young

for Frederick R. Schmidt, Director
Technology Center 3700

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.
10/550,197	09/21/2005	Young-Tack Sul	P57672	7327

8439 7590 06/07/2010
ROBERT E. BUSHNELL & LAW FIRM
2029 K STREET NW
SUITE 600
WASHINGTON, DC 20006-1004

EXAMINER
LEWIS, RALPH A

ART UNIT	PAPER NUMBER
3732	

NOTIFICATION DATE	DELIVERY MODE
06/07/2010	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):

rebushnell@aol.com
mail@rebushnell.com
info@rebushnell.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT E. BUSHNELL & LAW FIRM
2029 K STREET NW
SUITE 600
WASHINGTON DC 20006-1004

In re Application of: SUL, YOUNG-TAEK	
Serial No.: 10/550,197	
Filed: Sep. 21, 2005	
Attorney's Docket: P57672	DECISION ON PETITION
Title: HELICAL IMPLANT	

This is a decision on the renewed petition filed on February 4, 2008 by which petitioner requests the Director reconsider the earlier dismissal decision and review the examiner's drawing objection in the Office action of August 4, 2006 and again in the final Office action of Apr. 10, 2007. Petitioner believes that the objection to the drawings is in error and requests the drawing objection be withdrawn. This petition is considered as pursuant to 37 CFR 1.181 and no fee is required.

The petition is **DENIED**.

The relevant record shows that:

In the non-final Office action of Aug. 4, 2006 and again in the final Office action of Apr. 10, 2007, the examiner requested that applicant to designate by a legend such as "Prior Art" next to Figs. 6-8. On pages 8 of the renewed petition, the applicant agreed that Figs. 7 and 8 as "Prior Art". Therefore, Figs. 7 and 8 of the new drawings filed on May 14, 2007 are accepted. The remaining issue in the renewed petition is whether Fig. 6 should be labeled as "Prior Art". In the renewed petition, petitioner argues the legal definition of what "prior art" is under the US patent laws and practices. In particular, the word "conventional" associated with Fig. 6 in the current specification does not mean "prior art".

Discussion and Analysis

With regard to the drawing objection in the August 4, 2006 Office action and again in the final Office action of Apr. 10, 2007, it must be noted and agreed that in the current patent application, nowhere does the applicant indicate Fig. 6 is a prior art feature. However, it should be noted that

the certified copy[1] of the Korean language patent application 10-2003-0018745 filed September 21, 2005 appears to indicate that Fig. 6 is a conventional or prior art feature. The Office has obtained a copy of machine translated Korean language patent application 10-2003-0018745 filed on September 21, 2005. Under various headings of the machine translated Korean language patent application 10-2003-0018745, the English translation clearly indicates that Fig. 6 is a conventional and prior art feature. Therefore, the examiner's objection of Fig. 6 for failure to label as "prior art" is proper in accordance with MPEP § 608.02(g).

With regard to arguments that the word "conventional" doe not mean "prior art" in the US patent laws and practices. This line of arguments is not persuasive because the issue here is a simple translation from Korean language to English language. The applicant should know the contents of his/her own Korean language patent application 10-2003-0018745. Under the heading of "The Technical Field to Which the Invention belongs and the Prior Art in that Filed" of the Korean language patent application, Fig. 6 is clearly explained as a conventional or prior art feature. Under the circumstances, in the alternative a new drawing of Fig. 6 labeled as "Conventional" would be acceptable to comply with the examiner's drawing objection.

Conclusion

For the foregoing reasons, the relief requested by petitioner will not be granted. Specifically, the examiner's objection to Fig. 6 for failure to label as "prior art" remains and will not be withdrawn.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3732 awaiting for a Reply Brief, if any. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner at (571) 272-4856.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181" and directed to the Office of the Deputy Commissioner for Patent Examination Policy at Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450. See MPEP 1002.02(b).

Accordingly, the petition is **denied.**

Robert Olszewski, Director
Technology Center 3700
Mechanical Engineering, Manufacturing, Products
And Designs

[1] Machine translated Korean language patent application attached

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510-8001

COPY MAILED

JAN 08 2010

In re Application of	:	
Ivan Salgo et al	:	
Application No. 10/550,214	:	DECISION ON PETITION
Filed: September 21, 2005	:	
Attorney Docket No. US030075	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 26, 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 February 25, 2009, 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 2624 for appropriate action by the Examiner in the normal course of business on the reply received October 26, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

Mail Date: 05/06/2010

Applicant	: Mathias Franz	: DECISION ON REQUEST FOR
Patent Number	: 7653000	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/550,221	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/20/2005	: ISSUE CERTIFICATE OF CORRECTION

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

The patent term adjustment has been determined to be **888** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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
www.uspto.gov

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

In re Application of ENGLAND et al. Serial No.: 10/550/223 PCT App. No.: PCT/US03/37894 Int'l Filing Date: 25 November 2003 Priority Date: 25 November 2002 Attorney Docket No.: 45038 For: HIGH CAPACITY SOLID FILTRATION MEDIA	DECISION ON PETITION UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 20 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

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CARRIER, BLACKMAN & ASSOCIATES, P.C.
24101 Novi Road, Suite 100
Novi, Michigan 48375

JAN 30 2008

In re Application of	:	DECISION ON REQUEST TO
Naoji YAMAOKA, et al	:	PARTICIPATE IN PATENT
Application No. 10/550242	:	PROSECUTION HIGHWAY
Filed: September 23, 2005	:	PILOT PROGRAM AND PETITION
Attorney Docket No. CSP-120-A	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed December 21, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

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

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

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

Telephone inquiries concerning this decision should be directed to 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.

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

Kathryn Gorgos
TQAS TC 1700

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

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

Mail Date: 04/21/2010

Applicant	: Johannes Menzel	: DECISION ON REQUEST FOR
Patent Number	: 7604684	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/550,251	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1050** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,259	09/21/2005	Masahiro Hagiwara	Q90407	1176

23373 7590 03/27/2009
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER
NAKARANI, DHIRAJLAL S

ART UNIT	PAPER NUMBER
1794	

MAIL DATE	DELIVERY MODE
03/27/2009	PAPER

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

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

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

wk

Mailed: 3/27/09

In re application of Hagiwara et al. Serial No. 10/550,259 Filed: September 21, 2005 For: Tin-Doped Indium Oxide Fine Particle Dispersion, Method For Manufacturing The Same, Interlayer Film For Laminated Glass With Heat Ray Blocking Properties By Using Said Dispersion, And Laminated Glass Therewith	:	DECISION ON PETITION

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 on February 20, 2009 to Withdraw Finality of the Office Action dated December 23, 2008.

Applicants assert that the finality of a first action after filing an RCE is improper. Applicant states that the claims presented in the Rule 114 Amendment are not drawn to the same invention claimed in the application prior to entry of the Rule 114 Amendment. Applicant cites MPEP 706.07(h) (VIII) and MPEP 706.06(b).

MPEP 706.07(h)(VIII) states that the action immediately subsequent to the filing of an RCE with a submission and fee under 37 CFR 1.114 may be made final only if the conditions set forth in MPEP § 706.07(b) are met.

MPEP 706.07(b) discusses when a final rejection may be proper on a first action.

> The claims of a new application may be finally rejected in the first Office action in those situations where (A) the new application is a continuing application of, or a substitute for, an earlier application, and (B) all claims of the new application (1) are drawn to the same invention claimed in the earlier application, and (2) would have been properly finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application.
>
> The claims of an application for which a request for continued examination (RCE) has been filed may be finally rejected in the action immediately subsequent to the filing of the RCE (with a submission and fee under 37 CFR 1.114) where all the claims in the application after the entry of the submission under 37 CFR 1.114 (A) are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114, and (B) would have been properly finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to the filing of the RCE under 37 CFR 1.114.<
>
> A first Office action in a continuing or substitute application or an RCE may not be made final if it contains a new ground of rejection necessitated by the amendments to 35 U.S.C. 102(e) by the Intellectual Property and High Technology Technical Amendments of 2002 (Pub. L. 107-273, 116 Stat. 1758 (2002)).

A review of the record indicates that the final rejection made in the Office Action of December 23, 2008 was the same one made in the Office Action of August 28, 2008. The amendment filed on

November 26, 2008 under 37 CFR 1.114 amended claims 1 and 14 and cancelled claim 8 which originally depended from claim 1. The limitation of claim 8 was placed into claim 1 and claim 14. Claims 2-5 depend from claim 1 and claims 15-17 depend from claim 14.

Applicant asserts that all the claims presented in the Rule 114 Amendment are not drawn to the same invention claimed in the application prior to entry of the Rule 114 Amendment. The scope of the dispersion stabilizers has been changed by the Rule 114 amendment.

DECISION

Applicant's arguments being convincing, the petition for withdrawal of finality is **GRANTED.**

The response period will continue to run from the mail date of the office action of December 23, 2008

Gregory L. Mills, Acting Director
Technology Center 1700
Chemical and Materials Engineering

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

28 APR 2006

#7

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Gregory N Clements
Invista North America
4501 Charlotte Park Drive
Charlotte, NC 28217

In re Application of FALKE, Thomas et al. Application No.: 10/550,260 PCT No.: PCT/US03/40872 Int. Filing Date: 22 December 2003 Priority Date: 23 December 2002 Docket No.: 2003/13 For: ADHESION BETWEEN TEXTILE REINFORCING MATERIALS AND RUBBER	DECISION ON PETITION UNDER 37 CFR 1.137(b)

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 22 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 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 of the inventors that appears to have been pieced together from at least two separately executed declarations. While it is acceptable for inventors to execute separate copies of the oath or declaration, the entire oath or declaration, as executed by the inventor must bee submitted. See MPEP 605.04(a).

An oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the fee for supplying the oath or declaration after thirty months must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under §1.136(a) are permitted. **Failure to file a timely and proper reply will result in ABANDONMENT of the application as to the United States of America.**

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

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

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

02 OCT 2006

Gregory N Clements
Invista North America
4501 Charlotte Park Drive
Charlotte, NC 28217

In re Application of	:	
FALKE, Thomas et al.	:	
Application No.: 10/550,260	:	
PCT No.: PCT/US03/40872	:	
Int. Filing Date: 22 December 2003	:	DECISION
Priority Date: 23 December 2002	:	
Docket No.: 2003/13	:	
For: ADHESION BETWEEN TEXTILE	:	
REINFORCING MATERIALS AND	:	
RUBBER	:	

This decision is in response to applicants' "Response Regarding Oath or Declaration," filed in the above-captioned application on 28 June 2006.

The declarations supplied on 28 June 2006 comply with 37 CFR 1.497(a)-(b).

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further action consistent with this decision. The application has a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 28 June 2006.

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

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

Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton, NJ 08543-5312

Mail Date: 04/21/2010

Applicant	: Jobst Horentrup	: DECISION ON REQUEST FOR
Patent Number	: 7653882	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/550,262	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **274** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

0 2 DEC 2009

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

Berenbaum Weinshienk PC
370 17th Street
Suite 4800
Denver CO 80202

In re Application of
FERNANDEZ-REAL et al. :
Application No.: 10/550,265 :
PCT No.: PCT/EP2004/050189 :
Int. Filing Date: 23 February 2004 : DECISION
Priority Date: 21 March 2003 :
Atty. Docket No.: 14455.853 :
For: USE OF SOLUBLE CD14 FOR :
TREATMENT OF TYPE 2
DIABETES MELLITUS

This decision is issued in response to applicant's "Request for Corrected Filing Receipt" filed on 10 May 2007 and 16 May 2007, which are being treated as a petition(s) under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 21 September 2005, applicant filed a Transmittal Letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, *among others*, the requisite basic national fee; a copy of the international application; a preliminary amendment; and an executed declaration/ power of attorney.

In response to the Notification of Missing Requirements dated 25 September 2006, applicant resubmitted a copy of the declaration/power of attorney on 21 November 2006.

On 16 April 2007, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification of Acceptance of Application under 35 U.S.C. 371 AND 37 CFR 1.495" (Form PCT/DO/EO/903) which set forth the date of receipt 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements as 21 November 2006 and a 35 U.S.C. 371 completion date of 21 November 2006.

On 10 May 2007 and 16 May 2007, applicant filed a "Request for Corrected Filing Receipt."

DISCUSSION

A. Request for Corrected Filing Receipt

Applicant requests a corrected filing date (or 371(c) date) from 21 November 2006 to 21 September 2005. The actual filing date of the present application is the international filing date, i.e., 23 February 2004. (See 35 U.S.C. 363) The date in the filing date portion on the filing receipt of a national stage application is the date upon which the requirements set forth in 35 U.S.C. 371(c) for entry into the national stage were completed. (See MPEP §1895.01)

Applicant states in their present petition that a declaration/power of attorney was received at the United States Patent and Trademark Office on 21 September 2005. A review of the present application reveals that the declaration and power of attorney filed 21 September 2005 is located therein. Therefore, the correction of the "FILING DATE" on the filing receipt to indicate a date of 21 September 2005 is proper since applicant completed the requirements set forth in 35 U.S.C. 371(c) on 21 September 2005. Applicant's request to correct the Filing Receipt and Notice of Acceptance is granted.

B. Correction of Inventorship Under MPEP 201.03

Applicant states that "the correct spelling of the second-listed inventor on the Filing Receipt should be Wilfredo Engel, not Wifredo Engel." Applicant's statement is construed that the spelling error contained in the declaration resulted from a typographical error.[1] As indicated in Section 201.03 of the Manual of Patent Examining Procedure, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition is not required. Accordingly, applicants' explanation of the difference in the spelling of the second inventor's last name is accepted and noted for the record.

CONCLUSION

Applicant's request under 37 CFR 1.181 for issuance of a corrected Notification of Acceptance and Official Filing Receipt is **GRANTED**.

The Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) mailed on 16 April 2007 is hereby **VACATED**.

The application has an international filing date of 23 February 2004 under 35 U.S.C. 363 and a date of 21 September 2005 under 35 U.S.C. 371(c).

---

[1]If this is **not** a proper interpretation of applicant's statement, applicant **must** inform the Office of PCT Legal Administration immediately.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for treatment in accordance with this decision, that is, for mailing of a Notification of Acceptance of Application (Form PCT/DO/EO/903) which identifies a date of 21 September 2005 under 35 U.S.C. 371(c) and preparation and mailing of a corrected Filing Receipt in accordance with this decision, that is a filing receipt that identifies a filing date of 21 September 2005.

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

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

BERENBAUM WEINSHIENK PC
370 17TH STREET
SUITE 4800
DENVER, CO 80202

Mail Date: 04/20/2010

Applicant	: José Fernandez-Real	: DECISION ON REQUEST FOR
Patent Number	: 7655237	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/550,265	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **717** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA, GA 30339-5994

Mail Date: 04/21/2010

Applicant	: Erwin G. Van Meir	: DECISION ON REQUEST FOR
Patent Number	: 7652033	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/550,286	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/09/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1023** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THOMAS, KAYDEN, HORSTEMEYER &
RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

MAILED

JUN 25 2010

OFFICE OF PETITIONS

In re Patent No. 7,652,033	:	
Issue Date: January 26, 2010	:	
Application No. 10/550,286	:	DECISION ON PETITION
Filed: February 9, 2006	:	
Attorney Docket No. 050508-1360	:	

This is a decision on the Request For Certificate Of Correction Of Patent For PTO Mistake (37 C.F.R. §1.322(a)), filed on April 1, 2010, requesting correction, on the Title Page of the subject patent, to identify the second assignee's name. The Request is being treated as a petition under 37 CFR 1.322(a) for which no fee is required. A completed Certificate of Correction Form was submitted with the petition.

The petition under 37 CFR 1.322(a) is **GRANTED**.

Petitioner urges that the present Petition was submitted to add the omitted second assignee's name previously submitted PTOL-85b and that such error was made by the USPTO.

Telephone inquiries related this communication should be directed to the undersigned at (571)272-3213. Inquiries regarding this issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571)272-4200.

The Certificates of Correction Branch will be notified of this decision granted the petition under 37 CFR 1.322(a) and directing issuance of the requested Certificate of Correction.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 04/20/2010

Applicant	: Hiroshi Shimada	: DECISION ON REQUEST FOR
Patent Number	: 7575388	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/550,296	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **743** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

MAILED
JUL 12 2010
OFFICE OF PETITIONS

HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY NY 12203

In re Patent No. 7,659,125 :
Issue Date: February 9, 2010 :
Application No. 10/550,324 : DECISION ON PETITION
Filed: September 23, 2005 :
Attorney Docket No. 2352.009 :

This is a decision on the Request For Certificate Of Correction Under 37 C.F.R. §1.322 For Patent Office Mistake And Under 37 C.F.R. §1.323 For Applicant's Mistake, filed May 24, 2009, which is being treated as a Petition Under 37 CFR 3.81(b) to accept the omission of a second assignee's name. A completed Certificate of Correction Form (PTO/SB/44) was submitted with the petition.

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

Petitioner urges that the present Petition was submitted to correct the omission of a second assignee's name on the previously submitted PTOL-85B and such error was due to a mistake by the patentee. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB/44) be issued to add the omitted second assignee's name to the Title Page of the Letters Patent.

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

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

The requisite $100.00 fee (Fee Code 1811) as set forth under 37 CFR 1.20(a), has been submitted. However, the requisite $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 is being 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. 7,659,125.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
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

17 MAR 2008

BEYER WEAVER LLP
P.O. BOX 70250
Oakland ca 94612-0250

In re Application of	:	DECISION ON
ADRIENNE S. et al	:	
Application No.: 10/550,331	:	
PCT No.: PCT/US2003/09629	:	
Int. Filing Date: 27 March 2003	:	PETITION UNDER
Priority Date: 27 March 2002	:	
Attorney's Docket No.: 316T-001710US	:	
For: SYNERGY OF DOPAMINE...	:	
BETA/GAMMA DIMERS	:	37 CFR 1.137(b)

This decision is in response to applicant's "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. 1.137(b)," filed on 23 September 2005.

BACKGROUND

On 27 March 2003, this international application was filed, claiming an earliest priority date of 27 March 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 27 September 2004. This international application became abandoned with respect to the United States at midnight on 27 September 2004 for failure to pay the required basic national fee.

On 23 September 2005, applicant 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, but no executed declaration or oath was filed at such time.

On 22 February 2007, petitioner filed an executed declaration.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay

in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

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

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

DECISION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **22 February 2007.**

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

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

COPY MAILED
NOV 17 2008
OFFICE OF PETITIONS

In re Application of	:	
Caldwell et al.	:	
Application No. 10/550,337	:	ON PETITION
Filed: September 22, 2005	:	
Attorney Docket No. GB 030028	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 11, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 28, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 29, 2008. A Notice of Abandonment was mailed October 8, 2008.

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

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

This application is being referred to Technology Center AU 2618 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.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

13 JUL 2007

Novartis
Corporate Intellectual Property
One Health Plaza, 104/3
East Hanover, NJ 07936-1080

In re Application of	:	
HIRSCH, et al.	:	
Application No.: 10/550,357	:	
PCT No.: PCT/EP04/03513	:	DECISION ON PAPERS
Int. Filing Date: 02 April 2004	:	
Priority Date: 04 April 2003	:	UNDER 37 CFR 1.42
Attorney Docket No.: PD/4-32804A	:	
For: PHARMACEUTICAL COMPOSITION	:	
COMPRISING AN	:	
IMMUNOSUPPRESSANT FOR USE IN	:	
THE TREATMENT OF SKIN DISEASES	:	

This application is in response to applicant's "RESPONSE TO NOTICE TO FILE MISSING PARTS" filed 23 February 2007. The filed combined declaration and power of attorney is being treated as a request for status under 37 CFR 1.42. No petition fee is due.

BACKGROUND

On 02 April 2004, applicant filed international application PCT/EP04/03513, which claimed priority to an earlier application filed 04 April 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 14 October 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 October 2006.

On 23 September 2006, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an Information Disclosure Statement and a preliminary amendment.

On 23 October 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 23 February 2007, applicant filed the present response accompanied by a petition for a two-month extension of time. With the payment of the appropriate extension of time 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 23 February 2007 is executed by Stefanie Weiss as legal representative of the estate of deceased inventor, Carl-Martin Weiss. The declaration provides the citizenship for both the deceased inventor and the signing legal representative per 37 CFR 1.497(a)(3). As such, it is proper to grant applicant's request for status pursuant to 37 CFR 1.42.

CONCLUSION

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

This application has an international application filing date of 28 April 2005 and will be given a date of **23 February 2007** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

AUG 04 2009

OFFICE OF PETITIONS

BUCHANAN, INGERSOLL & ROONEY LLP
P.O. BOX 1404
ALEXANDRIA, VA 22313-1404

In re Application of	:	
Darryl RIDEOUT, et al	:	
Application No. 10/550,372	:	DECISION ON PETITION
Filed: September 18, 2006	:	TO WITHDRAW
Attorney Docket No. 1034559-000013		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 1, 2009.

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 attorneys of record were not appointed by Customer Number 21839, 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: SAPIENT DISCOVERY, LLC
10929 TECHNOLOGY PLACE,
SUITE B
SAN DIEGO, CA 92127

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

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

MAILED
APR 20 2010
OFFICE OF PETITIONS

In re Patent No. 7,595,322	:	DECISION ON REQUEST FOR
Morgan et al.	:	RECONSIDERATION OF
Issue Date: September 29, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 10/550,398	:	NOTICE OF INTENT TO ISSUE
Filed: September 20, 2006	:	CERTIFICATE OF CORRECTION
Docket No. 10444.0002-00000	:	

This is a decision on the petition filed on November 30, 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 six hundred seventy-eight (678) 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 **six hundred seventy-nine (679) days**.

In the present petition, patentee acknowledges that the "A Delay" and the "B Delay" overlap. However, patentee incorrectly calculated the period of overlap as 47 days, instead of 46 days, running from September 28, 2008 to November 12, 2008.

Accordingly, the patent term adjustment is 679 days (358 days of A delay + 367 days of B delay - 46 days of overlap).

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.

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 **six hundred seventy-nine (679) days.**

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT: 7,595,322 B2

DATED: Sep. 29, 2009 **DRAFT**

INVENTOR(S): Morgan 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 358 days

Delete the phrase "by 358 days" and insert – by 679 days--

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

BRENT R KNIGHT
EXXONMOBILUPSTREAM RESEARCH COMPANY
P O BOX 2189 (CORP-URC-SW337)
HOUSTON TX 77252-2189

COPY MAILED

SEP 04 2008

OFFICE OF PETITIONS

In re Application of
Christine E. Krohn
Application No. 10/550,406
Filed: September 21, 2005
Attorney Docket No.: 2003UR016

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed on July 3, 2008, to revive the above-identified application. This petition also pleads in the alternative under 37 CFR 1.137(b) and is supplemented in a petition filed August 26, 2008.

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

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(a)". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned on June 4, 2008, for failure to timely submit the issue fee as required by the Notice of Allowance and Issue Fee Due mailed March 3, 2008, which set a three (3) month statutory period for reply. Petitioner filed an Issue Fee Transmittal on April 4, 2008 with an authorization to charge petitioner's deposit account no. 05-1328 however at the time the Office attempted, there were insufficient funds in the account to do so. The publication fee was charged but as the issue fee was not timely paid, the application became abandoned. Accordingly, a Notice of Abandonment was mailed June 26, 2008.

In response, the present petition is filed accompanied by a declaration that the deposit account has been replenished and a further authorization to charge the petition fees and the issue fee. Petitioner asserts that they did not become aware that there were insufficient funds in the deposit account to cover the issue fee until April 15, 2008, after they'd already submitted the issue fee transmittal.

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 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 § 1.17(l);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks items (3) above.

SHOWING OF UNAVOIDABLE DELAY

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.[1]

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

---

[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

The showing of record is that the delay in payment of the issue fee occurred because there were insufficient funds in the deposit account. As it was petitioner's responsibility to ensure that the account contained sufficient funds to pay the items submitted, at the time of the submission, the account was insufficient nonetheless and petitioner has not presented an acceptable explanation for the deficiency.

Petitioner has not established that the delay was unavoidable. Rather than unavoidable delay, the record indicates a lack of diligence on the part of petitioner in maintaining an adequate balance in their deposit account. In order to establish unavoidable delay, petitioner must demonstrate diligence in prosecution of the matter,[3] and the record does not establish that petitioner took all action necessary for prosecution of this application in satisfaction of 37 CFR 1.137(a). The showing presented is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). As petitioner has presented no showing of unavoidable delay, the petition will be dismissed.

Alternatively, since petitioner argues unintentional delay, and since all other requirements under 37 CFR 1.137(b) have been met, this matter is being forwarded to the Publishing Division to be processed into a Patent.

As the present petition was filed and decided under both 37 CFR 1.137(a) and (b) petitioner's deposit account no. 05-1328 has been charged in the amount of $510.00 for treatment of the petition under 37 CFR 1.137(a) and in the amount of $1540.00 for treatment of the petition under 37 CFR 1.137(b). As well, petitioner's deposit account has been charged in the amount of $1440.00 for the issue fee.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

[3] See Douglas v. Manbeck, 21 USPQ2d 1697, 1700 (E.D. Pa. 1991), aff'd 975 F.2d 869, 24 USPQ2d 1318 (Fed. Cir. 1992).

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

THOMAS W. GORMAN
EI DUPONT NEMOURS & CO.
LEGAL PATENT RECORDS CENTER
4417 LANCASTER PIKE
WILMINGTON, DE 19805

Applicant: ADRIN, et al.
Appl. No.: 10/550,423
International Filing Date: March 24, 2004
Title: ELECTROCHEMICAL CELL COMPONENT
Attorney Docket No.: DC8507 US PCT 1
Pub. No.: US 2007/0059581 A1
Pub. Date: March 15, 2007

COPY MAILED
JAN 08 2009
OFFICE OF PETITIONS

This is a decision on the request entitled "Request for Republication of Application under 37 CFR 1.221", received on February 20, 2008.

The request is DISMISSED.

The instant request is that the application be republished with the correct specification and claims.

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).

A guide for filing a request for a Pre-Grant Publication may be found on the link below:

http://www.uspto.gov/ebc/portal/tutorials.htm

Applicant authorized payment of the publication fee set forth in § 1.18(d) ($300) and the processing fee set forth in § 1.17(i)($130.00). The publication fee ($300.00) and the $130.00 processing fee set forth in 37 CFR 1.17(i) have been charged to applicants' deposit account Deposit account 04-1928. The publication fee ($300.00) will be refunded to applicants' deposit account Deposit account 04-1928.

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

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

Inquiries relating to this matter may be directed to Michael Cygan, Legal Advisor, at (571) 272-7700, or to the undersigned at (571) 272-7709.

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

Electronic Patent Application Fee Transmittal

Application Number:	10550423
Filing Date:	24-Oct-2005
Title of Invention:	Electrochemical cell component
First Named Inventor/Applicant Name:	Peter Andrin
Filer:	Thomas Walter Gorman/Diane Dick
Attorney Docket Number:	DC8507 US PCT 1

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:				
Publ. Fee- early, voluntary, or normal	1504	1	300	300
Extension-of-Time:				

Adjustment date: 01/08/2009 CKHLOK
02/20/2008 IHTEFSW 00009831 041928 10550423
01 FC:1504 300.00 CR

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Miscellaneous:				
Processing Fee, except for Provis. apps	1808	1	130	130
			Total in USD ($)	**430**

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 1/8/09

2 Serial/Patent # 10/550,423

3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
✓	Other Pub			$ 300

7 TOTAL AMOUNT OF REFUND $

8 TO BE REFUNDED BY:

- [ ] Treasury Check
- [ ] Credit Deposit A/C #:

9 04--1928

10 REASON:

- [ ] Overpayment
- [ ] Duplicate Payment
- [✓] No Fee Due (Explanation):

repub not granted

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Mark Polutta TITLE: Sr. Legal Admin

SIGNATURE: [signature] PHONE: 2-7709

OFFICE: OPLA

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [signature] DATE: 1/8/09

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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

THOMAS W. GORMAN
EI DUPONT NEMOURS & CO.
LEGAL PATENT RECORDS CENTER
4417 LANCASTER PIKE
WILMINGTON, DE 19805

COPY MAILED

JAN 08 2009

OFFICE OF PETITIONS

Applicant: ADRIN et al.
Appl. No.: 10/550,424
International Filing Date: March 24, 2004
Title: PROCESS FOR SEALING PLATES ON ELECTROCHEMICAL CELL
Attorney Docket No.: DC8510 US PCT
Pub. No.: US 2007/0059571 A1
Pub. Date: March 15, 2007

This is a decision on the request entitled "Request for Republication of Application under 37 CFR 1.221", received on February 20, 2008.

The request is DISMISSED.

The instant request is that the application be republished with the correct specification and claims.

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).

A guide for filing a request for a Pre-Grant Publication may be found on the link below:

http://www.uspto.gov/ebc/portal/tutorials.htm

Applicant authorized payment of the publication fee set forth in § 1.18(d) ($300) and the processing fee set forth in § 1.17(i)($130.00). The publication fee ($300.00) and the $130.00 processing fee set forth in 37 CFR 1.17(i) have been charged to applicants' deposit account Deposit account 04-1928. The publication fee ($300.00) will be refunded to applicants' deposit account Deposit account 04-1928.

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

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

Inquiries relating to this matter may be directed to Michael Cygan, Legal Advisor, at (571) 272-7700, or to the undersigned at (571) 272-7709.

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

Electronic Patent Application Fee Transmittal

Application Number:	10550424
Filing Date:	24-Oct-2005
Title of Invention:	Process for sealing plates in an electrochemical cell
First Named Inventor/Applicant Name:	Peter Andrin
Filer:	Thomas Walter Gorman/Diane Dick
Attorney Docket Number:	DC8510 USPCT

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:				
Publ. Fee- early, voluntary, or normal	1504	1	300	300
Extension-of-Time:				

Adjustment date: 01/08/2009 CKHLOK
02/20/2008 INTEFSW 00009914 041928 10550424
01 FC:1504 300.00 CR

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Miscellaneous:				
Processing Fee, except for Provis. apps	1808	1	130	130
		Total in USD ($)		**430**

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 1/8/09

2 Serial/Patent # 10/550,424

3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
✓	Other PG Pub Fee		~	$ 300.

7 TOTAL AMOUNT OF REFUND $ 300

8 TO BE REFUNDED BY:

	Treasury Check
	Credit Deposit A/C #:

9 04--1928

10 REASON:

	Overpayment
	Duplicate Payment
✓	No Fee Due (Explanation):

repub not granted

11 REFUND REQUESTED BY: Mark Polutta

TYPED/PRINTED NAME: Mark Polutta TITLE: Sr. Legal Advisor

SIGNATURE: Mark Polutta PHONE: 272-7709

OFFICE: OPLA

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: CKhlk DATE: 1/8/09

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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

THOMAS W. GORMAN
EI DUPONT NEMOURS & CO.
LEGAL PATENT RECORDS CENTER
4417 LANCASTER PIKE
WILMINGTON, DE 19805

COPY MAILED

JAN 0 8 2009

OFFICE OF PETITIONS

Applicant: ADRIN et al.
Appl. No.: 10/550,425
International Filing Date: March 24, 2004
Title: INTEGRATED ELECTRICALLY CONDUCTIVE ELECTROCHEMICAL CELL COMPONENT
Attorney Docket No.: DC8510 US PCT 1
Pub. No.: US 2007/0072026 A1
Pub. Date: March 29, 2007

This is a decision on the request entitled "Request for Republication of Application under 37 CFR 1.221", received on February 20, 2008.

The request is DISMISSED.

The instant request is that the application be republished with the correct specification and claims.

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).

A guide for filing a request for a Pre-Grant Publication may be found on the link below:

http://www.uspto.gov/ebc/portal/tutorials.htm

Applicant authorized payment of the publication fee set forth in § 1.18(d) ($300) and the processing fee set forth in § 1.17(i)($130.00). The publication fee ($300.00) and the $130.00 processing fee set forth in 37 CFR 1.17(i) have been charged to applicants' deposit account Deposit account 04-1928. The publication fee ($300.00) will be refunded to applicants' deposit account Deposit account 04-1928.

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

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

Inquiries relating to this matter may be directed to Michael Cygan, Legal Advisor, at (571) 272-7700, or to the undersigned at (571) 272-7709.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RANKIN, HILL & CLARK LLP
925 EUCLID AVENUE
SUITE 700
CLEVELAND OH 44115-1405

COPY MAILED

OCT 23 2008

OFFICE OF PETITIONS

In re Application of	:	
Shoichiro Shio	:	
Application No. 10/550,461	:	DECISION ON PETITION
Filed: September 26, 2005	:	TO WITHDRAW
Attorney Docket No. SHD-18094	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 11, 2008.

The request is **NOT APPROVED**.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

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

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

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

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

cc: RONALD SNIDER
1607 31ST STREET NW
WASHINGTON, DC 20007

27 JUN 2006

UNITED STATES PATENT and TRADEMARK OFFICE

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

ELMORE PATENT LAW GROUP, PC
209 MAIN STREET
N. CHELMSFORD MA 01863

In re Application of	:	DECISION ON
Elliot Ehrich	:	
Application No.: 10/550,471	:	
PCT No.: PCT/US03/27618	:	
Int. Filing Date: 04 September 2003	:	PETITION UNDER
Priority Date: 19 March 2003	:	
Attorney's Docket No.: 103657-39 (EAR)	:	
For: LASER MARKING PROCESS	:	37 CFR 1.137(b)

This decision is in response to applicant's "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. 1.137(b)," filed on 22 September 2005.

BACKGROUND

On 04 September 2003, this international application was filed, claiming an earliest priority date of 19 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 19 September 2005. This international application became abandoned with respect to the United States at midnight on 19 September 2005 for failure to pay the required basic national fee.

On 22 September 2005, applicant filed the instant petition under 37 CFR 1.137(b) and Transmittal letter for entry into the national stage in the United States, which was accompanied by the basic national fee and the petition fee.

DISCUSSION

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

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

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

DECISION

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

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

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
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

JONES DAY
222 EAST 41ST ST.
NEW YORK, NY 10017

COPY MAILED
JAN 25 2010

In re Application of	:	
LI ET AL.	:	
Application No. 10/550,482	:	ON APPLICATION FOR
Filed: October 13, 2006	:	PATENT TERM ADJUSTMENT
Atty. Docket No. 12702-004-999	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b), filed October 14, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is three hundred forty-three (343) days, not one hundred twenty-six (126) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a

determination on the correctness of the patent term adjustment until the patent has issued.

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

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

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

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

---

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

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 Gay Ann Spahn at (571) 272-8011.

Christina Tartera Donnell

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

Mail Date: 06/07/2010

Applicant	: Yingfu Li	: DECISION ON REQUEST FOR
Patent Number	: 7674797	: RECALCULATION of PATENT
Issue Date	: 03/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/550,482	: OF WYETH
Filed	: 10/13/2006	:
		:

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.

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

Staas & Halsey
Suite 700
1201 New York Avenue
Washington DC 20005

In re Application of	:	
FUKUI et al.	:	
Application No.: 10/550,489	:	DECISION
PCT No.: PCT/JP2003/003987	:	
Int. Filing Date: 28 March 2003	:	
Priority Date: None	:	
Attorney's Docket No.: 1466.1104	:	
For: PHOTOGRAPHING APPARATUS	:	
PHOTOGRAPHING METHOD AND	:	
COMPUTER PROGRAM	:	

This decision is in response to applicants' "PETITION TO THE DIRECTOR UNDER 37 C.F.R. SECTION 1.182 REQUESTING CONVERSION OF A 371 APPLICATION INTO A 111(A) APPLICATION" filed 09 August 2006.

BACKGROUND

On 28 March 2003, applicants filed international application PCT/JP2003/003987, which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office (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 28 September 2005.

On 26 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 a declaration of inventors.

On 14 June 2006, a NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495 (Form PCT/DO/EO/903) showing a 35 U.S.C. 371 date of 26 September 2005 was mailed.

On 09 August 2006, applicants submitted the instant "PETITION TO THE DIRECTOR UNDER 37 C.F.R. SECTION 1.182 REQUESTING CONVERSION OF A 371 APPLICATION INTO A 111(A) APPLICATION".

DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such. The official PTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in part, the following:

> The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.
>
> * * *
>
> If there are any conflicting instructions as to which sections of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111.

The transmittal letter filed on 26 September 2005 identified the application as "a filing under 35 U.S.C. 371." There were no conflicting instructions. Accordingly, the application was properly treated as a filing under 35 U.S.C. 371. 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. Here, no showing of cause has been made.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.182 is **DISMISSED** without prejudice.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

NOV 09 2009

OFFICE OF PETITIONS

In re Application
Horst Rothenhöfer et al.
Application No. 10/550,495
Filed: September 26, 2005
Attorney Docket No. **016906-0433**

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT filed August 26, 2009. Applicant requests that the determination of patent term adjustment be corrected from 286 days to 459 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

Patentees request that the decision on this request for reconsideration of patent term adjustment be deferred or delayed until a final decision has been rendered in Wyeth v. Dudas. There is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abeyance.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the of the patent term adjustment concerning those regulations until the patent has issued.

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

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

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

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

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

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

/Kery A. Fries/

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

---

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

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

JENKINS, WILSON, TAYLOR & HUNT, P. A.
Suite 1200 UNIVERSITY TOWER
3100 TOWER BLVD.,
DURHAM NC 27707

MAILED

SEP 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Thomas John Gonda, et al.	:	
Application No. 10/550,533	:	ON PETITION
Filed: April 28, 2006	:	
Attorney Docket No. 1386/21	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 31, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment (37 CFR 1.121), mailed August 21, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on September 22, 2008. The Notice of Abandonment was mailed February 27, 2009.

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

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

The application file is being referred to Technology Center AU 1634 for appropriate action on the concurrently filed election.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

DOCKET NO: 278274US6PCT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF	:
TOSHIO TAKESHITA, ET AL.	: EXAMINER: NOT ASSIGNED
SERIAL NO: 10/550,535	:
FILED: SEPTEMBER 22, 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).

PETITION GRANTED

William Krynski
Special Program Examiner
Technology Center 1700
JUN 15 2006

19 DEC 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

Kristian Jansson
Aumakatu 3
Jyvaskyla, FIN-40320
FINLAND

In re Application of	:	
JANSSON, et al.	:	
U.S. Application No.: 10/550,541	:	DECISION ON PETITION
PCT No.: PCT/FI03/00216	:	
Int. Filing Date: 20 March 2003	:	UNDER 37 CFR 1.137(b)
Priority Date: None	:	
Attorney Docket No.: None	:	
For: AMP LIGATION ASSAY (ALA)	:	

The petition to revive under 37 CFR 1.137(b) filed 06 November 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" 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 while applicant previously provided payment of the full, U.S. Basic National fee, this payment was not made prior to the expiration of 30 months from the priority date. Applicant has presently filed a petition with statement explaining that the delay was unintentional; as such all of 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.

12/19/2006 SBASHEIR 00000002 10550541
01 FC:2453 750.00 OP

Adjustment date: 12/19/2006 SBASHEIR
11/09/2006 GFREY1 00000145 PCT/FI03/00216
01 FC:2453 -750.00 OP

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

29 AUG 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Foley & Lardner, LLP
3000 K Street, N.W.
Suite 500
Washington, DC 20007

In re Application of	:	
SOWERBY, et al.	:	
PCT No.: PCT/NZ04/00086	:	DECISION ON PETITION
Application No.: 10/550,547	:	
Int. Filing Date: 07 May 2004	:	UNDER 37 CFR 1.47(a)
Priority Date: 16 May 2003	:	
Atty. Docket No.: 061967-0102	:	
For: METHOD AND APPARATUS FOR MIXING SAMPLE AND REAGENT IN A SUSPENSION FLUID	:	

08/29/2006 SWASHEIR 00000001 190741 10550547
Sale Rel: 00000001 DAH: 190741 10550547
01 FC:1206 70.00 DA

This decision is in response to applicant's "Petition Under 37 C.F.R. § 1.47" filed 10 August 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 07 May 2004, applicant filed international application PCT/NZ04/00086 which claimed priority to an earlier application filed 16 May 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 16 November 2005.

On 26 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).

On 21 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 10 August 2006, applicant filed the present petition under 37 CFR 1.47(a) to accept the filed declaration without the signature of joint inventor Stephen J. Sowerby.

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 07 May 2004 under 35 U.S.C. 363, and will be given a date of **10 August 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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAW OFFICE OF MICHAEL A. SANZO, LLC
15400 CALHOUN DR.
SUITE 125
ROCKVILLE, MD 20855

Mail Date: 04/21/2010

Applicant	: Harald Groger	: DECISION ON REQUEST FOR
Patent Number	: 7632665	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/550,556	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **210** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

16 JUL 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

ERICSSON INC.
6300 LEGACY DRIVE
M/S EVR 1-C-11
PLANO, TX 75024

In re Application of EIKENBROEK	:	
U.S. Application No.: 10/550,568	:	
PCT Application No.: PCT/SE2004/000369	:	
Int. Filing Date: 12 March 2004	:	DECISION
Priority Date Claimed: 03 April 2003	:	
Attorney Docket No.: P16277-US1	:	
For: METHOD AND SYSTEM OF JITTER	:	
COMPENSATION	:	

This is in response to applicant's "Petition to Withdraw Holding of Abandonment" filed 17 June 2008, which is being treated under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 12 March 2004, applicant filed international application PCT/SE2004/000369, which claimed priority of an earlier Sweden application filed 03 April 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 on 03 October 2005.

On 27 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 22 May 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905)[1], which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 22 May 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.

[1] Copy attached.

On 17 June 2008, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The petition states that the Notification of Missing Requirements was never received. The petition further alleges that the Notification of Missing Requirements was never issued based on the fact that the Notification of Missing Requirements does not appear in the Patent Application Information Retrieval (PAIR) service of the USPTO. However, a review of USPTO electronic records indicates that the Notification of Missing Requirements was mailed on 22 May 2006. A corresponding entry in the "Transaction History" should appear in applicant's private PAIR records. In any event, the fact that a document does not appear in the image file wrapper is not conclusive evidence that the document was never issued or mailed and does not discount the possibility that the document was inadvertently not scanned into the image file wrapper.

MPEP 711.03(c), Section I. A., "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action" states in relevant part,

> 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.

In the present case, the petition includes a statement from the practitioner that the correspondence was not received. However, a statement that a search of the practitioner's file records revealed that the correspondence was not received has not been provided. Furthermore, the petition does not include a statement from the practitioner describing the docketing system of the practitioner's firm and establishing that the system is sufficiently reliable. Additionally, the petition does not include a copy of the master docket record for the practitioner's firm, listing all

replies docketed for the due date for reply to the Notification of Missing Requirements. Such docket record must indicate that no response to a Notification of Missing Requirements was due on 22 July 2006 for the present application.

CONCLUSION

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

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

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

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

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

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/550,568	Johannes Wilhelmus Theodorus Eikenbroek	P16277-US1

INTERNATIONAL APPLICATION NO.
PCT/SE04/00369

I.A. FILING DATE	PRIORITY DATE
03/12/2004	04/03/2003

27045
ERICSSON INC.
6300 LEGACY DRIVE
M/S EVR C11
PLANO, TX 75024

CONFIRMATION NO. 4498

371 FORMALITIES LETTER

OC000000018894506

Date Mailed: 05/22/2006

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Copy of the International Application filed on 09/27/2005
- Copy of the International Search Report filed on 09/27/2005
- Preliminary Amendments filed on 09/27/2005
- Information Disclosure Statements filed on 09/27/2005
- Request for Immediate Examination filed on 09/27/2005
- U.S. Basic National Fees filed on 09/27/2005
- Priority Documents filed on 09/27/2005
- Specification filed on 09/27/2005
- Claims filed on 09/27/2005
- Abstracts filed on 09/27/2005
- Drawings filed on 09/27/2005

The applicant needs to satisfy supplemental fees problems indicated below.

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.

- To avoid abandonment, a surcharge (for late submission of filing fee, search fee, examination fee or oath or declaration) as set forth in 37 CFR 1.492(h) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.

SUMMARY OF FEES DUE:

Total additional fees required for this application is **$130** for a Large Entity:

- **$130** Surcharge.

ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice **MUST** be returned with the response.*

PAULETTE R KIDWELL

Telephone: (703) 308-9140 EXT 216

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/550,568	PCT/SE04/00369	P16277-US1

FORM PCT/DO/EO/905 (371 Formalities Notice)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

2 3 SEP 2008

ERICSSON INC.
6300 LEGACY DRIVE
M/S EVR 1-C-11
PLANO, TX 75024

In re Application of EIKENBROEK	:	
U.S. Application No.: 10/550,568	:	
PCT Application No.: PCT/SE2004/000369	:	
Int. Filing Date: 12 March 2004	:	DECISION
Priority Date Claimed: 03 April 2003	:	
Attorney Docket No.: P16277-US1	:	
For: METHOD AND SYSTEM OF JITTER COMPENSATION	:	

This is in response to applicant's "Renewed Petition Under 37 C.F.R. § 1.181" filed 15 September 2008.

BACKGROUND

On 12 March 2004, applicant filed international application PCT/SE2004/000369, which claimed priority of an earlier Sweden application filed 03 April 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 on 03 October 2005.

On 27 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 22 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 22 May 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 17 June 2008, applicant a petition under 37 CFR 1.181.

On 16 July 2008, this Office mailed a decision dismissing the 17 June 2008 petition.

On 15 September 2008, applicant filed the present renewed petition under 37 CFR 1.181.

DISCUSSION

MPEP 711.03(c), Section I. A., "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action" states in relevant part,

> 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 petition states that the Notification of Missing Requirements was never received. Petitioner has previously provided a statement from the practitioner that the correspondence was not received. Furthermore, the renewed petition contains a statement that a search of the practitioner's file records revealed that the correspondence was not received and a statement describing the docketing system of the practitioner's firm and establishing that the system is sufficiently reliable. Additionally, the renewed petition includes a copy of the master docket record for the practitioner's firm, listing all replies docketed for the due date for reply to the Notification of Missing Requirements. Such docket record indicates that no response was due on 22 July 2006 for the present application.

CONCLUSION

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

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 22 May 2008 is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 12 March 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 15 September 2008.

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

Bryan Lin

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
www.uspto.gov

14 JUL 2006

KRAMER & AMADO, P.C.
1725 DUKE STREET
SUITE 240
ALEXANDRIA, VA 22314

In re Application of MARTINEZ et al	:	
U.S. Application No.: 10/550,608	:	
PCT Application No.: PCT/EP04/03219	:	
Int. Filing Date: 25 March 2004	:	DECISION
Priority Date Claimed: 26 March 2003	:	
Attorney Docket No.: ABG 3008	:	
For: IN VITRO METHOD TO DETECT	:	
BLADDER TRANSITIONAL CELL	:	
CARCINOMA	:	

This is in response to applicant's "Petition to File on Behalf of Inventor Who Refuses to Join in Application Under 37 C.F.R. §1.47" filed 19 April 2006.

BACKGROUND

On 25 March 2004, applicant filed international application PCT/EP04/03219, which claimed priority of an earlier Spain application filed 26 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 26 September 2005.

On 26 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 April 2006, applicant filed the present petition under 37 CFR 1.47(a).

On 27 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.

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.

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 Miguel Molina Vila refuses to sign the application papers. Although the petition states that a bona fide attempt was made to present a copy of the application papers to Miguel Molina Vila for signature via electronic mail on 09 March 2006, an English language translation of the electronic mail message has not been provided. Similarly, English language translations of the rest of the electronic mail correspondence with Miguel Molina Vila have not been provided. Thus, it would not be reasonable to conclude at the present time that Miguel Molina Vila refuses to join in the application.

With regard to item (3) above, applicant has provided the requisite petition fee.

With regard to item (4) above, the petition states the last known address of the nonsigning inventor.

CONCLUSION

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

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)". No additional petition fee is required.

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

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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

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

05 DEC 2006

KRAMER & AMADO, P.C.
1725 DUKE STREET
SUITE 240
ALEXANDRIA, VA 22314

In re Application of MARTINEZ et al	:	
U.S. Application No.: 10/550,608	:	
PCT Application No.: PCT/EP04/03219	:	
Int. Filing Date: 25 March 2004	:	DECISION
Priority Date Claimed: 26 March 2003	:	
Attorney Docket No.: ABG 3008	:	
For: IN VITRO METHOD TO DETECT	:	
BLADDER TRANSITIONAL CELL	:	
CARCINOMA	:	

This is in response to applicant's "Renewed Petition Under 37 C.F.R. §1.47(a)" filed 28 August 2006.

BACKGROUND

On 25 March 2004, applicant filed international application PCT/EP04/03219, which claimed priority of an earlier Spain application filed 26 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 26 September 2005.

On 26 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 April 2006, applicant filed a petition under 37 CFR 1.47(a).

On 27 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 14 July 2006, this Office mailed a decision dismissing the 19 April 2006 petition.

On 28 August 2006, applicant filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

Applicant has previously satisfied items (1), (3), and (4) above.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

> Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The petition states that joint inventor Miguel Molina Vila refuses to sign the application papers. The renewed petition adequately demonstrates that a bona fide attempt was made to present a copy of the application papers to Miguel Molina Vila for signature via electronic mail on 09 March 2006 (see affidavit of Andreas Baltatzis and English translation of the 09 March 2006 electronic mail message). The inventor's failure to respond to the 09 March 2006 communication and to repeated other communications sufficiently illustrates his refusal to cooperate. Thus, it can be concluded with reasonable certainty that Miguel Molina Vila refuses to join in the application.

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 25 March 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 19 April 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 Tung
PCT Legal Examiner
PCT Legal Office

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/20/2010

Applicant	: Koji Hirose	: DECISION ON REQUEST FOR
Patent Number	: 7617009	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/550,614	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/01/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **53** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

NOVARTIS
CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 104/3
EAST HANOVER, NJ 07936-1080

MAILED

MAY 20 2010

OFFICE OF PETITIONS

In re Patent of Olivier Lohse et al.	:	DECISION ON REQUEST
Patent No. 7,605,267	:	FOR RECONSIDERATION OF
Issue Date: October 20, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/550,621	:	AND NOTICE OF INTENT TO
35 U.S.C. § 371 Date: November 3, 2005	:	ISSUE CERTIFICATE OF
Attorney Docket No. PAT033150-US-PCT	:	CORRECTION

This is a decision on the petition filed December 18, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by nine hundred thirty-three (933) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the patent is extended or adjusted by nine hundred thirty-three (933) days is **GRANTED to the extent indicated herein**.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 C.F.R. § 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, Patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 C.F.R. § 1.136.

Patentees assert the period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") is 393 days.

In this case, the period of B Delay began on the day after the date three years after "the actual filing date of the application in the United States."[1] In the case of an international application, the "actual filing date of the application in the United States" is the date the national stage commenced under 35 U.S.C. 371(b) or (f).[2]

---

[1] *See* 35 U.S.C. § 154(b)(1)(B). The office notes the instant case does not contain any time periods falling under 35 U.S.C. §§ 154(b)(1)(B)(i)-(iii).

[2] *See* Manual of Patent Examining Procedure ("MPEP") § 2730 (8th ed., Rev. 4, Oct. 2005) (*citing 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).

The date of commencement for the instant application is October 3, 2005. The number of days beginning on October 4, 2008, the day after the date three years after the date of commencement, and ending on October 20, 2009, the date of issuance, is 382 days. In other words, B Delay is 382 days, not 393 days, and patent term adjustment is 922 days, not 933 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **nine hundred twenty-two (922)** days.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,605,267 B2
APPLICATION NO.	:	10/550,621
DATED	:	October 20, 2009
INVENTOR(S)	:	Olivier Lohse et al.

DRAFT

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

On the Title page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 540 days.

Delete the phrase "by 540 days" and insert -- by 922 days--

12 JUN 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FAEGRE & BENSON LLP
PATENT DOCKETING
2200 WELLS FARGO CENTER
MINNEAPOLIS MN 55402

In re Application of	:	
GREEN	:	
Application No.: 10/550,629	:	DECISION ON
PCT No.: PCT/US04/04675	:	
Int. Filing Date: 17 February 2004	:	PETITION UNDER
Priority Date: 24 February 2003	:	
Attorney Docket No.: 75196-321978	:	37 CFR 1.137(b)
For: TRANSLUCENT SOLID MATRIX ASSAY	:	
DEVICE FOR MICROARRAY ANALYSIS	:	

This decision is in response to applicant's submission filed 21 September 2005.

BACKGROUND

On 17 February 2004, applicant filed international application PCT/US04/04675 which designated the U.S. and claimed a priority date of 24 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 24 August 2005.

On 21 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, a declaration of the inventor, 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 21 September 2005.

As to item (2), applicant submitted the petition fee on 21 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 the inventor filed 21 September 2005 is in compliance with 37 CFR 1.497(a)-(b). 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 06-0029.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

SEP 24 2009

OFFICE OF PETITIONS

In re Application of :
Arie Krijgsman et al. :
Application No. 10/550,638 : ON PETITION
Filed: June 20, 2006 :
Attorney Docket No.: **C4296(C)** :

This is a decision on the petition filed September 8, 2009 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 September 26, 2008. 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 December 29, 2008. Accordingly, a Notice of Abandonment was mailed March 31, 2009.

Additionally, the record reveals that after the abandonment and with the instant petition to revive, a three month extension of time was filed, however, 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 $1111.00 extension of time fee submitted with the petition on September 8, 2009 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited back to the credit card used.

---

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

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

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

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

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

This matter is being referred to Technology Center 1796 for appropriate action on the amendment filed September 8, 2009.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

29 JUN 2006

UNITED STATES PATENT and TRADEMARK OFFICE

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

MERCK & CO., INC.
Patent Department RY60-30
P.O Box 2000
126 East Lincoln Avenue
Rathway, New Jersey 07064-0970

In re Application of	:	DECISION ON
Chakravarty et al	:	
PCT No.: PCT/US2004/008532	:	
Application No.: 10/550,641	:	
Int. Filing Date: 19 March 2004	:	PAPERS FILED
Priority Date: 24 March 2003	:	
Attorney's Docket No.: 21230YP	:	
For: BIARYL SUBSTITUTED 6-MEMBERED	:	
HETEROCYCLES AS SODIUM CHANNEL BLOCKERS	:	UNDER 37 CFR 1.42

This is a decision on the declaration filed 23 September 2005, which has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 23 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 as required by 35 U.S.C. 371(c)(1), and an executed declaration as required by 35 U.S.C. 371(c)(4). The declaration, however, is signed by Jeffrey M. Fisher as legal representatives of the inventor now deceased Michael H. Fisher.

DISCUSSION

The declaration is accepted under 37 CFR 1.42 because it includes the citizenship and mailing addresses of Jeffrey M. Fisher (legal representatives) and of deceased inventor, Michael H. Fisher. Accordingly, applicants have satisfied the requirements under 37 CFR 1.42.

Thus, the requirements under 35 USC 371(c) are satisfied.

CONCLUSION

For the above reasons, the submission of the declaration under 37 CFR 1.42 is **ACCEPTED**.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision. The 35 U.S.C.§ 371(c)(1), (c)(2), and (c)(4) date of this application as **23 September 2005**.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/21/2010

Applicant	: Jean-Philippe Starck	: DECISION ON REQUEST FOR
Patent Number	: 7645887	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/550,667	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/28/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **438** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

DINSMORE & SHOHL LLP
ONE DAYTON CENTRE, ONE SOUTH MAIN STREET
SUITE 1300
DAYTON, OH 45402-2023

In re Application of HANGARTNER et al	:	
U.S. Application No.: 10/550,668	:	
PCT Application No.: PCT/US2003/009418	:	
Int. Filing Date: 27 March 2003	:	
Priority Date Claimed: none	:	DECISION
Attorney Docket No.: WRU 0239 PA	:	
For: OSTEOPOROSIS SCREENING USING	:	
RADIOGRAPHIC ABSORTIOMETRY OF	:	
THE MANDIBLE	:	

This is in response to applicant's "Request for Refund" filed 21 February 2007.

BACKGROUND

On 27 March 2003, applicant filed international application PCT/US2003/009418. The thirty-month period for paying the basic national fee in the United States expired on 27 September 2005.

On 26 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 17 November 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 21 February 2007, applicant filed an executed declaration along with payment for a two month extension of time and the present request for refund.

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.

The present petition states that because the Notification of Missing Requirements was never received by applicant, the fee for a two month extension of time for reply to the Notification of Missing Requirements should not be required.

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

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

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

With regard to item (3) above, the supplied docket record is insufficient. Petitioner must submit a docket record which lists responses due to the USPTO on 17 January 2007 for all cases handled by the representative's firm. Such docket record must illustrate the absence of any listing of a response due to a Notification of Missing Requirements for the present application.

CONCLUSION

For the reasons above, the request for refund is DISMISSED without prejudice.

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

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

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.
10/550,674	09/26/2005	Jeffrey Wilson	DYOUP0298US	8336

EXAMINER
GAUTHIER, GERALD

ART UNIT	PAPER NUMBER
2614	

MAIL DATE	DELIVERY MODE
12/05/2008	PAPER

7590 12/05/2008
RENNER OTTO BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE
NINETEENTH FLOOR
CLEVELAND, OH 44115

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☒ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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

SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
P.O. BOX142950
GAINESVILLE, FL 32614-2950

COPY MAILED

MAR 0 6 2008

OFFICE OF PETITIONS

In re Application of	
Shabnam TANGRI, et al	
Application No. 10/550,675	DECISION ON PETITION
Filed: May 22, 2006	TO WITHDRAW
Attorney Docket No. EPI-104XC1	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 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 Frank C. Eisenschenk, Ph.D. on behalf of all attorneys/agents of record associated with Customer Number 23557.

All attorneys/agents of record associated with Customer Number 23557 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 outstanding Office actions pending at the present time.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: SHABNAM TANGRI
5683 GLENSTONE WAY
SAN DIEGO, CA 92121

GLOBAL PATENT GROUP –IDM
MS. LAVERN HALL
10411 CLAYTON ROAD, SUITE 304
ST. LOUIS, MO 63131

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/550,675	05/22/2006	Shabnam Tangri	EPI-104XC1

CONFIRMATION NO. 8341

POWER OF ATTORNEY NOTICE

23557
SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE, FL 32614-2950

OC000000028662508

Date Mailed: 03/06/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/06/2007.

- 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.

/dcgoodwyn/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

30 APR 2007

STEVENS DAVIS MILLER & MOSHER, LLP
1615 L STREET, NW
SUITE 850
WASHINGTON, DC 20036

In re Application of VAN DER PLAS et al	:	
U.S. Application No.: 10/550,678	:	
PCT Application No.: PCT/EP2004/003625	:	
Int. Filing Date: 31 March 2004	:	COMMUNICATION
Priority Date Claimed: 31 March 2003	:	
Attorney Docket No.: APV31897	:	
For: PROCESS FOR THE ELECTROLYSIS OF ALUMINIUMSULFIDE	:	

This is in response to applicant's "Response to Notification of Defective Response" filed 12 April 2007.

BACKGROUND

On 31 March 2004, applicant filed international application PCT/EP2004/003625, which claimed priority of an earlier European Patent Office application filed 31 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 on 30 September 2005.

On 26 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 25 September 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 24 November 2006, applicant filed an executed declaration.

On 02 April 2007, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which stated that the declaration filed 24 November 2006 lists inventors not listed in the published international application.

On 12 April 2007, applicant filed the present response.

DISCUSSION

Inventors Steven Lans, Markus Reuter, Mpia Mambote, Anthonie Van Sandwijk, and Yanping Xiao were added as inventors in the international stage of application PCT/EP2004/003625 as evidenced by Form PCT/IB/306. Thus, the inventors are properly listed in the declaration filed 24 November 2006.

CONCLUSION

For the reasons above, the Notification of Defective Response (Form PCT/DO/EO/916) mailed 02 April 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 new Notification of Defective Response (Form PCT/DO/EO/916) which should indicate that a declaration executed by the third listed inventor Markus Reuter must be submitted.

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
www.uspto.gov

30 APR 2007

STEVENS DAVIS MILLER & MOSHER, LLP
1615 L STREET, NW
SUITE 850
WASHINGTON, DC 20036

In re Application of VAN DER PLAS et al U.S. Application No.: 10/550,678 PCT Application No.: PCT/EP2004/003625 Int. Filing Date: 31 March 2004 Priority Date Claimed: 31 March 2003 Attorney Docket No.: APV31897 For: PROCESS FOR THE ELECTROLYSIS OF ALUMINIUMSULFIDE	COMMUNICATION

This is in response to applicant's "Response to Notification of Defective Response" filed 12 April 2007.

BACKGROUND

On 31 March 2004, applicant filed international application PCT/EP2004/003625, which claimed priority of an earlier European Patent Office application filed 31 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 on 30 September 2005.

On 26 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 25 September 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 24 November 2006, applicant filed an executed declaration.

On 02 April 2007, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which stated that the declaration filed 24 November 2006 lists inventors not listed in the published international application.

On 12 April 2007, applicant filed the present response.

DISCUSSION

Inventors Steven Lans, Markus Reuter, Mpia Mambote, Anthonie Van Sandwijk, and Yanping Xiao were added as inventors in the international stage of application PCT/EP2004/003625 as evidenced by Form PCT/IB/306. Thus, the inventors are properly listed in the declaration filed 24 November 2006.

CONCLUSION

For the reasons above, the Notification of Defective Response (Form PCT/DO/EO/916) mailed 02 April 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 new Notification of Defective Response (Form PCT/DO/EO/916) which should indicate that a declaration executed by the third listed inventor Markus Reuter must be submitted.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

05 JUN 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

In re Application of VARACHEZ et al. Application No.: 10/550,693 PCT No.: PCT/FR04/50110 Int. Filing: 17 March 2004 Priority Date: 17 March 2003 Attorney Docket No.: 0540-1039 For: ADJUSTABLY BIODEGRADABLE MATERIAL FOR A HORTICULTURAL CONTAINER AND OVERPACKAGING FOR CONTAINERS	DECISION ON PETITION TO REVIVE UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 26 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 requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee was submitted on 26 Spetember 2005 along with the instant petition. 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. On 26 April 2006, a declaration, in compliance with 37 CFR 1.497(a) and (b), and executed by the inventors and the $65 surcharge for filing the declaration after the thirty month period was provided.

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) is 26 April 2006.

Cynthia M. Kratz

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

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

28 MAR 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

Karl W. Hauber
Fay, Sharpe, Fagan, Minnich & McKee, LLP
1100 Superior Avenue
Seventh Floor
Cleveland, OH 44114-2579

In re Application of	:	
ZILVOLD, et al.	:	
Application No.: 10/550,697	:	
PCT No.: PCT/NL03/00234	:	REQUEST FOR STATUS
Int. Filing Date: 27 March 2003	:	
Priority Date: None	:	UNDER 37 CFR 1.42
Attorney Docket No.: HMNZ 2 00040	:	
For: APPARATUS FOR CARRYING OUT AN ELECTROLYTIC PROCESS ON A HALOGENIDE COMPOUND	:	

This decision is in response to applicant's papers filed 04 October 2006 in the United States Patent and Trademark Office (USPTO). The correspondence is being treated as a submission of papers pursuant to 37 CFR 1.42. No fee is required.

BACKGROUND

On 27 March 2003, applicant filed international application PCT/NL03/00234. 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 thirty-month period for paying the basic national fee in the United States expired at midnight on 27 September 2005.

On 27 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 Information Disclosure Statement and a First Preliminary Amendment.

On 09 August 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 04 October 2006, applicant filed the declaration discussed herein.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

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

The filed declaration is executed by Hendrik Martin Zilvold as legal representative on behalf of deceased joint inventor Gerrit Albert Zilvold. The declaration sets forth the residence, citizenship and post office address for both the deceased inventor and the legal representative, as well as, stating that Hendrik Martin Zilvold is executing the declaration in his capacity as the legal representative. However, the declaration is not in compliance with 37 CFR 1.497 (a)-(b) in that the published international application lists Hendrik Martin Zilvold as an applicant and inventor while the signed declaration only identifies Hendrik Martin Zilvold as the legal representative to the estate of Gerrit Albert Zilvold.

In addition, the declaration lists Gerrit Albert Zilvold as the sole inventor and states "that Gerrit Zilvold reviewed and understood the contents of the above-identified specification..." thus leaving the impression that Hendrik Martin Zilvold is not an inventor in the application.

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

25 MAY 2007

Karl W. Hauber
Fay, Sharpe, Fagan, Minnich & McKee, LLP
1100 Superior Avenue
Seventh Floor
Cleveland, OH 44114-2579

In re Application of	:	
ZILVOLD, et al.	:	
Application No.: 10/550,697	:	
PCT No.: PCT/NL03/00234	:	REQUEST FOR STATUS
Int. Filing Date: 27 March 2003	:	
Priority Date: None	:	UNDER 37 CFR 1.42
Attorney Docket No.: HMNZ 2 00040	:	
For: APPARATUS FOR CARRYING OUT AN ELECTROLYTIC PROCESS ON A HALOGENIDE COMPOUND	:	

This decision is in response to applicant's "Renewed Petition Under 37 CFR 1.42" filed 11 May 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 28 March 2007, 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.

On 11 May 2007, applicant filed the renewed request for status under 37 CFR 1.42 discussed herein.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

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

Applicant's originally filed declaration was held to be non-compliant as it did not provide the citizenship, residence, and mailing address of both the deceased inventor and legal representative. In addition, the declaration did not properly identify the legal representative, Hendrik Martin Zilvold as a separate co-inventor. 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 27 March 2003 and will be given a date of **11 May 2007** 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

11 JAN 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

WesternGEco
Intellectual Property Department
P O Box 2469
Houston TX 77252-2469

In re Application of TOENNESSEN et al. Application No.: 10/550,703 PCT No.: PCT/EP04/50379 Int. Filing: 26 March 2004 Priority Date: 27 March 2003 Attorney Docket No.: 10.0234-PCT-US For: SYSTEM FOR DEPTH CONTROL OF A MARINE DEFLECTOR	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicant's petition under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 25 October 2006 to accept the application without the signatures of joint inventors Emmanuel Keskes, Vahid Moosavi and Philippe Saint-Pere.

BACKGROUND

On 27 September 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 25 August 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 25 October 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 Emmanuel Keskes, Vahid Moosavi and Philippe Saint-Pere alleging that Messrs. Keskes and Moosavi are unavailable and Mr. Saint-Pere refuses to sign.

DISCUSSION

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

The petition included the requisite petition fee, satisfying Item (1). Item (3) is satisfied because the last known addresses of non-signing inventors were provided. With regard to item

(4), the declaration executed by the available joint inventors on their behalf and on behalf of the non-signing inventors was submitted. However, the declaration was altered by Eskild Storteig.

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 <u>will require a new oath or declaration</u>.

The changes made in the declaration executed by inventor Storteig were not dated and initialed or signed. Therefore, a new acceptable oath or declaration executed by Eskild Storteig is required to satisfy the requirements of 35 U.S.C. 371 (c)(4) for entrance into the national stage in the United States. Item (4) is not yet satisfied.

<u>Inventors' Refusal to Sign</u>

With respect to Item (2) above, a declaration by Rebecca Tanis, the IP administrator of the assignee was attached to the petition, detailing the efforts made to obtain the nonsigning inventors' signatures. The declaration was a statement of first hand knowledge; however, the declaration did not provide sufficient details of the attempts made or diligent efforts to contact the nonsigning inventors. Ms. Tanis merely states that she "sent the inventor declaration and assignment documents" to inventor Keskes, Moosavi and Saint-Pere's respective last known addresses. The mailings to Messrs. Keskes and Moosavi were returned as undeliverable. According to Ms. Tanis, the declaration and assignment documents sent to inventor Saint-Pere were delivered but "he never returned the signed papers back as requested." A copy of the correspondence sent to the nonsigning inventors was not provided and should accompany the petition.

Petitioner has not provided a complete copy of the application papers, including specification, claims and drawings and declaration, to the nonsigning inventors. Ms. Tanis only sent a copy of the declaration and assignment. What is required is that Messrs. Keskes, Moosavi and Saint-Pere be presented with a copy of all of the national stage application papers (specification, including claims and drawings, oath or declaration) for this application. Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. With regard to Petitioner's conclusion that inventor Saint-Pere is refusing to sign, it is important that the inventor be presented with a copy of the application papers to ensure that the inventor is apprised of application to which the declaration is directed. Furthermore, Petitioner has not provided any proof that delivery to Mr. Saint-Pere occurred. Such proof is necessary to conclude that the nonsiging inventor is refusing to sign the application. See Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP), Proof of Unavailability or Refusal. [1]

---

[1] A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the

Unavailability of Inventors

With respect to counsel's inability to find or reach Messrs. Keskes and Moosavi, Petitioner did not demonstrate what "diligent efforts" were undertaken by counsel to locate them and obtain their signatures on the declaration. Ms. Tanis states that the copy of the declaration and assignment were sent to Messrs. Keskes and Moosavi and were returned by the postal service as undeliverable. No further efforts to locate the nonsigning inventors were attempted and detailed in a first hand statement of facts. A statement by the person with first hand knowledge, which fully describes the exact facts relied on to establish that a diligent effort was made, was not submitted and is required.

As indicated in the MPEP Section 409.03(d), where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in the statement of facts. It is important that the statement contain facts as opposed to conclusions.

Here, diligent efforts made to locate the nonsigning inventors were not pursued and documented such as Internet searches, contact with the joint inventors to obtain Messrs. Keskes and Moosavi's current address, current email address and/or current employer. No attempt to reach the nonsigning inventors by telephone was made. No request from the Postal Service for their forwarding address was made. Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a "diligent effort" was made. Petitioner's statement of facts under 37 CFR 1.47(a) does not indicate that any search for Mr. Saint-Pere's new address was made. Since no attempts to locate inventor Saint-Pere were documented, it can not be concluded that "a diligent effort" was made to locate the

---

application papers should be sent to the last known address of the nonsigning inventor, or , if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.... It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted. Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which the conclusion is based should be stated in a statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

non-signing inventor.

The action taken by petitioner is not sufficient to prove that "a diligent effort" was made to contact the nonsigning inventor. Under these circumstances, it cannot be concluded that then nonsigning inventors are unavailable to sign the application.

In sum, Petitioner has satisfied Items (1), and (3) above. Item (4) is not yet satisfied as a newly executed declaration by Eskild Storteig is required. 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 10/550,703 (specification, including claims, drawings, and declaration) to the nonsigning inventors for their signature and Philippe Saint-Pere's refusal to sign these documents and (2) that "a diligent effort" was made to contact nonsigning inventors Keskes and Moosavi. Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

The petition under 37 CFR §1.47(a) is **DISMISSED WITHOUT PREJUDICE**.

Any reconsideration on the merits of the petition under 37 CFR §1.47(a) must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.47(a)." No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

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

Cynthia M. Kratz

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

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

01 AUG 2007

WesternGeco
Intellectual Property Department
P O Box 2469
Houston TX 77252-2469

In re Application of TOENNESSEN et al. Application No.: 10/550,703 PCT No.: PCT/EP04/50379 Int. Filing: 26 March 2004 Priority Date: 27 March 2003 Attorney Docket No.: 14.0234-PCT-US For: SYSTEM FOR DEPTH CONTROL OF A MARINE DEFLECTOR	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This is a decision on applicant's renewed petition under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 16 April 2007 to accept the application without the signatures of joint inventors Emmanuel Keskes, Vahid Moosavi and Philippe Saint-Pere. Petitioner requests a one month extension of time, which is granted.

BACKGROUND

On 25 October 2006, applicant filed a 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 Emmanuel Keskes, Vahid Moosavi and Philippe Saint-Pere.

On 11 January 2007, a decision dismissing the petition was mailed indicating that applicant had not satisfied the requirements of 37 CFR 1.47(a).

On 09 April 2007, a Notification of Abandonment was erroneously mailed to applicant.

On 16 April 2007, applicant filed a renewed petition.

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).

Applicant previously satisfied Item (1) and Item (3).

With regard to item (4), the newly declaration executed by Eskild Storteig on his behalf and on behalf of the non-signing inventors was submitted and is acceptable. Applicant had

previously filed a declaration executed by joint inventors Rune Toennessen and Per Helgerud. Item (4) is now satisfied.

Inventors' Refusal to Sign

With respect to Item (2) above, a declaration by Carolanne M. King, contract employee of WesternGeco, LLC (assignee) was attached to the petition, detailing the efforts made to obtain the nonsigning inventors' signatures. The declaration was a statement of first hand knowledge; and provided sufficient details of the attempts made to contact the nonsigning inventors. From the evidence presented, it is apparent that on or about February 2007, Messrs. Keskes, Moosavi and Saint-Pere received a copy of the application papers including declaration and power of attorney and assignment. According to Ms. King, to date, the nonsigning inventors have not responded to her communication or returned the signed declaration.

Petitioner has now provided a complete copy of the application papers, including specification, claims and drawings and declaration, to the nonsigning inventors.
The action taken by petitioner is sufficient to prove that "a diligent effort" was made to contact the nonsigning inventor. Under these circumstances, it can be concluded that the nonsigning inventors refuse to sign the application.

In sum, Petitioner has satisfied Items (1)- (4). Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

The 09 April 2007 Notification of Abandonment was erroneously mailed to applicant and is hereby **VACATED**.

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

The U.S. Designated/Elected Office is authorized to accept the application as a 37 CFR 1.47(a) application using the declaration filed 16 April 2007. The application has an international filing date of 26 March 2004 under 35 U.S.C. 363, and a date of 16 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

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

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

WesternGeco L.L.C.
Kevin McEnaney, IP Dept
10001 Richmond Avenue
HOUSTON, TX 77042-4299

Mail Date: 05/11/2010

Applicant	: Rune Toennessen	: DECISION ON REQUEST FOR
Patent Number	: 7658161	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/550,703	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/16/2007	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **29** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Tyco Healthcare Group LP
60 MIDDLETOWN AVENUE
NORTH HAVEN, CT 06473

Mail Date: 04/21/2010

Applicant	: Scott E. Manzo	: DECISION ON REQUEST FOR
Patent Number	: 7621924	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/550,705	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **567** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

MAILED

FEB 20 2009

OFFICE OF PETITIONS

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

In re Application of	:	
Toshio Nomura et al	:	
Application No. 10/550,710	:	DECISION GRANTING PETITION
Filed: September 26, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1152-0325PUS-1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 18, 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 November 26, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2628 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Aug-08

DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON DC 20005-1209

COPY MAILED

AUG 1 1 2008

In re Application of Akimoto et al. Application Number: 10/550711 Filing Date: 02/17/2006 Attorney Docket Number: 47231-5005	: : : : : :	ON PETITION

This is a decision on the petition styled under 37 CFR 1.137(b), filed on June 6, 2008, which in view of petitioners' statement that a response was timely filed, is first treated as a petition to withdraw the holding of abandonment of the above-identified application.

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

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

The application was held abandoned on January 5, 2008, for failure to timely respond to the non-final Office action mailed on October 4, 2007, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on May 30, 2008.

Petitioner asserts that an amendment and three (3) month extension of time were timely filed on April 4, 2008, but that the amendment miscaptioned the application number as "10/550,771."

A review of the Official file reveals that the documents submitted on April 4, 2008, have been located and have been associated with the instant application file. It is noted that the amendment and extension of time miscaption the application number as 10/550,7**71** (emphasis added).

Under current Office procedure, a response that has an incorrect serial number is handled in accordance with MPEP 508.03. If a paper having an incorrect serial number contains sufficient information to identify the correct application and was timely received at the PTO, the holding of abandonment will be withdrawn.

The first named inventor's name, title of invention, filing date, attorney docket number, examiner's name, and Art Unit are correctly stated on the amendment, extension of time, and other papers filed on April 4, 2008.

In reviewing the papers which were submitted, it is therefore concluded that there was sufficient information thereon to associate the papers with the instant file.

Accordingly, the holding of abandonment is **withdrawn**, and the Notice of Abandonment is **vacated**.

As the holding of abandonment is withdrawn, the petition to revive the application will be dismissed as moot. The petition fee will be credited to counsel's deposit account.

This application is being referred to Technology Center Art Unit 1621 for further processing.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Peter Buerk	: DECISION ON REQUEST FOR
Patent Number	: 7595605	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/550,719	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/12/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

5/25/2010

Patent No. :7670099
Inventor(s) :Nakajima et al.
Issued :3/2/2010
Title :WORKING ARM FOR CONSTRUCTION MACHINE AND METHOD OF PRODUCING WORKING ARM FOR CONSTRUCTION MACHINE
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent item [54], is printed in accordance with the record please show evidence of supporting data or corrected filing receipt. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

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

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Decisions & Certificates
of Correction Branch
(703) 756-1571

MATTINGLY & MALUR, P.C.
1800 DIAGONAL ROAD, SUITE 370
ALEXANDRIA, VA 22314

HR

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/10/10

TO SPE OF : ART UNIT 3652 (3600)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/550,729 Patent No.: 7,670,099

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ernest C. White, LTE
Randolph Sq. Ste 9D62A
703-756-1590

Thank You For Your Assistance

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

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

OK TO Enter

MYERS, GLENN

SPE /Saul J. Rodriguez/ **ART UNIT: 3652**

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

STEPHEN D SCANLON
JONES DAY
901 LAKESIDE AVENUE
CLEVELAND, OH 44114

COPY MAILED

MAR 0 4 2008

OFFICE OF PETITIONS

In re Application of	:	
GOTTSCHALL, Klaus	:	
Application No. 10/550,756	:	DECISION ON PETITION
Filed: July 24, 2006	:	TO WITHDRAW
Attorney Docket No. **280798610099**	:	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 04, 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 Stephen D. Scanlon on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Klauss Gottschall at the address indicated below.

There are no outstanding office actions at this time.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **DR. KLAUSS GOTTSCHALL**
CEO, INSTRACTION GmbH
DONNERSBERWEG 1
LUDWIGSHAFEN 67059 DE GERMANY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

20 SEP 2006

Bereshin & Parr
Box 401, 40 King Street West
Toronto M5H 3Y2
CANADA

In re Application of	:	DECISION
SEMLYEN et al.	:	
Application No.: 10/550,759	:	
PCT No.: PCT/CA2004/000458	:	
Int. Filing Date: 26 March 2004	:	
Priority Date: 26 March 2003	:	
Attorney Docket No.: 13180-79	:	
For: DIAGNOSIS OF DISEASE BY	:	
DETERMINATION OF ELECTRICAL	:	
NETWORK PROPERTIES OF A BODY PART	:	

This decision is in response to applicants' petition to revive under 37 CFR 1.137(b) filed in the United States Patent and Trademark Office (USPTO) on 07 August 2006.

BACKGROUND

On 26 March 2004, applicants filed international application PCT/CA2004/000458, 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 07 October 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 26 September 2005.

On 26 September 2005, applicants filed a transmittal letter for entry into the national stage in the United States. However, no fees accompanied the transmittal letter.

On 15 June 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned as to the United States of America for failure to provide the U.S. Basic National Fee by thirty months from the earliest priority date.

On 07 August 2006, applicants filed the instant petition to revive under 37 CFR 1.137(b) and an assertion of small entity status

.

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 U.S. Basic National Fee on 07 August 2006.

As to item (2), applicant submitted the petition fee on 07 August 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

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 SEP 2007

Bereskin & Parr
Box 401, 40 King Street West
Toronto M5H 3Y2
CANADA

In re Application of	:	DECISION
SEMLYEN et al.	:	
Application No.: 10/550,759	:	
PCT No.: PCT/CA2004/000458	:	
Int. Filing Date: 26 March 2004	:	
Priority Date: 26 March 2003	:	
Attorney Docket No.: 13180-79	:	
For: DIAGNOSIS OF DISEASE BY	:	
DETERMINATION OF ELECTRICAL	:	
NETWORK PROPERTIES OF A BODY PART	:	

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 03 July 2007 in the United States Patent and Trademark Office (USPTO). The petition is **DISMISSED** without prejudice.

BACKGROUND

On 26 March 2004, applicants filed international application PCT/CA2004/000458, 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 07 October 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 26 September 2005.

On 26 September 2005, applicants filed a transmittal letter for entry into the national stage in the United States. However, no fees accompanied the transmittal letter.

On 15 June 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned as to the United States of America for failure to provide the U.S. Basic National Fee by thirty months from the earliest priority date.

On 07 August 2006, applicants filed a petition to revive under 37 CFR 1.137(b) and an assertion of small entity status

On 20 September 2006, a decision was mailed granting applicants' petition to revive under 37 CFR 1.137(b).

On 03 January 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 03 July 2007, 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, the surcharge under 37 CFR 1.492(h), a declaration of inventors, a statement of facts by Stephen M. Beney, and a copy of an e-mail exchange with joint inventor Adam Semlyen.

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 02-2095. Thus, item (1) has been met.

Items (3) and (4) have been met as well.

Item (2) has not been satisfied. MPEP § 409.03(d) states in part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers.

The declaration of facts by Mr. Beney filed 03 July 2007 makes it clear that Mr. Semlyen understands exactly what he is being asked to sign. However, a statement of facts by a person having firsthand knowledge of the facts recited therein must be provided. A statement of facts by Milan Graovac regarding the e-mail from Mr. Semlyen to him dated 24 August 2004 must be provided. Additionally, a statement of facts from the person from Z-Tech who agreed with Mr. Semlyen "that it would respect his wishes and not bother him further having regard to the patent application" after having been able to procure an execution of an assignment from Mr. Semlyen should also be provided.

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

2 7 MAY 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Bereskin & Parr
Box 401, 40 King Street West
Toronto M5H 3Y2
CANADA

In re Application of	:	DECISION
SEMLYEN et al.	:	
Application No.: 10/550,759	:	
PCT No.: PCT/CA2004/000458	:	
Int. Filing Date: 26 March 2004	:	
Priority Date: 26 March 2003	:	
Attorney Docket No.: 13180-79	:	
For: DIAGNOSIS OF DISEASE BY	:	
DETERMINATION OF ELECTRICAL	:	
NETWORK PROPERTIES OF A BODY PART	:	

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed 11 March 2008 in the United States Patent and Trademark Office (USPTO). The petition is **GRANTED**.

BACKGROUND

On 26 March 2004, applicants filed international application PCT/CA2004/000458, 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 07 October 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 26 September 2005.

On 26 September 2005, applicants filed a transmittal letter for entry into the national stage in the United States. However, no fees accompanied the transmittal letter.

On 15 June 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned as to the United States of America for failure to provide the U.S. Basic National Fee by thirty months from the earliest priority date.

On 07 August 2006, applicants filed a petition to revive under 37 CFR 1.137(b) and an assertion of small entity status

On 20 September 2006, a decision was mailed granting applicants' petition to revive under 37 CFR 1.137(b).

On 03 January 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 03 July 2007, 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, the surcharge under 37 CFR 1.492(h), a declaration of inventors, a statement of facts by Stephen M. Beney, and a copy of an e-mail exchange with joint inventor Adam Semlyen.

On 12 September 2007, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a) without prejudice. Specifically, it was noted that factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort had not been provided.

On 11 March 2008, 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, a statement of facts by Milan Graovac, and a statement of facts by Ron Baker.

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 12 September 2007, items (1), (3), and (4) have been met.

Item (2) has now been met as well.

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 **03 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

2 7 MAY 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Adam Semlyen
2203-65 High Park Avenue
Toronto, Ontario M6P 2R7
Canada

In re Application of
SEMLYEN et al.
Application No.: 10/550,759
PCT No.: PCT/CA2004/000458
Int. Filing Date: 26 March 2004
Priority Date: 26 March 2003
Attorney Docket No.: 13180-79
For: DIAGNOSIS OF DISEASE BY DETERMINATION OF ELECTRICAL NETWORK PROPERTIES OF A BODY PART

Dear Mr. Semlyen:

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
Facsimile: (571) 273-0459

Bereskin & Parr
Box 401, 40 King Street West
Toronto M5H 3Y2
CANADA

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

TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVEVLAND, OH 44114

MAILED

JUL 0 2 2009

OFFICE OF PETITIONS

In re Application of :
Gary W. Procop :
Application No. 10/550,787 : ON PETITION
Filed: September 27, 2005 :
Attorney Docket No. CCF-6566PCT/US :

This is a decision on the petition under 37 CFR 1.137(b), filed October 29, 2007, to revive the above-identified application. The delay in responding is regretted.

The petition is **DISMISSED**.

The above-identified application became abandoned in response to the petition under 37 CFR 1.138 filed October 29, 2007 requesting express abandonment to avoid publication of the above-identified application.

A review of record shows that a response to the Restriction/Election Requirement mailed October 26, 2007 was timely filed. On October 29, 2007, both a petition for express abandonment under 37 CFR 1.138(c) and a petition to revive was filed. Thereafter, the Office recognized the express abandonment in the above application on March 23, 2009.

As authorized, the petition fee of $810 has been charged to petitioner's deposit account.

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). The present petition lacks item(s) (3).

It is noted that the petition fails to contain the statement required by 37 CFR 1.137(b), which states 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. Therefore, it is recommended that petitioner use form PTO/SB/64, which can be located on the website at www.uspto.gov.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b) and include the statement required by 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 35 U.S.C. § 704.

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

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

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

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

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

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVEVLAND, OH 44114

MAILED

AUG 21 2009

OFFICE OF PETITIONS

In re Application of	:	
Gary W. Procop	:	
Application No. 10/550,787	:	ON PETITION
Filed: September 27, 2005	:	
Attorney Docket No. CCF-6566PCT/US	:	

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

A petition to revive under the provisions of 37 CFR 1.137(b) was filed on October 29, 2007; however, the petition was dismissed in a decision mailed on July 2, 2009. In response, on August 17, 2009, the present petition was filed.

The renewed petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 1634 for processing in accordance with this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/550,787	09/27/2005	Gary W Procop	CCF-6566PCT/US	9417

26294 7590 09/02/2009
TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVEVLAND, OH 44114

EXAMINER
SITTON, JEHANNE SOUAYA

ART UNIT	PAPER NUMBER
1634	

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.

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

TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVEVLAND, OH 44114

MAILED

AUG 21 2009

OFFICE OF PETITIONS

In re Application of
Gary W. Procop
Application No. 10/550,787
Filed: September 27, 2005
Attorney Docket No. CCF-6566PCT/US

ON PETITION

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

A petition to revive under the provisions of 37 CFR 1.137(b) was filed on October 29, 2007; however, the petition was dismissed in a decision mailed on July 2, 2009. In response, on August 17, 2009, the present petition was filed.

The renewed petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 1634 for processing in accordance with this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Customer# 43214
EMPK & SHILOH, LLP
116 JOHN ST.
SUITE 1201
NEW YORK, NY 10038

COPY MAILED

AUG 2 3 2007

OFFICE OF PETITIONS

In re Application of

GAL, Israel et al.
Application No. 10/550,789
Filed: September 27, 2005
Attorney Docket No. **ELG-P-5706US**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 29, 2007.

The request is **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

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

2 0 JUN 2007

FLYNN THIEL BOUTELL & TANIS, P.C.
2026 RAMBLING ROAD
KALAMAZOO MI 49008-1631

In re Application of	:	DECISION ON
Hideo SANO et al	:	
Application No.: 10/550,801	:	
PCT No.: PCT/JP2004/004767	:	
Int. Filing Date: 01 April 2004	:	PETITION
Priority Date: 07 April 2003	:	
Attorney's Docket No.: 3796.P0050US	:	
For: HIGH-STRENGTH ALUMINUM ...	:	
MANUFACTURING SAME	:	UNDER 37 CFR 1.181

This decision is in response to the "PETITION UNDER 37 CFR 1.181," filed on 03 November 2005, providing the proper English translation for PCT/JP2004/004767.

BACKGROUND

On 22 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 as required by 35 U.S.C. 371(c)(1), and a copy of the international application, and a translation into English of the international application was provided with the transmittal letter. However, the English translation submitted was incorrect and no executed declaration was submitted at such time.

On 03 November 2005, petitioner submitted the present petition, which is accompanied by the correct English translation of PCT/JP2004/004767 of pages 3, 6 14, 24, 32 and 34 in that these pages were originally mistranslated.

On 02 March 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicants, 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 and the processing fee of $130.00 for providing the translation of the application later than 30 months from priority date. The notice indicated that these items must be submitted within two (2) months from the date of this Notice or 32 months from the priority date of the application. Failure to properly will result in abandoned.

On 16 March 2006, applicants submitted an executed declaration and $130.00 for processing the application being filed later than 30 months from the priority date

On 26 July 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" which informed applicants that the 371(c)(1), (c)(2) and (c)(4) and that the date of completion of all 35 U.S.C. 371 is 16 March 2006.

DISCUSSION

A review of the file indicates that a corrected translation of the international application was submitted on 03 November 2005. Thus, the date of receipt of the corrected translation for the above application is 03 November 2005. An executed declaration in response to the Notification mailed on 02 March 2005 was filed on 16 March 2006, which is the date that applicants satisfied the requirement under 35 U.S.C. 371(c)(4). Accordingly, this is the date that all of the requirements under 35 U.S.C. 371 have been satisfied.

DECISION

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

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **16 March 2006,** which is the date stated in the "NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495" (Form PCT/DO/EO/903).

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

THE FARRELL LAW FIRM, LLP
290 BROADHOLLOW ROAD
SUITE 210E
MELVILLE NY 11747

COPY MAILED
FEB 01 2010

In re Application of	:	
Kil-Wan JAN et al.	:	
Application No. 10/550,811	:	DECISION ON PETITION
Filed: July 27, 2006	:	
Attorney Docket No. 2077-2 PCT US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 11, 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, June 01, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 02, 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 amendment, (2) the petition fee of $1,620.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of June 01, 2009 is accepted has 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 3767 for appropriate action by the Examiner in the normal course of business on the reply received.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

15 DEC 2006

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

In re Application of:		
Calvez et al.	:	
Application No.: 10/550, 843	:	
PCT Application No.: PCT/GB04/01233	:	DECISION ON PETITION
Int. Filing Date: 24 March 2004	:	UNDER 37 CFR 1.137(b)
Priority Date Claimed: 24 March 2003	:	
Attorney Docket No.: D-3214		
For: Improvements in and Relating to Vertical-Cavity Semiconductor Optical Devices.		

This 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 10 October 2006.

BACKGROUND

On 24 March 2004, Applicants filed international application PCT/GB04/01233, which claimed a priority of an earlier application from Great Britain filed on 24 March 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 24 September 2005.

International application PCT/GB04/01233 became abandoned as to the United States for failure to timely pay the basic national fee.

On 10 October 2006, applicants filed the present petition under 37 CFR 1.137(b).

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) the required reply, (2) the petition as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

With regard to Item (1), applicants have provided the required reply under 35 U.S.C. 371 (i.e. payment of the basic national fee).

With regard to Item (2), the appropriate petition fee of $750 as required by 37 CFR 1.17(m) has been paid.

With regard to Item (3), the petition includes the required statement of unintentional delay.

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

A review of the application file reveals that applicants have satisfied the requirements of 37 CFR 1.137(b).

A review of the file reveals that Oath/declaration signed by all of the applicants/inventors named in the international application has not been filed.

CONCLUSION

For the reason set forth above, the petition to revive the international application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America, and will be processed, under 35 U.S.C. 371, as application number **10/550,843**, at this time.

Application number **10/550,843** is being forwarded to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, that is, for mailing a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497(a)-(b), and the surcharge for filing the oath or declaration after thirty months period is required.

Taofiq A. Solola, PhD. JD.
PCT Legal Administration
Telephone: 571-272-6094
Facsimile: 571-272-0459

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

United States Patent and Trademark Office

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

STOUT, UXA, BUYAN & MULLINS LLP
4 VENTURE, SUITE 300
IRVINE CA 92618

14 NOV 2006

In re Application of	:	
Calvez et al.	:	
Application No.: 10/550,846	:	DECISION
PCT No.: PCT/GB04/01285	:	
Int. Filing Date: 24 March 2004	:	ON
Earliest Priority Date: 24 March 2003	:	
Attorney Docket No.: D-3213	:	PETITION
For: Improvements In And Relating To Vertical-Cavity Semiconductor Optical Devices	:	

The petition to revive under 37 CFR 1.137(b) filed 10 October 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant states that "the entire delay in paying the basic national fee under 37 CFR 1.495(b)(i) to avoid abandonment of the above-identified application, that is from the expiration of thirty (30) months from the priority date of the above-identified application until the filing of this Petition under 37 CFR 1.137(b), was unintentional." This is being construed as a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, 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 has paid the petition fee. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an executed oath or declaration compliant with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(h).

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

JACOBS & KIM LLP
1050 WINTER STREET
SUITE 1000, #1082
WALTHAM, MA 02451-1401

COPY MAILED

NOV 27 2007

OFFICE OF PETITIONS

In re Application of

Enzo Domenico CASAGRANDE
Application No. 10/550,847
Filed: September 23, 2005
Attorney Docket No. UDL-104-US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 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 David Jacobs on behalf of attorney Daniel Kim.

All attorneys/agents of record have been withdrawn.

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

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the 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 Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: ENZO DOMENICO CASAGRANDE
2 RHYDHELIG AVENUE
HEALTH, CARDIFF
CF14 4DD
UNITED KINGDOM

cc: MARK DAVIES, ESQ.
URQUHART-DYKES & LORD
CHURCHILL HOUSE, CHURCHILL WAY
CARDIFF, CF10 2HH
UNITED KINGDOM

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
10/550,847	09/23/2005	Enzo Domenico Casagrande	UDL-104-US

CONFIRMATION NO. 6021

OC000000026197276

45464
JACOBS & KIM LLP
1050 WINTER STREET
SUITE 1000, #1082
WALTHAM, MA 02451-1401

Date Mailed: 10/09/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/11/2007.

- 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.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

17 OCT 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

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

In re Application of WATSON	:	
U.S. Application No.: 10/550,906	:	
PCT Application No.: PCT/US2004/009434	:	
Int. Filing Date: 26 March 2004	:	
Priority Date Claimed: 27 March 2003	:	DECISION
Attorney Docket No.: 25791.260.06	:	
For: APPARATUS FOR RADIALLY	:	
EXPANDING AND PLASTICALLY	:	
DEFORMING A TUBULAR MEMBER	:	

This is in response to applicant's "Petition under 37 C.F.R. § 1.182" filed 28 August 2007.

BACKGROUND

On 26 March 2004, applicant filed international application PCT/US2004/009434, which claimed priority of an earlier United States application filed 27 March 2003. The thirty-month period for paying the basic national fee in the United States expired on 27 September 2005.

On 27 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 executed declaration.

On 12 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 a properly executed oath or declaration must be filed.

On 28 August 2007, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

A review of international application PCT/US2004/009434 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 27 September 2005 did not include a proper preliminary amendment. However, it is apparent from the papers filed 27 September 2005 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 60 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 60 claims as opposed to 520 claims. A proper preliminary amendment was filed with the present petition, reducing the total number of claims to 60. Because of applicant's intent to reduce the number of claims for examination and because the fees due for the presence of 520 claims at the time of the initial national stage submission would not be 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.

A review of the fee records for the present application reveals that $7,400.00 has been paid for excess claim fees. The application currently contains 60 total claims, 33 of which are independent claims. Thus, a fee of $2,000.00 for 40 claims in excess of 20 is required, and a fee of $6,000.00 for 30 independent claims in excess of 3 is required. A total of $600.00 will be charged to Deposit Account No. 08-1394.

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 26 March 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 27 September 2005.

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

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

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

```
10/17/2007 SBASHEIR 00000010 081394   10550906
Sale Ref: 00000010 DA#: 081394   10550906
01 FC:1462        400.00 DA
02 FC:1614        200.00 DA
```

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

KLARQUIST SPARKMAN, LLP
121 S.W. SALMON STREET
SUITE #1600
PORTLAND, OR 97204-2988

Mail Date: 04/20/2010

Applicant	: Gil Ben-Menachem	: DECISION ON REQUEST FOR
Patent Number	: 7666846	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/550,907	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **757** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

08 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

Sughrue Mion, PLLC
2100 Pennsylvania Avenue, NW
Suite 800
Washington, D.C. 20037

In re Application of KOMURA, et al. Application No.: 10/550,912 PCT No.: PCT/JP04/04501 Int. Filing Date:30 March 2004 Priority Date: 31 March 2003 Attorney Docket No.: Q90112 For: NONWOVEN FABRIC AND PROCESS FOR ITS PRODUCTION	:	DECISION ON REQUEST

This decision is issued in response to applicants' "Response to Notification of Missing Reuirements under 35 U.S.C. 371. . ." filed 26 July 2006 notifying the Office that the correct spelling of the fourth inventor's name is HIROYOSHI Minematsu as indicated on the declaration rather than Hiromasa Minematsu as indicated on the published international application. Applicants' request has been treated under 37 CFR 1.181. No petition fee is due.

Petitioner states that the discrepancy between the name of the fourth inventor indicated in the international application during the international phase and the name of the fourth inventor as it appears in the declaration is the result of a transliteration error. As indicated in Section 201.03 of the Manual of Patent Examining Procedure, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition under 37 CFR 1.48(a) is not required. Accordingly, applicants' explanation of the difference in the spelling of the fourth inventor's name is accepted and noted for the record.

For the reasons above, the request is **GRANTED**.

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

Anthony Smith

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

22 AUG 2006

25943
SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, Suite 1900
1211 SW Fifth Avenue
Portland, OR 97204

In re Application of ZATLOUKAL *et al* U.S. Application No.: 10/550,925 PCT No.: PCT/US2004/009781 Int. Filing Date: 26 March 2004 Priority Date: 28 March 2003 Attorney Docket No.: 109909-145058 For: A WIRELESS MOBILE PHONE WITH AUTHENTICATED MODE . . .	**DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)**

Applicants' petition to revive under 37 CFR 1.137(b) filed on 07 August 2006 is hereby **GRANTED** as follows:

The basic national fee and the petition fee have been paid. Applicants make the required statement pursuant to 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration was not included with any of the papers submitted.

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 the $130.00 surcharge fee pursuant to 37 CFR 1.492(e) are required.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SCHWABE, WILLIAMSON & WYATT, P.C.
1420 FIFTH, SUITE 3010
SEATTLE, WA 98101

Mail Date: 04/21/2010

Applicant	: G. Eric Engstrom	: DECISION ON REQUEST FOR
Patent Number	: 7613446	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/550,925	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/11/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **433** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND OR 97204

In re Application of	:	
Engstrom et al.	:	
Application No.: 10/550,926	:	DECISION
PCT No.: PCT/US04/09780	:	
Int. Filing Date: 26 March 2004	:	ON
Earliest Priority Date: 28 March 2003	:	
Attorney Docket No.: 109909-145059	:	PETITION
For: A Wireless Mobile Phone With Authenticated	:	
Mode Of Operation Including Photo Based Auth...	:	

The petition to revive under 37 CFR 1.137(b) filed 08 August 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant states that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant 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.

It is noted that the first inventor nominated on the declaration under PCT Rule 4.17(iv) filed on 24 May 2004, "G. Eric Engstrom," differs from the first-named inventor in the published international application, "Engstrom, Eric, G." However, inspection of the PCT Request (Form PCT/RO/101) reveals that "Engstrom, G. Eric" was originally named. Accordingly, the declaration under PCT Rule 4.17(iv) filed on 24 May 2004 is being accepted for purposes of compliance with 37 CFR 1.497(a) and (b).

This application is being forwarded to the United States Designated/Elected Office for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **08 August 2006**.

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

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

In re Application of
Masayuki Tsuchiya et al
Serial No.: 10/550,934
Filed: August 25, 2006
Attorney Docket No.: 14875-151US1

: PETITION DECISION

This is a response to the petition under 37 CFR 1.59(b), filed July 23, 2007, to expunge information from the above identified application. The application has been assigned to an examiner, but has not been acted on at the present time.

The petition fee of $200.00 will be charged to applicants' Deposit Account No. 23-3050, as directed.

Petitioner requests that the Proprietary Information Disclosure Statement, filed July 23, 2007, 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.

This is an unexamined application. As such, 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**. Applicants may resubmit the petition subsequent to allowance or other action being mailed in the application which closes prosecution. No additional petition fee will be required at that time.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, at the above address, or by telephone at 571-272-0519 or by facsimile transmission at the Office facsimile number, 571-273-8300.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,934	08/25/2006	Masayuki Tsuchiya	14875-151US1 C1-A0305P-US	1453

26161 7590 07/17/2009
FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER
GUSSOW, ANNE

ART UNIT	PAPER NUMBER
1643	

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

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

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

JUL 1 7 2009

In re Application of:
Tsuchiya et al.
Serial No.: 10/550,934
Filed: August 25, 2006
Attorney Docket No.: **14875-151US1 C1-A0305P-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 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

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

MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE, SUITE 500
MCLEAN VA 22102-3833

COPY MAILED

NOV 30 2006

OFFICE OF PETITIONS

In re Application of	:	
WILSON, James C.	:	
Application No. 10/550,944	:	DECISION ON PETITION
Filed: September 28, 2005	:	TO WITHDRAW
Attorney Docket No. T3987-10161US01	:	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 Edward J. Kondracki on behalf of all attorneys of record who are associated with customer No. 00181. All attorneys/agents associated with the Customer Number 00181 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 James C. Wilson at the address indicated below.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **JAMES C. WILSON**
300 N. PRESOTT AVENUE
CLEARWATER, FL 33755

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAMES C. WILSON
300 N. PRESOTT AVENUE
CLEARWATER FL 33755

MAILED

MAR 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Wilson	:	
Application No. 10/550,944	:	DECISION
Filed: 28 September, 2005	:	
Attorney Docket No. T3987-10161US01	:	

This is a decision on the petition, filed on 24 December, 2008, for revival of an application abandoned due to unavoidable delay under 37 C.F.R. §1.137(a).

The petition under 37 C.F.R. §1.137(a) is **DISMISSED**.

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)."

This is **not** a final agency action within the meaning of 5 U.S.C.§704.

Petitioner's alternative is to file a complete and fully executed petition (with properly executed supporting statements where necessary) 37 C.F.R. §1.137(b), discussed below.

As to Allegation of
Unavoidable Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(a) are the petition and fee therefor, a reply, a proper showing of unavoidable delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

Petitioner does not appear to have satisfied the reply and showing requirements as to unavoidable delay (*see*: MPEP §711.03(c). Petitioner indeed submitted an amendment on 5 September, 2008—averred to have been submitted via FAX on 14 April, 2008—that carried

the wrong application number (to wit: 10/550,994 rather than 10/550,944), however, far more problematic is that Petitioner failed to file a proper reply to a final Office action.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the final Office action (copy enclosed) mailed on 16 January, 2008, with reply due absent extension of time on or before 16 April, 2008.

The application went abandoned after midnight 16 April, 2008.

The Office mailed the Notice of Abandonment on 21 August, 2008.

On 5 September, 2008, Petitioner submitted an after-final amendment—averred to have been submitted via FAX on 14 April, 2008—that carried the wrong application number (to wit: 10/550,994 rather than 10/550,944). As Petitioner is or should be aware, an after-final amendment is not as of right and not a proper reply[1] if it does not *prima facie* place the application in condition for allowance. The application having already gone abandoned and the period of reply having passed the maximum statutory period, the Office took no further action in this regard. (Because Petitioner appears to prosecuting the application *pro se*, it is noted that for the amendment to be considered by the Examiner, Petitioner must submit with the petition and fee a proper reply, which in this case includes a request for continued examination (RCE) and fee and a submission under the provisions of 37 C.F.R. §1.114 in the form of an amendment.)

It appears that Petitioner's only vehicle for revival of the application is a grantable petition pursuant to 37 C.F.R. §1.137(b), averring unintentional delay, the requirements for which are the petition and fee therefor, a reply, a proper statement/showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

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

---

[1] A proper reply is an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission under 37 C.F.R. §1.114). (See: MPEP §711.03(c).)

> 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]

Thus, Petitioner has failed to support the allegation of unavoidable delay.

Out of an abundance of caution, Applicants always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

As to Allegations of
Unavoidable Delay

The requirements under 37 C.F.R. §1.137(a) have not been satisfied as of this writing in that Petitioner failed to make the showing of unavoidable delay and provide a reply to the Office action as required.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.137(a) is **dismissed**.

ALTERNATIVE VENUE

Should Applicants/Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to

---

[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." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Applicant's duty of candor and good faith and accepting a statement made by Applicant. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.) Petitioner should also refer to the Fee Schedule also online to determine the appropriate fees at the time of any given proposed transaction.

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

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

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

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of Petitioners 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.

HD

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.
10/550,944	09/28/2005	James C. Wilson	T3987-10161US01	4048

7590 01/16/2008
JAMES C. WILSON
300 N. PRESOTT AVENUE
CLEARWATER, FL 33755

EXAMINER
ISLAM, SYED A

ART UNIT	PAPER NUMBER
3611	

MAIL DATE	DELIVERY MODE
01/16/2008	PAPER

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

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

Office Action Summary	Application No.	Applicant(s)	
	10/550,944	WILSON, JAMES C.	
	Examiner	Art Unit	
	Syed A. Islam	3611	

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 September 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5 and 12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *16* is/are allowed.

6)☒ Claim(s) *1-5 and 12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *28 September 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kent (2,982,041) in view of Friedrich et al. (6,938,771).

Regarding claim 1, Kent discloses that a key label comprising: a substantially cylindrical sleeve 10 (col. 2, line 3; see fig. 2) having an inner surface and an outer surface and a circumference, the inner surface of the substantially cylindrical sleeve having a through opening (see fig. 2) adapted to slip over a key head such that if fits around a head end of a key forming a flat surface that can be written upon..

However, Kent fails to disclose the substantially cylindrical sleeve formed of a colored heat shrink material the substantially cylindrical sleeve to be heat shrunk to substantially encase the head end of the key. Instead, Friedrich et al. disclose the substantially cylindrical sleeve formed of a colored (col. 5, line 65) heat shrink material the substantially cylindrical sleeve to be heat shrunk to substantially encase (col. 5, line 40) the head end of the key. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to use the teaching of Friedrich et al. in the invention of Kent because it is secure, permanent and inexpensive to manufacture.

However, Kent fails to disclose the length of the sleeve being less than one half of the circumference of the sleeve. Instead, Kent discloses the label is provided in corresponding shapes configured and sized to accommodate the key head. Moreover, Kent

discloses many modifications and changes may be made without departing from the scope of the invention. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to make the length of the sleeve being less than one half of the circumference for the purpose of accommodating a proper sized substance.

Regarding claim 2, Kent discloses the label forming a flat surface that can be written upon, but Kent fails to disclose when the substantially cylindrical sleeve is shrunk to fit around the head end of the key upon being heated to a predetermined temperature, the inner surface of the substantially cylindrical sleeve at least partially contacting a portion of the head end of the key after shrinking, forming a flat surface that can be written upon. Friedrich et al. disclose when the substantially cylindrical sleeve is shrunk to fit around the head end of the key upon being heated to a predetermined temperature (col. 9, line 28), the inner surface 10 of the substantially cylindrical sleeve at least partially contacting a portion 4 (col. 8, line 19; see fig. 1) of the head end of the key after shrinking, Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to use the teaching of Friedrich et al. in the invention of Kent because it is secure, permanent and inexpensive to manufacture.

However, Kent fails to disclose the length being between about 1/8 inch and 1 inch. . Instead, Kent discloses the labels are provided in corresponding shapes configured and sized to accommodate a key. Moreover, Kent discloses many modifications and changes may be made without departing from the scope of the invention. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to make the length of the sleeve being less than one half of the circumference for the purpose of accommodating a proper sized substance.

Regarding claim 3, Kent discloses that the outer surface of the substantially cylindrical sleeve provides a flat writeable surface for application of an identifying mark to be applied (see fig. 2).

Regarding claim 4, Kent discloses that the substantially cylindrical sleeve, when shrunk covers only the head end of the key or the opening means (see fig. 2).

Regarding claim 5, Kent fails to disclose that the heat shrink material comprises one of polyolefin, polyvinyl chloride, polytetrafluoroethylene (Teflon) and polychloroprene (Neoprene). However, Friedrich et al. disclose the heat shrink material comprises one of polyolefin, polyvinyl chloride (col. 8, line 46; see fig. 3), polytetrafluoroethylene (Teflon) and polychloroprene (Neoprene). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to use the teaching of Friedrich et al. in the invention of Kent because it is inexpensive to manufacture.

Claim 12 isrejected under 35 U.S.C. 103(a) as being unpatentable over Friedrich et al. in view of Kent.

Regarding claim 12, Friedrich et al. disclose a method of manufacturing a colored heat shrink label for application to a key head, the method comprising: providing a colored heat shrink material having a substantially cylindrical shape 6 with a predetermined diameter and circumference and length; and cutting (col. 6, lines 30-33) the substantially cylindrically shaped colored heat shrink material into sleeves of a predetermined width, each sleeve having an opening therethrough, applying one of the sleeves over a container and heat shrinking the sleeve.

However, Friedrich et al. fail to disclose applying one of the sleeves over a key head. Instead, Kent discloses applying one of the sleeves over a key head. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to use the teaching of Kent in the invention of Friedrich et al. because it is simple and inexpensive.

However, Friedrich et al. fail to disclose the length of the sleeve being less than one half of the circumference of the sleeve. Instead, Friedrich et al. disclose the film wrappings are provided in corresponding shapes configured and sized to accommodate a container (see col. 5, lines 25-30). Moreover, Friedrich et al. disclose many modifications and changes may be made without departing from the scope of the invention. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to make the length of the sleeve being less than one half of the circumference for the purpose of accommodating a proper sized substance.

Allowable Subject Matter

Claim 16 is allowed.

The following is an examiner's statement of reasons for allowance:

There are many similarities between applicant's invention of and the US patent of Kent and Friedrich et al. However, Kent and Friedrich et al. fail to disclose a lock label including a second substantially cylindrical sleeve of a colored heat shrink material having a second predetermined diameter, a second predetermined length, an inner surface and an outer surface and a through opening such that the inner surface of the lock label is adapted to fit around a portion of a lock and be shrunk to substantially encase the portion of the lock forming a flat surface that can be written upon. None of the prior art in the record whether taken alone or in combination can solve this dissimilarities.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Syed A. Islam whose telephone number is (571) 272-7768. The examiner can normally be reached on Monday-Friday 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley D. Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Lesley D. Morris
SPE
Art Unit 3611

SI
December 14, 2007

LESLEY D. MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SI

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.
10/550,944	09/28/2005	James C. Wilson	T3987-10161US01	4048

7590 08/21/2008

JAMES C. WILSON
300 N. PRESOTT AVENUE
CLEARWATER, FL 33755

EXAMINER
ISLAM, SYED A

ART UNIT	PAPER NUMBER
3611	

MAIL DATE	DELIVERY MODE
08/21/2008	PAPER

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

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

Notice of Abandonment	Application No.	Applicant(s)	
	10/550,944	WILSON, JAMES C.	
	Examiner	Art Unit	
	SYED A. ISLAM	3611	

-- 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 *16 January 2008*.
   (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:

/Joanne Silbermann/
Primary Examiner, Art Unit 3611

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

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

JAMES C. WILSON
300 N. PRESOTT AVENUE
CLEARWATER FL 33755

COPY MAILED

JUN 1 5 2009

OFFICE OF PETITIONS

In re Application of	:	
Wilson	:	
Application No. 10/550,944	:	DECISION
Filed: 28 September, 2005	:	
Attorney Docket No. T3987-10161US01	:	

This is a decision on the petition, filed on 6 April, 2009, under the provisions of 37 C.F.R. §1.137(b), seeking revival of the application as having been abandoned due to unintentional delay.

The petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

Petitioners attentions always are directed to the Commentary at MPEP §711.03(c) for guidance as to satisfying the requirements for relief under 37 C.F.R. §1.137.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the final Office action mailed on 16 January, 2008, with reply due absent extension of time on or before 16 April, 2008.

The application went abandoned after midnight 16 April, 2008.

The Office mailed the Notice of Abandonment on 21 August, 2008.

On 5 September, 2008, Petitioner submitted an after-final amendment—averred to have been submitted via FAX on 14 April, 2008—that carried the wrong application number (to wit: 10/550,994 rather than 10/550,944). Petitioner should be aware that an after-final amendment is not as of right and not a proper reply[1] if it does not *prima facie* place the application in condition for allowance. The application having already gone abandoned and the period of reply having passed the maximum statutory period, the Office took no further action in this regard. (Because Petitioner appeared to prosecuting the application *pro se*, it was noted that for the amendment to be considered by the Examiner, Petitioner was required to submit with the petition and fee a proper reply, which in this case includes a request for continued examination (RCE) and fee and a submission under the provisions of 37 C.F.R. §1.114 in the form of an amendment.) The petition was dismissed on 6 March, 2009.

On 6 April, 2009, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, with a statement of unintentional delay and a reply was in the form of a request for continued examination (RCE) and fee and a submission under the provisions of 37 C.F.R. §1.114 in the form an amendment.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

---

[1] A proper reply is an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission under 37 C.F.R. §1.114). (See: MPEP §711.03(c).)

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[4]))

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 3611 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

[4] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[5] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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

03 JAN 2007

YOUNG & THOMPSON
745 South 223rd Street
2nd Floor
Arlington, VA 22202

In re Application of HEALD *et al* U.S. Application No.: 10/550,945 PCT No.: PCT/GB04/01394 Int. Filing Date: 29 March 2004 Priority Date: 28 March 2003 Attorney Docket No.: 0546-1082 For: PREPARATION OF VANILLIN FROM MICROBIAL TRANSFORMATION MEDIA BY EXTRACTION BY MEANS SUPERCRITICAL FLUIDS OR GASES	:	**DECISION**

This decision is in response to applicants' petition under 37 CFR 1.47(a) filed 30 November 2006.

BACKGROUND

On 31 July 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 November 2006, applicants filed a response which was accompanied by, *inter alia*, the subject petition, a declaration signed by two of the three named inventors; a two-month extension and fee; the petition fee; an affidavit by Ms. Lorette Saint-Cricq ('Decl."); and other assorted documentary evidence with English translations (if required).

DISCUSSION

Applicants claim that three joint inventors (Steve Heald, Steve Myers and Tim Walford) refuse to cooperate in the above-identified application and have filed the subject petition in response to the Form PCT/DO/EO/905 mailed 31 July 2006.

A petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the missing joint inventor cannot be located or refuses to cooperate; (3) a statement of the last known address of the nonsigning joint inventor; (4) and an oath or declaration executed by the signing joint inventors on their behalf and on behalf of the

nonsigning joint inventors.

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

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

19 Harcourt Drive
Canterbury CT2 8DP
United Kingdom

The last known address of co-inventor Steve Myers is listed as:

18 Christchurch
Ashford, Kent TN237XB
United Kingdom

The last known address of co-inventor Tim Walford is listed as:

35 Parkway
Dorking Surrey
United Kingdom

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

Regarding item (2), the 37 CFR 1.47(a) applicants claim that three inventors refuse to cooperate. Petitioners burden in showing that an inventor refuses to cooperate is listed in section 409.03(d) of the MPEP which states, in part:

> 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 . . .

> 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 it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

In this case, petitioners have submitted an affidavit by Ms. Lorette Saint-Cricq who states that she sent a copy of the subject patent application and a declaration to the three nonsigning inventors on 16 June 2006. Copies of the cover letters dated 16 June 2006 were enclosed along with postal receipt information. Ms. Saint-Cricq declares that she received a telephone call from Mr. Myers, who was with Mr. Heald at the time, requesting information on the documents. Ms. Saint-Cricq said that she has not received a response from either of these two inventors and states that "I understand that they do not want to sign."

This evidence is sufficient to constitute a refusal by both Mr. Myers and Mr. Heald. The telephone call verifies that they received and understood the contents of the documents. The fact that a response has not yet been received is considered conduct that constitutes a refusal to cooperate.

With regards to Mr. Walford, after receiving no word from the inventor, petitioners contacted the French Post Office to verify whether the documents mailed 16 June 2006 were received by him. The post office responded on 19 October 2006 stating in a letter that the "mail was distributed on June 21, 2006." A copy of this letter with an English translation was provided.

However, this evidence is not sufficient to meet item (2) of 37 CFR 1.47(a). Mr. Walford's conduct <u>may</u> constitute a refusal to cooperate; however, there is no proof that he received the documents in question.

The letter from the French Post Office signed by Ms. Trieste states only that the mail was delivered to the address listed. There is no receipt signature or statement that it was delivered in person to Mr. Walford. Mr. Walford may not even live at the address in question from the evidence presented. The 37 CFR 1.47(a) applicants should attempt to contact Mr. Walford by telephone, or mail to verify that the patent

documents were received, and if possible determine his intention to sign them.

For this reason, item (2) is not satisfied for Mr. Walford.

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.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

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

24 APR 2007

YOUNG & THOMPSON
745 South 223rd Street
2nd Floor
Arlington, VA 22202

In re Application of HEALD *et al* U.S. Application No.: 10/550,945 PCT No.: PCT/GB04/01394 Int. Filing Date: 29 March 2004 Priority Date: 28 March 2003 Attorney Docket No.: 0546-1082 For: PREPARATION OF VANILLIN FROM MICROBIAL TRANSFORMATION MEDIA BY EXTRACTION BY MEANS SUPERCRITICAL FLUIDS OR GASES	**DECISION**

This decision is in response to applicants' renewed petition under 37 CFR 1.47(a) filed 05 March 2007.

BACKGROUND

On 03 January 2007, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Applicants were given two months to respond.

On 05 March 2007, applicants filed the renewed petition which was accompanied by, *inter alia*, an affidavit of Lorette Saint-Cricq and other documentary evidence.

DISCUSSION

Applicants claim that three joint inventors refuse to cooperate in the above-identified application. Applicants failed to show that a copy of the subject application was received by one of the nonsigning inventors in the initial petition.

In the renewed petition, applicants' submitted a declaration by Ms. Saint-Cricq who claims that she contacted the French Post Office regarding the letter previously submitted. Then, Ms. Saint-Cricq states that she attempted to contact Mr. Tim Wolford at his place of business via telephone and email. Copies of the emails sent to tim.walfor@abbott.com were submitted with the renewed petition.

The explanation in the affidavit regarding the lack of signature on the postal receipt for Mr. Wolford is accepted. Moreover, the email receipt constitutes direct evidence of receipt. Mr. Wolford's lack of a response constitutes a refusal to cooperate pursuant to section 409.03(d) of the MPEP. Item (2) of 37 CFR 1.47(a) is now

pursuant to section 409.03(d) of the MPEP. Item (2) of 37 CFR 1.47(a) is now satisfied.

CONCLUSION

Applicants' renewed petition under 37 CFR 1.47(a) is **GRANTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 29 March 2004 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 30 November 2006.

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

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED
MAR 05 2010

In re Application of	:	
Tatsuhiko Kodama, et al.	:	
Application No. 10/550,987	:	DECISION GRANTING PETITION
Filed: May 25, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 14875-152US1 C1-A0306P-US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, March 3, 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 February 9, 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 1642 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.*

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10550987 Total Records Found: 23

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
03/08/2010	00000001	4	1808	-$130.00	03/03/2010	DA 061050
03/03/2010	00014734	4	1808	$130.00	03/03/2010	DA 061050
03/03/2010	00014733	4	1801	$810.00	03/03/2010	DA 061050
02/09/2010	00011697	4	1504	$300.00	02/09/2010	DA 061050
02/09/2010	00011696	4	1501	$1,510.00	02/09/2010	DA 061050
11/13/2009	00012976	4	1806	$180.00	11/13/2009	DA 061050
10/01/2009	00015984	4	1253	$1,110.00	09/30/2009	DA 061050
10/01/2009	00006626	4	1806	$180.00	09/30/2009	DA 061050
02/20/2009	00001079	4	1251	$130.00	02/19/2009	DA 061050
02/20/2009	00001080	4	1801	$810.00	02/19/2009	DA 061050
12/22/2008	00000001	1	1253	-$1,110.00	12/12/2008	DA 200668
12/19/2008	00000002	1	1253	$1,110.00	12/12/2008	DA 200668
12/15/2008	00002651	4	1401	$540.00	12/12/2008	DA 061050
12/15/2008	00002650	4	1253	$1,110.00	12/12/2008	DA 061050
05/16/2008	00009345	4	1806	$180.00	05/16/2008	DA 061050
03/05/2008	00011381	4	1252	$460.00	03/05/2008	DA 061050
03/05/2008	00011380	4	1615	$400.00	03/05/2008	DA 061050
11/13/2007	00006149	4	1806	$180.00	11/09/2007	DA 061050
06/02/2006	00000833	4	8021	$40.00	05/31/2006	DA 061050
05/31/2006	00000259	1	1617	$130.00	05/25/2006	CK
10/05/2005	00000187	1	1631	$300.00	09/26/2005	CK
10/05/2005	00000188	1	1633	$200.00	09/26/2005	CK
10/05/2005	00000189	1	1642	$400.00	09/26/2005	CK

```
03/08/2010 LDIEP1   00000001 061050 10550987
Sale Ref: 00000001 DA#: 061050   10550987
01 FC:1464         130.00 DA
```

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

BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510

Mail Date: 04/21/2010

Applicant	: Azman Bin H J Zahari	: DECISION ON REQUEST FOR
Patent Number	: 7581246	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/551,003	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/03/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

Mail Date: 04/20/2010

Applicant	: Kenzo Fukuda	: DECISION ON REQUEST FOR
Patent Number	: 7649104	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/551,041	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1139** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 2007

DICKSTEIN SHAPIRO LLP
1177 AVENUE OF THE AMERICAS (6TH AVENUE)
NEW YORK NY 10036-2714

In re Application of VOLPE Application No.: 10/551,043 PCT No.: PCT/US04/09429 Int. Filing Date: 29 March 2004 Priority Date: 27 March 2003 Atty Docket No.: W7116.0060 For: A PACKAGING DEVICE	DECISION ON REQUEST UNDER 37 CFR 1.497(d)

This is a decision on applicants' "Petition to Correct Inventorship under 37 CFR 1.48(a)", treated as a petition to correct inventorship under 37 CFR 1.497(d), and filed on 04 December 2006 in the United States Patent and Trademark Office (USPTO). Petitioner seeks to delete Judi A. Alexander as inventor in the above referenced application.

BACKGROUND

On 27 September 2005, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371 with, *inter alia*, the requisite basic national fee.

On 5 June 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) because the declaration was not executed in accordance with 37 CFR 1.66 or. 1.68.

On 5 October 2006, applicant responded to the Form PCT/DO/EO/905 with a declaration identifying only one inventor. On 3 November 2006, a Notification of Defective Response was mailed to applicant indicating that the current declaration was not executed in accord with 37 CFR 1.66 or 1.68 and was missing information on joint inventor Judi A. Alexander.

On 4 December 2006, applicant filed the instant petition to correct inventorship. Applicant paid the $130 petition fee. Petitioner provided the statement of Judi A. Alexander, the inventor identified in the international application, in support of the correction of inventorship under 37 CFR 1.497(d).

DISCUSSION

Where the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and 37 CFR 1.497(d) names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor that any error in inventorship occurred without deceptive intention on his or her part; (2) the fee set forth in § 1.17(i); and (3) if an assignment has been executed by any

of the original named inventors, the written consent of the assignee(s).[1]

Petitioner provided the statement, signed by Judi A. Alexander stating that any error in inventorship in the above identified application occurred without deceptive intent on her part. This statement satisfies item (1) of 37 CFR 1.497(d).

The processing fee of $130.00 was paid and thus, Item (2) above is satisfied.

With regard to Item (3), the written consent of the assignee consenting to the deletion of Judi A. Alexander as inventor in this application is required. A statement under 37 CFR 3.73(b) [2] was submitted. Therefore, Item (3) above is satisfied. Accordingly, applicant has met all of the requirements to delete Judi A. Alexander as co-inventor in the above-identified international application.

CONCLUSION

For the reasons discussed above, the submission under 37 CFR 1.497(d) to delete Judi A. Alexander as inventor is hereby **GRANTED**.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (2) and (4) date is **04 December 2006.**

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

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

---

[1] 37 CFR 1.497(d) states, in part: If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:

(1) A statement from each person being added as an inventor . . . that any error in inventorship in the international application occurred without deceptive intention on his or her part;

(2) The processing fee set forth in § 1.17(I); and

(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees.

SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/20/08

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/551049 Patent No.: 7307084

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: _____

Joseph K. McKane
JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

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

DAVID A. GUERRA
INTERNATIONAL PATENT GROUP, LLC
2025 17TH AVENUE N.W.
CALGARY AB T2M 0S7 CA CANADA

COPY MAILED

NOV 10 2008

In re Application of	:	
ZAJEC, Zeljko et al.	:	
Application No. 10/551,079	:	DECISION ON PETITION
Filed: September 27, 2005	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 05, 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 all of the acts noted in the above-identified certifications have been performed. The practitioner did not provide certifications for items 1 and 2 above.

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- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **ZELJKO ZAJEC**
BUDIMSKA 34
SESVETE, 10360
CROATIA

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 MAY 2007

Ericsson Inc.
6300 Legacy Drive
M/S EVR 1-C-11
Plano, TX 75024

In re Application of	:	
BERGSTRÖM, Joakim et al.	:	
Application No.: 10/551,080	:	
PCT No.: PCT/SE2004/000543	:	
Int. Filing Date: 06 April 2004	:	DECISION
Priority Date: 07 April 2003	:	
Docket No.: P18218-US1	:	
For: RLC WINDOW SIZE RECONFIGURATION	:	

This decision is in response to Applicant's Response to Notification of Defective Response, filed in the above-captioned application on 15 January 2007.

BACKGROUND

On 27 September 2005, applicants supplied a transmittal letter for entry into the national phase in the United States, accompanied by, *inter alia*, the basic national fee. Applicants had supplied a declaration for the United States under PCT Rule 26*ter* during the international phase.

On 02 June 2006, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that the oath or declaration of the inventors did not comply with 37 CFR 1.497(a)-(b), as it did not identify the application to which it was directed. It set a TWO (2) MONTH extendable period for response.

On 02 August 2006, applicants resubmitted the declaration filed during the international phase.

On 12 December 2006, the Office mailed Notification of Defective Response (FORM PCT/DO/EO/916), indicating that the declaration did not comply with 37 CFR 1.497(a)-(b), as it did not identify the application to which it was directed. The Notification set a ONE (1) MONTH non-extendable time period for response, but noted that applicants also had the time remaining in the Notification of Missing Requirements.

On 15 January 2007, applicants filed the Response to Notification of Defective Response arguing that they had supplied a declaration under PCT Rule 4.17(iv) and were not required to supply a declaration complying with 37 CFR 1.497(a)-(b).

DISCUSSION

Applicants supplied a declaration within the time limit of PCT Rule 26*ter*, but it did not comply with PCT Rule 26*ter*. The declaration that applicants furnished is the one for use when the declaration is being filed with the international application. The declaration reads "this declaration is directed to the international application of which it forms a part (if filing the declaration with application)." Had

applicants used the version of the declaration for filing under PCT Rule 26*ter*, it would have had a blank for listing the international application number. A proper PCT Rule 4.17(iv) declaration complies with 37 CFR 1.497(a)-(b), but this declaration does not comply. It failed to identify the international application to which it was directed.

Additionally, the declaration contains non-initialed, non-dated alterations made in ink to the address of an inventor. Such changes would also not comply with the requirements of 37 CFR 1.497(a)-(b). MPEP 605.04(a).

CONCLUSION

Applicants submission does not comply with 37 CFR 1.497(a)-(b).

This application is **ABANDONED**.

Applicants may wish to consider the filing of a petition to revive an unintentionally abandoned international application under 37 CFR 1.137(b). If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision.

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

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

1 1 SEP 2007

Ericsson Inc.
6300 Legacy Drive
M/S EVR 1-C-11
Plano, TX 75024

In re Application of	:	
BERGSTRÖM, Joakim et al.	:	
Application No.: 10/551,080	:	
PCT No.: PCT/SE2004/000543	:	
Int. Filing Date: 06 April 2004	:	DECISION
Priority Date: 07 April 2003	:	
Docket No.: P18218-US1	:	
For: RLC WINDOW SIZE	:	
RECONFIGURATION	:	

Applicant's Petition Under 37 CFR 1.137(b), filed in the above-captioned application on 02 August 2007 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 of inventorship 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 been paid.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 02 August 2007.

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

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

Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton, NJ 08543-5312

Mail Date: 04/21/2010

Applicant	: Matthew Albert Ivey	: DECISION ON REQUEST FOR
Patent Number	: 7647342	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/551,083	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **614** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

BIO INTELLECTUAL PROPERTY SERVICES (BIO IPS) LLC
8509 KERNON CT.
LORTON, VA 22079

COPY MAILED

APR 0 7 2009

OFFICE OF PETITIONS

In re Application of	:	
Kum John Keightley	:	
Application No. 10/551,096	:	ON PETITION
Filed: September 28, 2005	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 13, 2009, to revive the above-identified application.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 15, 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)(II)(A)(2). Since the amendment submitted does not prima facie place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

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.

The petition is **GRANTED**.

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

This application is being referred to Technology Center AU 3726 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

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

MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: Thomas Huck	: DECISION ON REQUEST FOR
Patent Number	: 7602090	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/551,120	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **506** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

SEP - 8 2006

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

REED SMITH LLP
P.O. BOX 488
PITTSBURGH PA 15230-0488

In re Application of	:
West et al.	: PETITION TO MAKE SPECIAL
Serial No.: 10/551,202	:
Filed: September 27, 2005	:
Attorney Docket No.: 05-221-US	

This is in response to applicants' petition filed June 29, 2006, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicants have satisfied the provisions set forth in M.P.E.P. 708.02, VIII. (A), (B), (C), (D), and (E). The $130.00 petition fee as required by 37 CFR 1.17(h) was received. Therefore, the petition is **GRANTED**.

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

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the general Office facsimile number, (703) 872-9306.

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

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

SEP 21 2006

REED SMITH LLP
P.O. BOX 488
PITTSBURGH PA 15230-0488

In re Application of	:
Simon M. West et al	:
Serial No.: 10/551,203	: PETITION TO MAKE SPECIAL
Filed: June 29, 2006	:
Attorney Docket No.: 05-167-US	:

This is in response to applicants' petition filed June 29, 2006, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

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

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

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

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

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

YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 07/09/2010

Applicant	: Taoufik En-Najjary	: DECISION ON REQUEST FOR
Patent Number	: 7643988	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/551,224	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/27/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **959** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OGILVY RENAULT LLP
1, Place Ville Marie
SUITE 2500
MONTREAL, QC H3B 1R1
CANADA

Mail Date: 04/21/2010

Applicant	: Philippe Tessier	: DECISION ON REQUEST FOR
Patent Number	: 7632802	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/551,234	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/11/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **454** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

MAILED
FROM DIRECTOR'S OFFICE

JAN 10 2008

TECHNOLOGY CENTER 3600

David J. Gaskey
Carlson, Gaskey & Olds, P.C.
400 West Maple Road
Suite 350
Birmingham, MI 48009

In re Application of
Jose Sevilleja Perez
Application No. 10/551,243
Filed: September 28, 2005
For: ELEVATOR ROLLER GUIDE

: DECISION ON PETITION TO
: REVIEW RESTRICTION
: REQUIREMENT UNDER
: 37 C.F.R. 1.144

This is a decision on the petition filed January 12, 2007 under 37 C.F.R. 1.181. Since this petition is requesting the review of a restriction requirement, its being treated as a petition filed under 37 C.F.R. 1.144. The delay in treating this petition is sincerely regretted.

The petition is **GRANTED.**

A review of the file record reveals that a written restriction requirement was mailed on August 10, 2006. In a response filed September 11, 2006, applicant elected with traverse. An Office action on the merits was mailed on October 12, 2006 wherein the Examiner responded to the traverse and maintained the requirement. Applicant has filed this petition in response, along with an amendment to all the claims including the withdrawn claims.

Applicant argues that since the instant application is a national filing from a PCT application, and since there exists at least one common or corresponding technical feature in the independent claims, the restriction requirement is improper. It is further argued that the election of species should be withdrawn as there is no undue burden on the examiner to consider both embodiments.

Applicant's arguments are found persuasive. The restriction and election of species requirements are no longer appropriate for all the reasons set forth by applicant in the petition. Further, the amendment filed concurrently with the petition presents independent claims 10 and 20 which are drawn to a single inventive concept.

Accordingly, the petition is granted. The restriction and election of species requirement are hereby withdrawn.

The application will be forwarded to the Examiner to act on as his next available case in timely fashion.

Any questions regarding this decision should be directed to Peter M. Cuomo, Supervisory Patent Examiner, Art Unit 3654 at 571-272-6856.

Summary: ***Petition Granted***

Katherine Matecki

Katherine A. Matecki, Director
Patent Technology Center 3600
(571)-272-5250

PMC/:12/22/07

2 3 NOV 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND OR 97204

In re Application of: ENGSTROM, Eric U.S. Application No.: 10/551,254 PCT No.: PCT/US2004/010051 International Filing Date: 30 March 2004 Priority Date: 31 March 2003 Attorney's Docket No.: 109909-137147 For: A WIRELESS MOBILE PHONE WITH AUTHENTICATED MODE OF OPERATION INCLUDING HEART BEAT PROFILE BASED AUTHORIZATION	DECISION ON PETITION (37 CFR 1.182)

This decision is issued in response to the "Petition Under 37 CFR 1.182" filed 10 April 2007. Applicant has submitted the required $400 petition fee.

BACKGROUND

On 30 March 2004, applicant filed international application PCT/US2004/010051. The international application claimed a priority date of 31 March 2003, and it designated the United States. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 30 September 2005.

On 28 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.

On 12 May 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that an oath or declaration under 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date were required.

On 26 June 2006, applicants filed a "Response To Notice Of Missing Requirements" accompanied by a Transmittal Form, a Fee Transmittal Form (with check in payment of the required surcharge), an executed declaration, and a copy of the Notification Of Missing Requirements. However, the Transmittal Form, Fee Transmittal Form, and the caption of the "Response To Notice Of Missing Requirements" all misidentified the application number to

which they were directed as 10/881,254. Accordingly these materials were placed in U.S. application file 10/881,254.

On 10 April 2007, applicant filed the petition under 37 CFR 1.182 considered herein. The petition requests that the materials filed on 26 June 2006 be treated as having been filed in the present application on such date as a timely response to the Notification Of Missing Requirements.

DISCUSSION

The petition under 37 CFR 1.182 requests that the materials filed on 26 June 2006 (misdirected to application number 10/881,254) be treated as having been filed in the present application, 10/551,254, on 26 June 2006 as a timely response to the Notification Of Missing Requirements mailed 12 May 2006. Granting of this petition is required in order to avoid abandonment of the present application.

The required petition fee accompanied the petition. In addition, a review of the documents filed 26 June 2006 confirms that the proper application number was included therein, specifically, on the copy of the Notification Of Missing Requirements included with such submission. Also, the front page of the executed declaration lists the international application applicable to the present national stage application.

Applicant's present submission satisfies the requirements for a grantable petition under 37 CFR 1.182. Accordingly, the "Response To Notice Of Missing Requirements" and accompanying materials (including the executed declaration and the surcharge payment) will be treated as having been filed in the present application, 10/551,254, on 26 June 2006 as a timely response to the Notification of Missing Requirements mailed 12 May 2006.

A review of the declaration confirms that the declaration complies with the requirements of 37 CFR 1.497.

CONCLUSION

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

The "Response To Notice Of Missing Requirements" and accompanying materials, including the executed declaration and surcharge payment, will be treated as having been filed in the present application on 26 May 2006.

The declaration filed 26 June 2006 satisfies the requirements of 37 CFR 1.497.

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 26 June 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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Dec-09

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

COPY MAILED

DEC 07 2009

OFFICE OF PETITIONS

In re Application of	:	
Nakashima et al.	:	DECISION ON PETITION TO
Application Number: 10/551263	:	WITHDRAW HOLDING OF
Filing Date: 09/28/2005	:	ABANDONMENT
Attorney Docket Number:	:	
NAKASHIMA=6	:	

This is a decision on the "REQUEST TO VACATE IMPROPER NOTICE OF ABANDONMENT," filed on October 8, 2009, which is treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

A Notice of Abandonment was mailed on September 24, 2009, stating that the application was abandoned for failure to timely file a reply to the Office letter mailed on September 15, 2008.

A review of the record reveals that on September 15, 2008, a non-final Office action was mailed, setting a three (3)-month shortened statutory period for reply.

On March 16, 2009, a Notice of Appeal and fee were filed, along with a three (3)-month extension of time under 37 CFR 1.136(a).

As March 15, 2009, fell on a Sunday, the reply filed on Monday, March 16, 2009, was timely filed with the three (3)-month extension of time. 37 CFR 1.7(a). Accordingly, the application did not become abandoned for failure to timely respond to the non-final Office action mailed on September 15, 2008.

The holding of abandonment is withdrawn. The Notice of Abandonment is vacated.

Receipt of the Request for Continued Examination (RCE), submission under 37 CFR 1.114, and five (5)-month extension of time, filed on October 16, 2009, is acknowledged.

The application is referred to Technology Center Art Unit 1645 for further processing.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

0 4 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

SKINNER AND ASSOCIATES
212 Commercial Street
Hudson, WI 54016

In re Application of	:	
JUPE, John	:	
Application No.: 10/551,290	:	DECISION
PCT No.: PCT/GB2004/001262	:	
Int. Filing Date: 25 March 2004	:	ON PETITION UNDER
Priority Date: 29 March 2003	:	
Docket No.: ARD132USA	:	37 CFR 1.181
For: IMAGE PROCESSING	:	

This decision is in response to applicant's petition to withdraw the holding of abandonment, under 37 CFR 1.181.

BACKGROUND

On 27 July 2006, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing search fee, examination fee or oath or declaration were required.

On 15 November 2007, 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 26 November 2007, applicants filed the instant petition.

DISCUSSION

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

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

Item (3) has not been satisfied. Practitioner must provide a copy of the docket records for the firm, where the nonrecieved Office communication would have been entered had it been received and docketed and reference the docket record in the practitioner's statement. "For example, if a three month period for reply was set in the nonreceived Office Action, a copy of the docket report showing all replies

docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action." MPEP §711.03(c) para. II.

CONCLUSION

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

The application remains **ABANDONED**.

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

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

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

0 4 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

SKINNER AND ASSOCIATES
212 Commercial Street
Hudson, WI 54016

In re Application of	:	
JUPE, John	:	
Application No.: 10/551,290	:	DECISION
PCT No.: PCT/GB2004/001262	:	
Int. Filing Date: 25 March 2004	:	ON PETITION UNDER
Priority Date: 29 March 2003	:	
Docket No.: ARD132USA	:	37 CFR 1.181
For: IMAGE PROCESSING	:	

This decision is in response to applicant's petition to withdraw the holding of abandonment, under 37 CFR 1.181.

BACKGROUND

On 27 July 2006, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing search fee, examination fee or oath or declaration were required.

On 15 November 2007, 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 26 November 2007, applicants filed the instant petition.

DISCUSSION

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

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

Item (3) has not been satisfied. Practitioner must provide a copy of the docket records for the firm, where the nonrecieved Office communication would have been entered had it been received and docketed and reference the docket record in the practitioner's statement. "For example, if a three month period for reply was set in the nonreceived Office Action, a copy of the docket report showing all replies

docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action." MPEP §711.03(c) para. II.

CONCLUSION

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

The application remains **ABANDONED**.

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

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

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

0 2 MAY 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SKINNER AND ASSOCIATES
212 Commercial Street
Hudson, WI 54016

In re Application of	:	
JUPE, John	:	
Application No.: 10/551,290	:	DECISION
PCT No.: PCT/GB2004/001262	:	
Int. Filing Date: 25 March 2004	:	ON PETITION UNDER
Priority Date: 29 March 2003	:	
Docket No.: ARD132USA	:	37 CFR 1.181
For: IMAGE PROCESSING	:	

This decision is in response to applicant's petition to withdraw the holding of abandonment, under 37 CFR 1.181, filed in the United States Patent and Trademark Office on 19 February 2008.

BACKGROUND

On 04 February 2008, the Office mailed Decision On Petition, dismissing applicant's petition without prejudice.

On 19 February 2008, applicant filed this renewed petition under 37 CFR 1.181.

DISCUSSION

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

Items (1) and (2) were previously satisfied. Item (3) has now been satisfied.

CONCLUSION

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

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 15 November 2007 is **VACATED**.

Applicant is required to supply an oath or declaration of the inventors and the surcharge for late filing of the search fee, examination fee or oath or declaration within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter may be filed electronically via EFS-Web or if mailed, should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal

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

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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

1 SEP 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SKINNER AND ASSOCIATES
212 Commercial Street
Hudson, WI 54016

In re Application of	:	
JUPE, John	:	
Application No.: 10/551,290	:	DECISION
PCT No.: PCT/GB2004/001262	:	
Int. Filing Date: 25 March 2004	:	ON PETITION UNDER
Priority Date: 29 March 2003	:	
Docket No.: ARD132USA	:	37 CFR 1.181
For: IMAGE PROCESSING	:	

This decision is in response to applicant's submission of a declaration of the inventor, filed in the United States Patent and Trademark Office on 19 May 2008.

The declaration submitted by applicant on 19 May 2008 satisfies the requirements of 37 CFR 1.497(a)-(b).

This application is being returned to the National Phase Processing Branch of the Office of Patent Application Processing for further action consistent with this decision. The application has a 35 USC 371(c)(1), (c)(2) and (c)(4) date of 19 May 2008.

/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

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

COPY MAILED

OCT 15 2007

OFFICE OF PETITIONS

In re Application of	:	
Du et al.	:	
Application No.: 10/551312	:	ON PETITION
Filing or 371(c) Date: 09/28/2005	:	
Attorney Docket Number: CN030006	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 2, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed April 2, 2007. Accordingly, the date of abandonment of this application is July 3, 2007.

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

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

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

Derek L. Woods
Attorney
Office of Petitions

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

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

Mail Date: 05/24/2010

Applicant	: Radjindrepersad Gajadharsing	: DECISION ON REQUEST FOR
Patent Number	: 7652316	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/551,324	: 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 **566** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

12 FEB 2007

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

Whitham, Curtis, Christofferson & Cook, PC
11491 Sunset Hills Road
Suite 340
Reston, VA 20190

In re Application of HANERT et al. U.S. Application No. 10/551,332 PCT No.: PCT/DE04/00430 Int. Filing Date: 05 March 2004 Priority Date: 31 March 2003 Attorney Docket No.: 03100257AA For: BIOFILTER SYSTEM AND METHOD FOR PURIFYING GASES ESCAPING FROM A GULLY HOLE	:	DECISION ON REQUEST

This decision is issued in response to applicants' "Response to Notification of Missing Requirements" filed 21 January 2007, which is being treated as a Request under 37 CFR 1.497(d). The $130 petition fee has been charged to counsel's deposit account no. 50-2041.

BACKGROUND

On 05 March 2004, applicants filed international application no. PCT/DE04/00430 which claimed a priority date of 31 March 2003. The international application named Helmut Hanert and Matthais Nieber as an applicant/inventor. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 31 September 2005.

On 29 September 2005, applicants filed a transmittal letter for entry into the national stage accompanied by, *inter alia:* the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 03 November 2006, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 21 January 2007, applicants filed the present request which included; a declaration executed by: Peter Harborth; Helmut Hanert and Matthais Nieber; a Statement of Lack of Deceptive Intent by Omitted Inventor for Correcting Inventorship under 37 CFR 1.48(a); Written Consent of Originally-Named Inventor to Correct Inventorship under 37 CFR 1.48 executed by Matthias Nieber and Helmut Hanert.

DISCUSSION

As defined in 37 CFR 1.9(a)(3), a U.S. national stage application must first comply with the requirements of 35 U.S.C. 371(c) to constitute a "nonprovisional" application, therefore, applicants' request will be treated under 37 CFR 1.497(d). The present submission seeks to correct the inventorship so as to add inventor Peter Harborth 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) and (4).

Applicants have not satisfied item (3). In order to satisfy item (3), applicants are required to submit a written consent of assignee to the correction in inventorship in compliance with 37 CFR 3.73(b), or written confirmation that no assignee exists.

Because applicants have not satisfied all the requirements of 37 CFR 1.497(d), inventor Peter Harborth cannot be added to the application at the present time.

CONCLUSION

Applicants' request to add inventor Peter Harborth 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 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

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

02/12/2007 SBASHEIR 00000008 502841 10551332
01 FC:1464 130.00 DA

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 AUG 2007

Whitham, Curtis, Christofferson & Cook, PC
11491 Sunset Hills Road
Suite 340
Reston, VA 20190

In re Application of HARBORTH et al. U.S. Application No. 10/551,332 PCT No.: PCT/DE04/00430 Int. Filing Date: 05 March 2004 Priority Date: 31 March 2003 Attorney Docket No.: 03100257AA For: BIOFILTER SYSTEM AND METHOD FOR PURIFYING GASES ESCAPING FROM A GULLY HOLE	:	DECISION ON REQUEST

This decision is issued in response to applicants' "Response to Decision on Request and Request for Revised Official Filing Receipt" filed 03 April 2007, which is being treated as a Renewed Request under 37 CFR 1.497(d).

BACKGROUND

On 05 March 2004, applicants filed international application no. PCT/DE04/00430 which claimed a priority date of 31 March 2003. The international application named Helmut Hanert and Matthais Nieber as an applicant/inventor. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 31 September 2005.

On 29 September 2005, applicants filed a transmittal letter for entry into the national stage accompanied by, *inter alia*: the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 03 November 2006, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 21 January 2007, applicants filed a request undre 37 CFR 1.497(d) which included; a declaration executed by: Peter Harborth; Helmut Hanert and Matthais Nieber; a Statement of Lack of Deceptive Intent by Omitted Inventor for Correcting Inventorship under 37 CFR 1.48(a); Written Consent of Originally-Named Inventor to Correct Inventorship under 37 CFR 1.48 executed by Matthias Nieber and Helmut Hanert. In a

decision dated 12 February 2007, applicant request under 37 CFR 1.497(d) was dismissed without prejudice.

On 03 April 2007, applicant filed "Response to Decision on Request on Request for Revised Official Filing Receipt" which is being treated as a renewed request under 37 CFR 1.497(d).

DISCUSSION

As defined in 37 CFR 1.9(a)(3), a U.S. national stage application must first comply with the requirements of 35 U.S.C. 371(c) to constitute a "nonprovisional" application, therefore, applicants' request will be treated under 37 CFR 1.497(d). The present submission seeks to correct the inventorship so as to add inventor Peter Harborth to the application. Where, as here, the inventorship in the national stage declaration is not consistent with the inventorship in the international application, applicants must correct the inventorship pursuant to 37 CFR 1.497(d), which states the following:

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

Applicants have satisfied items (1); (2); (3) and (4).

CONCLUSION

The renewed request under 37 CFR 1.497(d) is **GRANTED**.

A review of the application papers reveals that applicants have completed all the requirements of 35 U.S.C. 371 for entry into the national stage.

This application will be given an international application filing date of 05 March 2004 and a date of 21 January 2007 under 35 U.S.C. 371.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 06/15/2010

Applicant	: Jacques Defaye	: DECISION ON REQUEST FOR
Patent Number	: 7632941	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/551,343	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **167** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Juan Carlos A. Marquez
c/o Stites & Harbison PLLC
1199 North Fairfax Street
Suite 900
Alexandria, VA 22314-1437

Mail Date: 04/21/2010

Applicant	: Mi Kyoung Park	: DECISION ON REQUEST FOR
Patent Number	: 7606557	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/551,344	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/18/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **592** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/20/2010

Applicant	: Hiroaki Niwamoto	: DECISION ON REQUEST FOR
Patent Number	: 7631197	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/551,347	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/28/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1076** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

23 JUN 2006

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

SIMPSON & SIMPSON, PLLC
5555 MAIN STREET
WILLIAMSVILLE, NY 14221-5406

In re Application of: TAYLOR et al.	:	
Application No.: 10/551,351	:	
PCT Application No.: PCT/US03/40840	:	DECISION ON
Int. Filing Date: 22 December 2003	:	PETITION UNDER
Priority Date Claimed: 20 December 2002	:	37 CFR 1.137(b)
Attorney Docket No.: KIPP:103US	:	
For: AUTOMATED SALES CENTER	:	

This is a decision on the "Petition for Revival of an International Application for Patent Unintentionally Abandoned under 37 CFR 1.137(b) (Small Entity)," filed on 28 September 2005.

BACKGROUND

On 22 December 2003, applicant filed international application PCT/US03/40840. The international application claims a priority date of 20 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 20 June 2005.

On 28 September 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 a check in the amount of $1000.

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'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 ($150 for a small entity) and the copy of the international application satisfies 37 CFR 1.137(b)(1). The payment of the petition fee ($750 for a small entity) 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.

The search fee ($50 for a small entity) and examination fee ($100 for a small entity), taken from the submitted check of $1000, leaves a balance due of $50. Accordingly, applicant's Deposit Account No. 50-0822 will be charged the $50 balance due, as well as the $65 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 22 December 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) of 28 September 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

0 4 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

MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

In re Application of	:	
XIONG et al.	:	
Application No.: 10/551,359	:	DECISION
PCT No.: PCT/CA2004/000464	:	
Int. Filing Date: 29 March 2004	:	
Priority Date: 28 March 2003	:	
Attorney Docket No.: 577132000200	:	
For: OVERCOMPLETE BASIS TRANSFORM-BASED MOTION RESIDUAL FRAME CODING METHOD AND APPARATUS FOR VIDEO COMPRESSION	:	

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed 11 December 2006 in the United States Patent and Trademark Office (USPTO). The petition is **DISMISSED** without prejudice.

BACKGROUND

On 29 March 2004, applicants filed international application PCT/CA2004/000464, which designated the United States and claimed a priority date of 28 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 28 September 2005.

On 28 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 11 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) 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 11 December 2006, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a petition/fee for a five month extension of time, the surcharge under 37 CFR 1.492(h), a declaration of facts by Leslie Sims, two copies of a letter to non-signing inventor Meng Wang from Leslie Sims dated 20 November 2006, a copy of a shipping label from Mobile1 Messengers Inc. to Meng Wang, a copy of a package tracking sheet from Canada Post Corporation, and a copy of a registered mailing label to Meng Wang's last known address.

DISCUSSION

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

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

Item (2) has not been met. It is not clear whether it is being alleged that Meng Wang 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." It is not clear that either of the packages sent to Mr. Wang's last known address were received by him. The shipping label from Mobile1 Messengers Inc. indicates that four attempts were made to deliver but there is no indication that the package finally was delivered. The tracking sheet from Canada Post Corporation indicates that the package was received at the Post Office for pick up as a carded item but does not indicate that the package was picked up. The copy of the registered mailing label to Meng Wang's last known address also fails to show receipt. If neither letter was picked up or delivered, it may be because Mr. Wang does not reside at this address.

If it is being alleged that Mr. Wang refuses to sign, it must be established that he lives at this address. Additionally, to establish a refusal to sign, it is required that the inventor be presented with the application papers (specification, including claims, drawings, and oath or declaration). See MPEP 409.03(d). "It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956)." Here, it is not clear that Mr. Wang was presented with the application papers. While the letter dated 20 November 2006 refers to "patent application 2,423,618" and indicates that Mr. Weng should "feel free to keep the copy of the Application for [his] records", it does not appear that a copy of the PCT international application (which may be different from the priority application) or a copy of the U.S. national stage application (which should be the same as the PCT international application but may be different from the priority application) were presented to him.

If it is being alleged that Mr. Wang cannot be reached or found, a bona fide attempt to find his address must be made and 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 does not appear that any internet searches were conducted to find Mr. Wang's address.

Item (4) has not been met. The declaration filed 21 May 2008 is an improper composite declaration, consisting of one Page 1 and three Page 2's. 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.

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).

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

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

01 DEC 2008

MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

In re Application of XIONG et al. Application No.: 10/551,359 PCT No.: PCT/CA2004/000464 Int. Filing Date: 29 March 2004 Priority Date: 28 March 2003 Attorney Docket No.: 577132000200 For: OVERCOMPLETE BASIS TRANSFORM-BASED MOTION RESIDUAL FRAME CODING METHOD AND APPARATUS FOR VIDEO COMPRESSION	:	DECISION

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) filed 03 October 2008 in the United States Patent and Trademark Office (USPTO). The petition is **GRANTED**.

BACKGROUND

On 29 March 2004, applicants filed international application PCT/CA2004/000464, which designated the United States and claimed a priority date of 28 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 28 September 2005.

On 28 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 11 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) 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 11 December 2006, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a petition/fee for a five month extension of time, the surcharge under 37 CFR 1.492(h), a declaration of facts by Leslie Sims, two copies of a letter to non-signing inventor Meng Wang from Leslie Sims dated 20 November 2006, a copy of a shipping label from Mobile1 Messengers Inc. to Meng Wang, a copy of a package tracking sheet from Canada Post Corporation, and a copy of a registered mailing label to Meng Wang's last known address.

On 04 August 2008, a decision was mailed dismissing without prejudice applicants' petition under 37 CFR 1.47(a). Specifically, it was noted that factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort and 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 had not been provided.

On 03 October 2008, applicants filed the instant renewed petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of facts by Nick Ringma and Cecilia Lu, and copies of search results from a phone book search as well as several internet searches.

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 04 August 2008, items (1) and (3) have been met.

Item (2) has now been met. It has been established that non-signing inventor Meng Wang cannot be found after diligent effort.

Item (4) has now been met as well.

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 **03 October 2008**.

/Daniel Stemmer/

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

01 DEC 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

Meng Wang
3027 Laurel Street
Vancouver
British Columbia V5Z 3T6
Canada

In re Application of
XIONG et al.
Application No.: 10/551,359
PCT No.: PCT/CA2004/000464
Int. Filing Date: 29 March 2004
Priority Date: 28 March 2003
Attorney Docket No.: 577132000200
For: OVERCOMPLETE BASIS TRANSFORM-BASED MOTION RESIDUAL FRAME CODING METHOD AND APPARATUS FOR VIDEO COMPRESSION

Dear Mr. Weng:

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
Facsimile: (571) 273-0459

MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

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

COPY MAILED

DEC 26 2007

OFFICE OF PETITIONS

THELEN REID BROWN RAYSMAN & STEINER LLP
PO BOX 1510
NEW YORK NY 10150-1510

In re Application of	:	
MURPHY, Brian et al.	:	
Application No. 10/551,368	:	DECISION ON PETITION
Filed: October 11, 2006	:	TO WITHDRAW
Attorney Docket No. **6319-4501US**	:	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

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

0 8 AUG 2007

CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

In re Application of	:	
ABOUKRAT et al.	:	
Application No.: 10/551,369	:	DECISION
PCT No.: PCT/FR2004/000798	:	
Int. Filing Date: 30 March 2004	:	
Priority Date: 31 March 2003	:	
Attorney Docket No.: 55930/DBP/N75	:	
For: COMPUTER DEVICE FOR MANAGING	:	
DOCUMENTS IN MULTI-USER MODE	:	

This is a decision on applicants' "PETITION UNDER 37 C.F.R. 1.47(a)" filed 23 March 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 30 March 2004, applicants filed international application PCT/FR2004/000798, which designated the United States and claimed a priority date of 31 March 2003. A copy of the international application was communicated from the International Bureau to the USPTO on 21 October 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 30 September 2005.

On 28 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 the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date.

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 of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 23 March 2007, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, a petition/fee for a four-month extension of time, a declaration of facts by Jean-Yves Placais, a copy of a letter from Mr. Placais to non-signing inventor Mr. Aboukrat dated 28 February 2007 and an English translation thereof, and a copy of a letter from Mr. Aboukrat to Mr. Placais dated 16 March 2007 and an English translation thereof.

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 fee has been paid.

As to item (2), it has been established that the non-signing inventor Maurice Aboukrat refuses to execute the application.

As to item (3), a statement of the last known address of the non-signing inventor has been provided.

As to item (4), a declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor has been provided.

Declaration of Inventors

The declaration of inventors filed 23 March 2007 is in compliance with 37 CFR 1.497(a)-(b).

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 **23 March 2007**.

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

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

JUN 22 2010

William S. Frommer
Frommer, Lawrence & Haug
745 Fifth Avenue
New York, NY 10151

In re Application of	:	DECISION ON PETITION
Masanori Omote	:	TO RE-MAIL AND RESTART
Application No. 10/551,393	:	RESPONSE PERIOD FOR
Filed: June 30, 2006	:	NON-RECEIVED OFFICE ACTION
For: ROBOT DEVICE, INFORMATION PROCESSING METHOD, AND PROGRAM		

This is in response to applicant's petition to Re-mail and Reset a Period for Reply Due to non-receipt, filed in the United States Patent and Trademark Office (USPTO) on April 23, 2010.

The petition is **DISMISSED.**

Petitioner asserts that the Office action having a mail date of February 5, 2010 was not received at the correspondence address of record. The applicant indicates that the Office action in question was discovered during a PAIR on-line transaction history review on April 22, 2010. As applicant never received the mailed copy of the Office action, the petition is being treated as a petition to restart the time period for response due to non-receipt of an Office communication. The applicant asks that the non-final Office action be re-mailed with a new response period.

There is a strong presumption that an Office action properly addressed and delivered to the United States Postal Services, was in fact delivered to the addressee. An allegation that the Office action was not received must be supported by a showing that it was not received.

The showing required to establish non-receipt of an Office action must include all of the following requirements:

(1) A statement from the practitioner stating the Office action was not received by the practitioner;

(2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

(3) A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date at and around May 5, 2010. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G.53 (November 16, 1993).

Applicant's petition fails to include 3) a copy of the docket record where the non-received Office action would have been entered had it been received and docketed. The submitted log of incoming mail does not qualify as a copy of the above required docket record.

The time period for response to the Office action of February 5, 2010 continues to run 3 months from that date.

Any questions regarding this decision should be directed to Steven N. Meyers at (571) 272-6611.

Steven N. Meyers, Quality Assurance Specialist
Patent Technology Center 3600
(571) 272-6611

Sm/sm: 6/21/10

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.
10/551,393	06/30/2006	Masanori Omote	450100-05036	3343

7590 07/23/2010

William S Frommer
Frommer Lawrence & Haug
745 Fifth Avenue
New York, NY 10151

EXAMINER
TRAN, KHOI H

ART UNIT	PAPER NUMBER
3664	

MAIL DATE	DELIVERY MODE
07/23/2010	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.

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

JUL 22 2010

William S. Frommer
Frommer, Lawrence & Haug
745 Fifth Avenue
New York, NY 10151

In re Application of	:	DECISION ON PETITION
Masanori Omote	:	TO RE-MAIL AND RESTART
Application No. 10/551,393	:	RESPONSE PERIOD FOR
Filed: June 30, 2006	:	NON-RECEIVED OFFICE ACTION
For: ROBOT DEVICE, INFORMATION PROCESSING METHOD, AND PROGRAM		

This is in response to applicant's request for reconsideration, filed in the USPTO on June 25, 2010, of the dismissal of applicant's petition to Re-mail and Reset a Period for Reply Due to non-receipt.

The petition is **DISMISSED.**

There is a strong presumption that an Office action properly addressed and delivered to the United States Postal Services, was in fact delivered to the addressee. An allegation that the Office action was not received must be supported by a showing that it was not received.

The showing required to establish non-receipt of an Office action must include all of the following requirements:

(1) A statement from the practitioner stating the Office action was not received by the practitioner;

(2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

(3) A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date at and around May 5, 2010. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G.53 (November 16, 1993).

Applicant's petition was dismissed because it failed to include a copy of the docket record where the non-received Office action would have been entered had it been received and docketed. The submitted log of incoming mail does not qualify as a copy of the above required docket record.

In the renewed petition, petitioner sets forth the detailed procedure in the docket system used by the practitioner. However, this still fails to satisfy requirement (3) above.

MPEP 711.03(c) sets forth that

> *A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the* ***master docket*** *for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed* ***for a date three months from the mail date*** *of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.*< (emphasis added)

Petitioner has failed to include a copy of the master docket, as required by MPEP 711.03(c). Petitioner has included "a log of all incoming mail from the Patent and Trademark Office with a mailing date of February 5, 2010." This mail log is insufficient without a statement from practitioner stating that no such master docket exists, as set forth in MPEP 711.03(c).

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Inquiries related to this decision may be directed to Teri Luu, Quality Assurance Specialist, at (571) 272-7045

Katherine Matecki

Katherine Matecki, Director
Patent Technology Center 3600
(571) 272-5250

KM/tl: 07/19/10

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

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

Mail Date: 04/21/2010

Applicant	: Dan Christian Bak	: DECISION ON REQUEST FOR
Patent Number	: 7632068	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/551,406	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **815** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

Mail Date: 04/21/2010

Applicant	: Barry W Townsend	: DECISION ON REQUEST FOR
Patent Number	: 7578852	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/551,420	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **185** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

Mail Date: 05/18/2010

Applicant : Barry W Townsend
Patent Number : 7578852
Issue Date : 08/25/2009
Application No : 10/551,420
Filed : 03/16/2006

: 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 **218** 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).

08 JUN 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

In re Application of	:	
EBERL	:	
Serial No.: 10/551,443	:	DECISION ON
PCT App. No.: PCT/EP01/11634	:	
Int'l Filing Date: 08 October 2001	:	PETITION UNDER
Priority Date: 07 October 2000	:	
Attorney Docket No.: 101795.56306US	:	37 CFR 1.137(b)
For: DEVICE AND METHOD FOR DETER-	:	
MINING THE ORIENTATION OF AN EYE	:	

This decision is in response to applicant's petition to revive under 37 CFR 1.137(b) filed 29 September 2005 in the above-captioned application in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 08 October 2001, applicant filed international application PCT/EP01/11634 which claimed priority to an earlier application filed 02 October 2000. The thirty-month period for paying the basic national fee in the United States expired at midnight on 07 April 2003.

On 29 September 2005, applicant filed a request for entry into the U.S. national stage along with the present petition under 37 CFR 1.137(b) considered herein.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required). Applicant has satisfied items (1)-(2). Item (4) does not apply.

Regarding item (3), applicant has provided 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". Specifically, applicant states that under German employee inventor's law, "Physoptics took over their right to this application worldwide. Physoptics later

went into bankruptcy and their trustee refused to release their right to this application and refused to initiate the US national phase." Applicant further explains that "[b]ecause all rights to this application were not held by Physoptics, it was necessary to negotiate with the other owners regarding prosecution of the application which not completed until near the end of 2004". Further delays were attributed to reconstruction of the files, consultation with others and arranging financing.

Thus, it appears that the PCT application was subject to the bankruptcy trustee's control and the "other owners". In addition, applicant has not detailed the time period since the end of 2004 until the filing of the present petition and shown that this period was used by applicant "to reconstruct this and other files including the consultation with the others involved in ... time to arrange financing and manage by employment led to further delays" before the present petition could be filed. Applicant has not provided a detailed account of the knowledge and actions of the bankruptcy trustee and the other owners for the period of 07 April 2003 through the filing of the present petition on 29 September 2005. If the trustee knew of the 30 month deadline for entering the National stage in the United States and did not divert funds to either timely enter the U.S. National stage or make arrangements for revival; the lack of such actions could be construed as intentional abandonment. Absent a more detailed explanation of the knowledge and actions of the trustee and the other owners, it is not possible to grant applicant's petition. The question under 37 CFR 1.137 is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unavoidable or unintentional.

CONCLUSION

For the reasons above, applicant's petitions under 37 CFR 1.137(b) is **DISMISSED**. The application remains **ABANDONED** as to the United States of America.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." No additional petition fee is required.

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

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

28 NOV 2006

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

In re Application of	:	
EBERL	:	
Serial No.: 10/551,443	:	DECISION ON
PCT App. No.: PCT/EP01/11634	:	
Int'l Filing Date: 08 October 2001	:	RENEWED PETITION
Priority Date: 07 October 2000	:	
Attorney Docket No.: 101795.56306US	:	UNDER 37 CFR 1.137(b)
For: DEVICE AND METHOD FOR DETER-	:	
MINING THE ORIENTATION OF AN EYE	:	

This decision is in response to applicant's renewed petition to revive under 37 CFR 1.137(b) filed 08 August 2006 in the above-captioned application in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 08 October 2001, applicant filed international application PCT/EP01/11634 which claimed priority to an earlier application filed 02 October 2000. The thirty-month period for paying the basic national fee in the United States expired at midnight on 07 April 2003.

On 29 September 2005, applicant filed a request for entry into the U.S. national stage along with a petition under 37 CFR 1.137(b).

On 08 June 2006, a decision dismissing applicant's petition was mailed, questioning whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unavoidable or unintentional under 37 CFR 1.137.

On 08 August 2006, Petitioner filed a renewed 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). Petitioner has satisfied items (1)-(2) and item (4) does not apply.

Regarding item (3), as stated above, the thirty-month period for paying the basic national fee in the United States expired at midnight on 07 April 2003. Applicant asserts that "it was not possible for any inventor to file in the US because the inventors were not the Applicant of the PCT and could not be until ownership was transferred or release[d] to inventors." However, a review of the international applicant PCT/EP01/11634 indicates that the inventors were also applicants. See indication 75 of the published international application where Roland H. C. Eberl, Heinrich A. Eberl, and David Dickerson were named applicant/inventors. (Where the national law of the designated State requires that, for the purposes of the designation of that State, the applicant(s) must be the inventor(s). *See* Article 27(3) and PCT Rule 18.4(c).) U.S. national law requires the inventor to be applicant for a patent. *See* 35 U.S.C. 101 et seq.

When the issue of revival is addressed, the focus must be on the rights of the parties as of the time of abandonment. See Kim v. Quigg, 781 F. Supp. 1280, 1284, 12 USPQ2d 1604, 1607 (E.D. Va 1989). The record is not clear as to the rights of the parties on 07 April 2003, the date of abandonment. Rather, it appears that the instant application was among the assets of a bankruptcy estate. As such, the person who had control of this asset at the date in question would appear to be the bankruptcy trustee.

As noted in MPEP 711.03(c)II(E), the question under 37 CFR 1.137 is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on 07 April 2003. That party, in turn must explain what effort(s) was made to file a US national stage application and further, why no such application was filed. If no effort was made to file such application, then that party must explain why the delay in filing this application does not result from a deliberate decision to take no action. Likewise, the party having the right or authority to avoid abandonment should explain why this application became abandoned while it was under their control and what efforts were made to file a US national stage application and with whom this matter was discussed. Copies of any correspondence relating the filing, or not filing a US national stage application are required. It is noted that simply because bankruptcy is involved does not necessarily mean that no income was derived to the estate, that there were no funds in the bankruptcy estate, or that no bills were paid or expenses undertaken by the trustee. Simply put, a course of conduct resulting in a delay that is purposefully chosen does not qualify as unintentional delay.

Petitioner states that by virtue of German employment law, Physoptics Opto-Electronic GmbH took over the right to this application and later went into bankruptcy. Their "trustee refused to release their right to this application and refused to initiate the US national phase." It appears that the trustee's refusal to initiate a US national stage application was intentional and thus, the application can not be considered to be unintentionally abandoned.

Petitioner states that "it is not clear that Mr. Dickerson could have filed before the

expiration of the time period for entering the National Stage in the US" and " practical items must be considered, such as expense of filing and how that expense would be shared with respect to the "other" owners.... these matters had to be worked out from a business point of view before proceeding to file even assuming that Mr. Dickerson had obtained a theoretical right to file an application after he settled the lawsuit".

Thus, it appears that the PCT application was subject to the bankruptcy trustee's control and the "other owners". Petitioner has not detailed the time period since 07 April 2003 until the filing of the present petition . Applicant has not provided a detailed account of the knowledge and actions of the bankruptcy trustee and the other owners for the period of 07 April 2003 through the filing of the petition on 29 September 2005. If the trustee knew of the 30 month deadline for entering the National stage in the United States and did not divert funds to either timely enter the U.S. National stage or make arrangements for revival; the lack of such actions could be construed as intentional abandonment. Absent a more detailed explanation of the knowledge and actions of the trustee and the other owners, it is not possible to grant applicant's petition. The question under 37 CFR 1.137 is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unavoidable or unintentional.

CONCLUSION

For the reasons above, applicant's petitions under 37 CFR 1.137(b) is **DISMISSED**. The application remains **ABANDONED** as to the United States of America.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." No additional petition fee is required.

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

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

0 8 JUN 2007

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

In re Application of	:	
EBERL	:	
Serial No.: 10/551,443	:	DECISION ON
PCT App. No.: PCT/EP01/11634	:	
Int'l Filing Date: 08 October 2001	:	RENEWED PETITION
Priority Date: 07 October 2000	:	
Attorney Docket No.: 101795.56306US	:	UNDER 37 CFR 1.137(b)
For: DEVICE AND METHOD FOR DETER-	:	
MINING THE ORIENTATION OF AN EYE	:	

This decision is in response to applicant's renewed petition to revive under 37 CFR 1.137(b) filed 29 January 2007 in the above-captioned application in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 08 October 2001, applicant filed international application PCT/EP01/11634 which claimed priority to an earlier application filed 02 October 2000. The thirty-month period for paying the basic national fee in the United States expired at midnight on 07 April 2003.

On 29 September 2005, applicant filed a request for entry into the U.S. national stage along with a petition under 37 CFR 1.137(b).

On 08 June 2006, a decision dismissing applicant's petition was mailed, questioning whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unavoidable or unintentional under 37 CFR 1.137.

On 08 August 2006, Petitioner filed a renewed petition under 37 CFR 1.137(b). On 28 November 2006, a decision dismissing the petition was mailed, indicating that a detailed account of the time period between 07 April 2003 until the filing of the present petition be providing evidence that the delay in filing the request for entry into the U.S. national stage was unintentional.

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 29 September 2005.

As to item (2), applicants submitted the petition fee on 29 September 2005.

Item (3) still has not been satisfied. The declaration of facts by Mr. Dickerson has been considered. The delay from at least November 20, 2003, when the bankruptcy trustee purportedly transferred the rights to Mr. Dickerson, until the filing of the U.S. Basic National Fee on 29 September 2005 still has not been adequately explained.

MPEP § 711.03(c), II. D., states that "where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as 'unintentional' within the meaning of 37 CFR 1.137(b)."

The declaration states that until the fall of 2006, Mr. Dickerson was of the belief that each of the six PCT applications he desired to prosecute needed to be translated into English to enter the U.S. national stage (¶ 24 and 28) and that he desired to translate the six applications himself (¶ 27 and 28). On 10 November 2004, Mr. Dickerson first contacted US counsel regarding representation for the US prosecution and received a response on 24 November 2004. On 13 February 2005, Mr. Dickerson replied to US counsel's inquiry and not until 17 April 2005, did Mr. Dickerson provide materials and instructions for entering the US national stage. In April of 2005, it was agreed that applicant's representative would be responsible for the translations (¶39). However, from November 2003 until that time, it does not appear that applicant translated any of the six applications referred to. From a reading of the declaration it appears that applicant did not attempt to make any inquiries about entering the US national stage until November 2004 when he first contacted his present US attorney.

The declaration gives numerous other reasons for the delay between January 2004 and February 2005: preparing 2002 German tax return (¶ 30); studying for the "European Qualifying Exam" (EQE) for admittance to the EPO bar (¶ 31); legal battle over responsibility for water damage to apartment (¶ 32); sick for several weeks (¶ 33); inheritance of a small sum of money from a relative in the U.S. (¶ 34); searching for office space and setting up office (¶ 35); and prosecuting "the six Euro-PCT applications" and studying for a re-sit of the EQE (¶ 37). However, possibly aside from being sick for several weeks, these delays merely show how applicant decided to spend his time. A delay due to applicant's deliberately choosing other priorities over filing the instant application appears to be an intentional delay.

Mr. Dickerson first contacted his present US patent attorney on 10 November 2004. A

reply was received requesting more detailed information on 24 November 2004. (¶ 36) Mr. Dickerson replied to his attorney on 13 February 2005, and on 26 February 2005 the attorney tentatively agreed to take over representation. (¶ 38) As noted above, the delay from 24 November 2004 to 13 February 2005 appears to have been due to applicant's deliberately choosing other priorities over filing the instant application. Mr. Dickerson gave the documents, which needed to be translated, for the instant application (PCT/EP01/11634) to his attorney on 17 April 2005. (¶ 39). The delay between 17 April 2005 and 29 September 2005 has not been adequately explained. Mr. Dickerson again details items he spent his time on between that time, but again, this appears to be a matter of prioritizing. Nor has Applicant's representative explained the delay between 17 April 2005 and 29 September 2005. A delay due to applicant's deliberately choosing other priorities over filing the instant application appears to be an intentional delay.

CONCLUSION

For the reasons above, applicant's petitions under 37 CFR 1.137(b) is **DISMISSED**. The application remains **ABANDONED** as to the United States of America.

Any reconsideration on the merits of this petition must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." No additional petition fee is required.

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

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

17 MAR 2008

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

In re Application of EBERL Serial No.: 10/551,443 PCT App. No.: PCT/EP01/11634 Int'l Filing Date: 08 October 2001 Priority Date: 07 October 2000 Attorney Docket No.: 101795.56306US For: DEVICE AND METHOD FOR DETERMINING THE ORIENTATION OF AN EYE	DECISION ON RENEWED PETITION UNDER 37 CFR 1.137(b)

This decision is in response to applicant's renewed petition to revive under 37 CFR 1.137(b) filed 08 August 2007 in the above-captioned application in the United States Patent and Trademark Office (USPTO) and status request filed on 07 November 2007.

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.

Applicant indicates 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, as required by 37 CFR 1.137(b)(3). The petition fee and national fee have been submitted. Petitioner has satisfied Items (1) - (3). Thus, the requirements of 37 CFR 1.137(b) have been satisfied.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional". See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office.

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 an English translation of

the international application along with the processing fee for filing the English translation and the surcharge for filing the oath or declaration, after the thirty month period, are 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

05 FEB 2009

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

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

In re Application of EBERL et al. Application No.: 10/551,443 PCT No.: PCT/EP01/11634 Int. Filing: 08 October 2001 Priority Date: 07 October 2000 Attorney Docket No.: 101795.56306US For: DEVICE AND METHOD FOR DETERMINING THE ORIENTATION OF THE EYE	DECISION ON RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS

This is a decision on applicant's Response to Notice to File Missing Parts of Application, filed in the United States Patent and Trademark Office (USPTO) on 07 November 2008. In effect, applicant requests acceptance of the application without the signature of the legal representative of deceased inventor Roland H. Eberl. Applicant also requests a one month extension of time, which is granted.

BACKGROUND

On 07 August 2008, 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 07 November 2008, applicant filed, *inter alia*, two executed declarations and a letter from German attorney Matthias Mayer.

DISCUSSION

Two declarations were submitted on 07 November 2008. One declaration is executed by the joint inventor Heinrich Eberl; the other is executed by David Dickerson on his behalf and on behalf of the deceased inventor Roland H. Eberl. Mr. Dickerson annotated his declaration with the following statement: "*signed by David Dickerson in lieu of Roland Eberl who died on Nov. 15, 2007 and whose legal representative refused to sign this declaration".

As stated in MPEP Section 409, if the inventor is dead, insane, or otherwise legally incapacitated, refuses to execute an application, or cannot be found, an application may be made by someone other than the inventor, as specified in 37 CFR 1.42, 1.43 and 1.47, and 37 CFR 1.423. MPEP§ 409.01 - § 409.03(j).

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 declarations are unacceptable because they do not identify the legal representative of the deceased inventor and do not state the country of citizenship, residency and mailing address for joint inventor, for the deceased inventor and for his legal representative, in compliance with 37 CFR 1.497(b)(2).

Moreover, in the case where the legal representative refuses to sign the declaration, MPEP Section 409.03(c) Legal Representatives of Deceased Inventor Not Available states:

> 37 CFR 1.47 should not be considered an alternative to 37 CFR 1.42 or 35 U.S.C. 117 since the language "cannot be found or reached after diligent effort" has no reasonable application to a deceased inventor.... *However, 37 CFR 1.47 does apply where a known legal representative of a deceased inventor cannot be found or reached after diligent effort, or refuses to make application. In such cases, the last known address of the legal representative must be given (see MPEP § 409.03(e)).*

(Emphasis added.)

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). [1]

---

[1] Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP), Proof of Unavailability or Refusal, states, in pertinent part:

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or , if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.... It is reasonable to require that the *inventor be presented with* the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956)
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Applicant has not filed a petition under 37 CFR 1.47(a). An English translation of the letter of Matthias Mayer was filed with the declaration. The translated letter indicates that attorney Mayer is "unaware of any activities regarding the present patent. For this reason, I do not consider myself in a position to provide a declaration in lieu of an oath." The letter indicates that Mr. Mayer received *only* the declaration and assignment. Applicant has not submitted evidence that Mr. Mayer was provided with a complete copy of the application. This is insufficient evidence to conclude that Mr. Mayer refuses to sign the declaration as the legal representative of the deceased inventor.

Applicant must file a newly executed declaration, in compliance with 37 CFR 1.497(a) and (b). Applicant may wish to file a petition under 37 CFR 1.47(a).

CONCLUSION

The declarations are unacceptable and do not meet the requirements of 37 CFR 1.497(a) and (b). Applicant may wish to consider filing a petition under 37 CFR §1.47(a).

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

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

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.

5 JUN 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

In re Application of	:	
EBERL	:	
Serial No.: 10/551,443	:	DECISION ON
PCT App. No.: PCT/EP01/11634	:	
Int'l Filing Date: 08 October 2001	:	PETITION
Priority Date: 07 October 2000	:	
Attorney Docket No.: 101795.56306US	:	UNDER 37 CFR 1.47(a)
For: DEVICE AND METHOD FOR DETER-	:	
MINING THE ORIENTATION OF AN EYE	:	

This decision is in response to applicant's petition under 37 CFR 1.47(a) and filed 06 April 2009 in the above-captioned application in the United States Patent and Trademark Office (USPTO). This is also responsive to applicant's request for status under 37 CFR 1.42.

BACKGROUND

On 07 August 2008, 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), was required along with an English translation of the international application and the surcharge and processing fees for filing these documents after the thirty month period.

On 07 November 2008, applicant filed, inter alia, two executed declarations and a letter from German attorney Matthias Mayer.

On 05 February 2009, a decision was mailed indicating that the declarations were unacceptable because they were not in compliance with 37 CFR 1.497(a) and (b). It was suggested that applicant file a petition under 37 CFR 1.47(a).

On 11 February 2009, a Notification of Defective Response was mailed indicating that oath or declaration does not give evidence that inventor Mayer refuses to sign the oath. On 20 February 2009, a communication issued vacating the Notification of Defective Response and allowing applicant two months within which to respond to the decision or by 5 April 2009, with extensions of time available.

On 06 April 2009, applicant filed a petition pursuant to 37 CFR 1.47(a) to accept the application without the signature of Matthias Mayer, as the legal representative of deceased

inventor Roland H. C. Eberl.

DISCUSSION

37 CFR § 1.42 requires that in the case of the death of the inventor, the legal representative of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent.

37 CFR 1.497(a)(3) requires that the declaration identify each inventor and the country of citizenship of each inventor. 37 CFR 1.497(b)(2) requires the declaration to state the relationship of the person (under 37 CFR 1.42) making the declaration for a deceased inventor. 37 CFR 1.497(b)(2) further states that, *if the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration must state that the person is a legal representative and indicate the citizenship, residency and mailing address of the legal representative.*

The declaration does not indicate the citizenship, residency and mailing address of the legal representative and thus, the declaration is defective under 37 CFR 1.497(b)(2). The declaration must state the relationship and state the country of citizenship, former residency and mailing address for *both* the deceased inventor and the legal representative, to meet the requirements for compliance with 37 CFR 1.497(a) and (b).

What is required is a declaration, which identifies all inventors including the deceased inventor Roland Eberl and the legal representative for deceased inventor. The declaration must provide the citizenship, residency and mailing address for all inventors, including the legal representative and deceased inventor's citizenship, former residency and mailing address on the declaration.

Petition under 37 CFR 1.47(a)

Since the legal representative for the deceased inventor is required to execute the declaration and appears unwilling to do so, a petition under 37 CFR 1.47(a) is required. A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(g), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

The petition included the requisite $200 petition fee, satisfying Item (1). A statement of non-signing legal representative's last known address was provided, satisfying Item (3).

With respect to Item (2), Petitioner employs the declaration of David Dickerson, who describes his contact with Matthias Mayer, the legal representative of deceased inventor Roland Eberl Mr. Dickerson indicates that in October 2008, he contacted Mr. Mayer by telephone regarding this patent application.

On March 13 and March 30, 2009, Mr. Dickerson sent correspondence to Mr. Mayer

about the USPTO's finding that there was insufficient evidence to conclude that Mr. Mayer refused to sign the declaration as the legal representative of the deceased inventor. Mr. Mayer responded with a letter dated March 31, 2009. An English translation of Mr. Mayer's letter was attached to the petition. Mr. Mayer's letter indicates from the assignment documents, it appeared that "the deceased had assigned all rights from the subject patent while still alive and had received compensation. For this reason, I thus also did not see myself in a position to provide, in this respect a declaration....in the meantime, the curatorship has been closed again." Petitioner also relies on Mr. Mayer's letter of November 3, 2008. With the evidence presented, it can be concluded that Mr. Mayer refuses to sign the declaration as the legal representative on behalf of the deceased inventor. Item (2) is satisfied.

As for Item (4), a declaration executed by the joint inventor on his behalf and on behalf of the non-signing inventor was provided but is not acceptable as explained above.

In sum, Petitioner has satisfied Items (1), (2) and (3). As set forth above, Petitioner has not satisfied Item (4). Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **DISMISSED WITHOUT PREJUDICE**. The petition under 37 CFR §1.47(a) is **DISMISSED WITHOUT PREJUDICE.**

Applicant is required to correct the above-noted defects including the furnishing of a oath/declaration in compliance with 37 CFR 1.42, 1.47(a) and 1.497(a) and (b).

Any reconsideration on the merits of the petition under 37 CFR §1.47(a) must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.47(a)." No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

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

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3286
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

0 4 NOV 2009

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

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

In re Application of	:	
EBERL et al.	:	
Serial No.: 10/551,443	:	DECISION ON
PCT App. No.: PCT/EP01/11634	:	
Int'l Filing Date: 08 October 2001	:	PETITION
Priority Date: 07 October 2000	:	
Attorney Docket No.: 101795.56306US	:	UNDER 37 CFR 1.47(a)
For: DEVICE AND METHOD FOR DETER-	:	
MINING THE ORIENTATION OF AN EYE	:	

This decision is in response to applicant's renewed petition under 37 CFR 1.47(a) filed 04 September 2009 in the above-captioned application in the United States Patent and Trademark Office (USPTO). This is also responsive to applicant's request for status under 37 CFR 1.42.

BACKGROUND

The procedural history of this application was set forth in the decision mailed on 05 June 2009 and is hereby incorporated by reference. This decision reviews applicant's petition pursuant to 37 CFR 1.47(a) to accept the application without the signature of Matthias Mayer, the legal representative of deceased inventor Roland H. C. Eberl.

On 04 September 2009, applicant filed a renewed petition along with a newly executed declaration on behalf of the deceased inventor and pursuant to 37 CFR 1.47(a), his legal representative

DISCUSSION

As previously set forth, 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 submitted on 04 September 2009 identifies all inventors including the deceased inventor Roland Eberl and Matthias Mayer, the legal representative for deceased inventor. The declaration states the citizenship, residency and mailing address for all inventors, including the legal representative and deceased inventor's citizenship, former residency and mailing address on the declaration and is acceptable under 37 CFR 1.497(a) and (b).

Petition under 37 CFR 1.47(a)

Since the legal representative for the deceased inventor is required to execute the declaration and appears unwilling to do so, a petition under 37 CFR 1.47(a) is required. 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).

Applicant previously satisfied Items (1), (2) and (3). As for Item (4), a declaration executed by the joint inventors on their behalf and on behalf of the non-signing legal representative for deceased inventor was provided and is now acceptable.

In sum, Petitioner has satisfied Items (1)- (4). Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **GRANTED**. The petition under 37 CFR §1.47(a) is **GRANTED**.

The U.S. Designated/Elected Office has accepted the application as a 37 CFR 1.47(a) application using the declaration filed 04 September 2009. The application has an international filing date of 08 October 2001 under 35 U.S.C. 363, and a date of 04 September 2009 under 35 U.S.C. 371(c).

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

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

0 4 NOV 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MATTHIAS MAYER
LOWENGRUBE 12
80333 MUNICH GERMANY

In re Application of	:	
EBERL et al.		:
Serial No.: 10/551,443	:	DECISION ON
PCT App. No.: PCT/EP01/11634	:	
Int'l Filing Date: 08 October 2001	:	PETITION
Priority Date: 07 October 2000	:	
Attorney Docket No.: 101795.56306US	:	UNDER 37 CFR 1.47(a)
For: DEVICE AND METHOD FOR DETER-	:	
MINING THE ORIENTATION OF AN EYE	:	

Dear Mr. Mayer:

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

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

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Telephone: (571) 272-3286
Facsimile: (571) 273-0459

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

25 JUL 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CROWELL & MORING, LLP
Intellectual Property Group
P.O. Box 14300
Washington, DC 20044-4300

In re Application of :
EBERL *et al* :
U.S. Application No.: 10/551,445 :
PCT No.: PCT/EP01/11633 :
Int. Filing Date: 08 October 2001 : **DECISION**
Priority Date: 07 October 2001 :
Attorney's Docket No.: 101795.56307US :
For: INFORMATION SYSTEM AND :
METHOD FOR PROVIDING :
INFORMATION USING A :
HOLOGRAPHIC FILE

Applicants' "Petition for Revival of an Unintentionally Abandoned Application Under 37 C.F.R. §1.137(b)" filed with the national stage papers on 29 September 2005 is hereby **GRANTED** as follows:

The basic national fee and petition fee for a small entity have been paid. Applicants' statement and explanation in the petition are 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 signed oath or declaration was not included with any of the papers submitted.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

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

0 4 APR 2008

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

In re Application of:
OBERHAUSER, Roy, et al.
U.S. Application No.: 10/551,454
PCT No.: PCT/EP2004/003301
International Filing Date: 29 March 2004
Priority Date: 01 April 2003
Atty Docket No.: 32860-000953/US
For: METHOD AND ARRAY FOR CHANGING SOFTWARE OR SOURCE CODE

DECISION ON PETITION

This decision is issued in response to the "Petition Under 37 CFR 1.181 To Withdraw Holding Of Abandonment" filed 03 March 2008. No petition fee is required.

BACKGROUND

On 29 March 2004, applicants filed international application PCT/EP2004/003301. The international application claimed a priority date of 01 April 2003, and it designated the United States. On 14 October 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., 01 October 2005.

On 30 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, a translation of the international application into English, and an executed declaration.

On 24 May 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification To Comply With Requirements For Patent Applications Containing Nucleotide And/Or Amino Acid Sequence Disclosures" (Form PCT/DO/EO/922) indicating that sequence listing materials were required.

On 25 February 2008, the DO/EO/US mailed a "Notification of Abandonment" (Form PCT/DO/EO/909) indicating that the application was abandoned based on applicants' failure to respond to the notification mailed 24 May 2006.

On 03 March 2008, applicants filed the "Petition Under 37 CFR 1.181 To Withdraw Holding Of Abandonment" considered herein. The petition asserts that applicants never received the notification mailed 24 May 2006 and that the holding of abandonment should therefore be

withdrawn. The petition notes that the application file viewable on Private Pair does not include any Notification mailed 24 May 2006, and applicant has therefore still not seen such Notification.[1]

DISCUSSION

The present application involves computer software; the invention does not contain nucleotide and/or amino acid sequence disclosures. Accordingly, the "Notification To Comply With Requirements For Patent Applications Containing Nucleotide And/Or Amino Acid Sequence Disclosures" (Form PCT/DO/EO/922) mailed 24 May 2006 was issued in error and is therefore appropriately vacated.

The Notification Of Abandonment (Form PCT/DO/EO/909) mailed 28 February 2008, based as it was on applicants' failure to respond to the now vacated Form PCT/DO/EO/922 mailed 24 May 2006, is therefore also appropriately vacated.

Based on the above, applicants' present petition requesting withdrawal of the holding of abandonment based on applicants' failure to receive the previously mailed notification is now moot.

A review of the present application file reveals that the declaration filed herein is defective. Specifically, the hand-written indications regarding the address of inventor Christian REICHEL have not been initialed or signed. Any changes made in ink in the application or declaration prior to signing should be initialed and dated by the applicants prior to execution of the declaration. The Office will not consider whether non-initialed and/or non-dated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration (see MPEP 605.04(a)). In addition, the four pages of declaration filed here appear to be a compilation of two separate three-page declarations, and as such are not acceptable under 37 CFR 1.497 (See MPEP § 201.03(II)(B): "Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration."). The compilation is evident from the fact that the declaration submitted includes one copy of "Page 1" and "Page 2," but two different copies of "Page 3." Finally, the English translation contained in the declaration is incomplete in that the title of the application has not been translated on the English side of the declaration form.

CONCLUSION

The "Notification To Comply With Requirements For Patent Applications Containing Nucleotide And/Or Amino Acid Sequence Disclosures" (Form PCT/DO/EO/922) mailed 24 May 2006 and the Notification Of Abandonment (Form PCT/DO/EO/909) mailed 28 February 2008 are hereby **VACATED**.

Because the holding of abandonment has been vacated, applicants' petition to withdraw the holding of abandonment is **DISMISSED AS MOOT**.

---

[1] A courtesy copy of the Notification mailed 24 May 2006 is attached to the present decision.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) requiring the submission of an acceptable declaration under 37 CFR 1.497 and the surcharge for filing such 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) 273-0419

Encl.: Copy of Form PCT/DO/EO/922 mailed 24 May 2006 (now vacated)

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

Knobbe, Martens, Olson & Bear, LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

COPY MAILED

JUL 0 9 2008

OFFICE OF PETITIONS

In re Application of	:	
Yasuyuki Ishii et al.	:	
Application No. 10/551,488	:	DECISION ON PETITION
Filed: September 29, 2005	:	TO WITHDRAW
Attorney Docket No. SAEG129.015APC	:	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 May 16, 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 to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the first signing inventor. A courtesy copy of this decision will be mailed to the address noted on the request to withdraw.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Ishii Yasuyuki
Ikeda-shi
Osaka, Japan

cc: National Institute of Advanced Industrial
Science and Technology
c/o Warren M. Cheek
Wenderoth, Lind & Ponack, LLP
2033 K Street, NW
Washington, DC 20006-1021

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
10/551,488	09/29/2005	Yasuyuki Ishii	SAEG129.015APC

CONFIRMATION NO. 4176

POWER OF ATTORNEY NOTICE

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

OC000000030858910

Date Mailed: 07/08/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/16/2008.

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

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.
COPY MAILED
FEB 19 2010

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

In re Patent No. 7,495,013	:	DECISION ON REQUEST
Caffrey et al.	:	FOR
Issue Date: February 24, 2009	:	RECONSIDERATION OF
Application No. 10/551,493	:	PATENT TERM ADJUSTMENT
Filed: September 29, 2005	:	and
Atty Docket No. 06275-471US1	:	NOTICE OF INTENT TO ISSUE
101020-1P US	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on April 21, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred seventy-eight (678) 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 six hundred seventy-eight (678) 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 six hundred seventy-eight (678) 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 : 7,495,013

DATED : **February 24, 2009** **DRAFT**

INVENTOR(S) : Caffrey 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 530 days

Delete the phrase "by 530 days" and insert – by 678 days--

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

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

In re Application of	:
Hiroyuki Tsunoda et al	:
Serial No.: 10/551,504	: PETITION DECISION
Filed: May 12, 2006	:
Attorney Docket No.: 14875-153US1	:

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

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.
10/551,504	05/12/2006	Hiroyuki Tsunoda	14875-153US C1-A0320Y2P-U	8020

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

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

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

JUL 1 7 2009

In re Application of:
Tsunoda et al.
Serial No.: 10/551,504
Filed: September 29, 2005
Attorney Docket No.: **14875-153US C1-A0320Y2P-U**

: 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

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.
10/551,504	05/12/2006	Hiroyuki Tsunoda	14875-153US C1-A0320Y2P-U	8020

26161 7590 03/22/2010
FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER
SHAFER, SHULAMITH H

ART UNIT	PAPER NUMBER
1647	

NOTIFICATION DATE	DELIVERY MODE
03/22/2010	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):

PATDOCTC@fr.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAR 1 9 2010

In re Application of:
Tsunoda et al.
Serial No.: 10/551,504
Filed: September 29, 2005
Attorney Docket No.: **14875-153US C1-A0320Y2P-U**

: PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed January 8, 2010, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that 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

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

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

MAR 2 2 2010

In re Application of:
Tsunoda et al.
Serial No.: 10/551,504
Filed: September 29, 2005
Attorney Docket No.: **14875-153US C1-A0320Y2P-U**

: PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed January 8, 2010, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that 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

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

ORRICK, HERRINGTON & SUTCLIFFE, LLP
IP PROSECUTION DEPARTMENT
4 PARK PLAZA
SUITE 1600
IRVINE, CA 92614-2558

COPY MAILED

JUN 0 2 2009

OFFICE OF PETITIONS

In re Application of Bell et al. :
Application No. 10/551,511 : Decision on Petition
Filing Date: October 3, 2006 :
Attorney Docket No. 20305-4006 :

This is a decision on the petition under 37 CFR 1.181 filed April 1, 2009, requesting the Office withdraw the holding of abandonment.

The petition is **granted**.

The Office mailed a non-final Office action on July 23, 2008. The Office action set a shortened statutory period for reply of three months. Petitioner filed a certified priority document and reply to the non-final Office action on October 27, 2008. The papers included a certificate of mailing dated October 23, 2008. The Office mailed a Notice of Abandonment on March 9, 2009. The Notice stated the application was abandoned because the Office had not received a reply to the July 23, 2008 Office action.

The instant petition was filed April 1, 2009, and requests withdrawal of the holding of abandonment.

Petitioner timely responded to the July 23, 2008 Office action. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 3653 will be informed of the instant decision and the application, including the reply filed October 27, 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

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

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

Mail Date: 04/21/2010

Applicant	: Jorn Krab	: DECISION ON REQUEST FOR
Patent Number	: 7654301	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/551,519	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/09/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **847** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

11 JUL 2006

LAHIVE & COCKFIELD, LLP
28 State Street
Boston, MA 02109

In re Application of :
HIMAWAN *et al* :
U.S. Application No.: 10/551,525 :
PCT No.: PCT/US2004/009622 :
Int. Filing Date: 29 March 2004 : **DECISION**
Priority Date: 28 March 2003 :
Attorney's Docket No.: ELI-037US :
For: IMMUNOGENICITY-REDUCED ANTI- :
CR1 ANTIBODY AND COMPOSITIONS :
AND METHODS OF TREATMENT :
BASED THEREON

Applicants' "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 C.F.R. §1.137(b)" filed with the national stage papers on 30 September 2005 is hereby **GRANTED** as follows:

The basic national fee, surcharge fee and petition fee for a small entity have been paid. Applicants' statement is sufficient to meet the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration was not included with any of the papers submitted.

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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

15 MAR 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

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

In re Application of PESACH et al. Serial No.: 10/551,543 PCT No.: PCT/IL04/00289 Int. Filing Date: 29 March 2004 Priority Date: 04 April 2003 Attorney's Docket No.: 227/048196 For: PHOTOACOUSTIC ASSAY METHOD AND APPARATUS	:	DECISION ON SUBMISSION

This is a decision on applicants' submission under 35 U.S.C. 371, filed on 04 December 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 09 May 2006, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period, was required.

On 08 August 2006, in response to the Notification of Missing Requirements, applicant filed a declaration executed by the joint inventors.

On 03 November 2006, a Notification of Defective Response was mailed to applicant indicating that declaration was not properly executed because the name of the first inventor did not correspond with the name as listed on the published application. A new declaration was required.

On 04 December 2006, applicant filed a copy of the one page declaration, executed by the joint inventors along with a statement, explaining that the first named inventor on the declaration is the same as identified on the international application and that the inventor signed the declaration, using an abbreviation of her full legal name.

DISCUSSION

A review of the declaration filed on 08 August 2006 reveals that it is signed by the joint inventors, is in compliance with 37 CFR 1.497(a) and (b) and is acceptable.

CONCLUSION

The declaration filed on 08 August 2006 is in compliance with 37 CFR 1.497(a) and (b) and is acceptable. The 03 November 2006 Notification of Defective Response 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) and (c)(4) date is **08 August 2006.**

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

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

#7

UNITED STATES PATENT AND TRADEMARK OFFICE

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

10 JUL 2006

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

In re Application of: KURAI, Osamu, et al.	:	
U.S. Application No.: 10/551,544	:	
PCT No.: PCT/JP2005/001278	:	DECISION
International Filing Date: 28 January 2005	:	
Priority Date: 30 January 2004	:	
Attorney's Docket No.: KURA3005/REF	:	
For: SEARCH DEVICE AND INFORMATION	:	
PROVIDING SYSTEM	:	

This decision is issued in response to applicants' "Response And Submission Of Missing Parts Of Application" filed 30 September 2005, treated in part herein as a request to correct the spelling of the name of the inventor identified on the international application as Akihito KINOUCHI. No petition fee is required.

BACKGROUND

On 28 January 2005, applicants filed international application PCT/JP2005/001278. The international application claimed a priority date of 30 January 2004, and it designated the United States. On 11 August 2005, the International Bureau communicated a copy of the international application to the United States Patent And Trademark Office. The deadline for payment of the basic national fee was thirty months from the priority date, i.e., 30 July 2006.

On 30 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, an Application Data Sheet (ADS), and a translation of the international application.

On 10 March 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 was required.

On 21 February 2006, applicants filed a response to the Notification Of Missing Requirements that included an executed declaration and a supplemental ADS. The response indicates that the supplemental ADS "corrects the spelling of the last named inventor," and a review of the supplemental ADS confirms that the name of this inventor, which was listed on the international application and on the original ADS as Akihito KINOUCHI, has been changed on the supplemental ADS to Akihito KIUCHI. The name for this inventor on the executed declaration is also listed as Akihito KIUCHI.

DISCUSSION

MPEP section 605.04(b) states that, where a typographical or transliteration error in the spelling of an inventor's name is discovered, a petition is not required, nor is a new oath or declaration under 37 CFR 1.63 needed. Applicants' 21 February 2006 submission suggests that the correct name for the last named inventor is Akihito KIUCHI, as listed on the declaration and the supplemental ADS, and that the listing of this inventor's name as Akihito KINOUCHI on the international application was the result of a transliteration error. However, applicants have not provided a statement confirming that this is the case. Such a statement is required before the declaration filed 21 February 2006 can be accepted.

It is noted that, if the discrepancy in the inventor's name did not result from a typographical or transliteration error, but rather is the result of an actual change in the inventor's name, than a petition under 37 CFR 1.182 is required (see MPEP section 605.04(c)).

CONCLUSION

Applicants' request to correct the inventor's name is **DISMISSED** without prejudice.

The name of record for the last inventor remains Akihito KINOUCHI, as set forth in the published international application. The declaration filed 21 February 2006 is therefore unacceptable under 37 CFR 1.497 for failure to properly identify the inventors of record herein.

Any request for reconsideration on the merits must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any such response must include either: (1) a statement confirming that the correct name for the last named inventor is Akihito KIUCHI, as listed on the declaration, and that the listing of this inventor's name as Akihito KINOUCHI on the international application was the result of a typographical or transliteration error; or (2) if the inventor's name has been changed since the filing of the international application, a grantable petition under 37 CFR 1.182 to correct the inventor's name.

Failure to file a proper response in a timely manner will result in **ABANDONMENT** of the 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, P.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

#9

UNITED STATES PATENT AND TRADEMARK OFFICE

26 OCT 2006

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

BACON & THOMAS, PLLC
625 Slaters Lane, 4th Floor
Alexandria, VA 22314

In re Application of: KURAI, Osamu, et al. U.S. Application No.: 10/551,544 PCT No.: PCT/JP2005/001278 International Filing Date: 28 January 2005 Priority Date: 30 January 2004 Attorney's Docket No.: KURA3005/REF For: SEARCH DEVICE AND INFORMATION PROVIDING SYSTEM	DECISION ON RENEWED REQUEST TO CORRECT INVENTOR'S NAME

In a decision mailed on 10 July 2006, this Office dismissed without prejudice applicants' request to correct the name of the inventor identified in the international application as Akihito KINOUCHI to Akihito KIUCHI, the name listed for this inventor on the executed declaration filed 21 February 2006. The request was dismissed for failure to include the required statement explaining the cause of the error in the inventor's name.

On 05 September 2006, applicants filed the "Request For Reconsideration" considered herein. This submission includes the required statement confirming that the inventor's correct name is Akihito KIUCHI, as listed on the declaration filed herein, and that the identification of this inventor in the international application as Akihito KINOUCHI was the result of a typographical error.

Based on this submission, applicants' request to correct this inventor's name of record from Akihito KINOUCHI to Akihito KIUCHI is **GRANTED**.

Based on this correction, the declaration filed 21 February 2006 may be accepted in compliance with 37 CFR 1.497.

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

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.
10/551,557	10/03/2005	Christos Tsaklakidis	MERCK-2723	3824

23599 7590 09/03/2009
MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

EXAMINER
LOEWE, SUN JAE Y

ART UNIT	PAPER NUMBER
1626	

NOTIFICATION DATE	DELIVERY MODE
09/03/2009	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):

docketing@mwzb.com

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

SEP 0 3 2009

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

In re Application of	:
Tsaklakidis et al.	:
Serial No.: 10/551,557	:DECISION ON PETITION
Filed: 3 October 2005	:
Attorney Docket No.: MERCK-2723 :	

This letter is in response to the Petition filed under 37 C.F.R. 1.181 filed on 9 February 2009 requesting review and withdrawal of restriction requirement mailed 11 April 2008, entry of the amendment filed 16 December 2008 and withdraw of the finality of the Office action mailed 28 May 2008. The delay in acting upon this petition is regretted.

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 11 April 2008, the examiner mailed a restriction requirement in which claims 11-26 and 29-41 were divided into 3 groups, consisting of product, process of using and process of making the product. An election of species was required amongst the compounds of Formula I.

On 28 April 2008, applicant elected, with traverse, Group I and species of

the compound 1-N-[(4-chlorophenyl)]-2-N-{[4-(3-oxomorpholin-4-yl)phenyl]}-(2R,4R)-4-hydroxypyrrolidine-1,2-dicarboxamide.

On 28 May 2008, the examiner considered the traversal and made the election of species and restriction requirement final. Claims 21, 24-26, 31 and 33-42 were withdrawn from consideration as being directed to non-elected inventions. Claims 1-20, 22-23, 29-30 and 32 were objected to for reciting non-elected subject matter. Claims 1-20, 22-23, 29-30 and 32 were rejected as follows:

> Claims 1-20, 22-23, 29-30 were rejected under 35 USC 112, first paragraph for scope of enablement.
>
> Claims 1-20, 22-23, 29-30 were rejected under 35 USC 112, first paragraph for indefiniteness.
>
> Claims 1-15, 17, 29, 30 and 32 were rejected under 35 USC 102(e) as being anticipated by Bigge.
>
> Claims 111-20, 22, 23, 29 and 30 were provisionally rejected on the ground of non-statutory double patenting over claims 40-49 of copending application 11/575,711.

On 28 August 2008, applicant filed a response to the Office action.

On 7 November 2008, in a final Office action, claims 26, 31, 33, 40-42, 47-55, 58 and 59 were withdrawn from consideration as being directed to non-elected inventions. Claims 1, 23, 29-30, 43-46, 56, 57 and 60 were indicated as rejected on the PTOL 326 form. In the body of the final Office action, Claims 1, 23, 26, 29-33 and 40-60 were indicated as pending.

> Claims 1, 23, 29-30 and 32, 43-46 and 56, 57 and 60 were objected to for reciting non-elected subject matter.
>
> Claims 1, 23, 29, 30, 32, 43-46, 56, 57 and 60 were rejected finally rejected under 35 USC 112, first paragraph for scope of enablement over produg derivative and solvates.
>
> Claims 1, 23, 29, 30, 32, 43-46, 56, 57 and 60 were rejected finally rejected under 35 USC 112, second paragraph for indefiniteness for "derivative."
>
> It is unclear which claims are rejected under double patenting.
>
> The rejection under 35 USC 102 was withdrawn.

The Office action did not contain a prior art rejection. Newly added claims were included in statements of final rejection without any reasoning or analysis to show why the prior rejections were applicable to newly added claims.

On 16 December 2008, applicants filed an after final amendment which, if entered, would have removed the terms prodrug derivative and solvates from claims.

On 6 January 2009, the examiner mailed an advisory action which indicated that the after final amendment would not be entered because prosecution was limited to the elected species, withdraw of grounds of rejection would necessitate rejoinder of non-elected species which requires further search and evaluation.

On 9 February 2009, applicants filed this petition under consideration.

DISCUSSION

The petition and file history have been carefully considered.

At the onset, the following irregularities have been noted, which are useful in addressing applicant's first request, that the finality of the Office action mailed 7 November 2008 be withdrawn:

- In the restriction requirement mailed 11 April 2008, claims 1-10 were not placed into any groups. This error was apparently correctly in the next action when claims 1-10 were included in Group I for examination.

- In the non-final Office action mailed 28 May 2008, the restriction requirement only addressed Groups I and II. Group III was left out altogether, so it is unclear whether Group III is or is not restricted away from Group I or Group II.

- In the non-final Office action mailed 28 May 2008, claims 1-20, 22-23, 29-30 and 32 were objected to for reciting non-elected subject matter.

- Claim 32 was not included in the non-final rejection under 35 USC 112, first paragraph. However Claim 32 was included in the final rejection under 35 USC 112 first paragraph.

- In the non-final and the final Office action, it was incorrect to withdraw claim 40 (set forth below as pending at time of first Office action on merits) from examination as it depends upon examined claims 30, which ultimately depends from independent claim 1 and recites the elected species.

> 40. (Currently Amended): A medicament composition ~~Medicament~~ according to Claim 30, wherein said at least one compound is ~~comprising~~ 1-N-[(4-chlorophenyl)]-2-N-{[4-(3-oxomorpholin-4-yl)phenyl]}-(2R,4R)-4-hydroxypyrrolidine-1,2-dicarboxamide and/or a pharmaceutically usable derivative, solvate, salt or stereoisomers ~~derivatives, solvates, salts and stereoisomers~~ thereof, including mixtures thereof in all ratios, and at least one further medicament active ingredient is aspirin.

30. (Previously Presented): A medicament composition comprising at least one compound according to claim 1 and at least one further medicament active ingredient.

For these reasons, the finality of the Office action mailed 7 November 2008 is premature and will be withdrawn.

Second, applicants request that the amendment filed 22 August 2008 be entered. Because finality has been withdrawn, the amendment filed 16 December 2008 will be entered.

Third, Applicants request that the examiner extend the search and examination of the Markush claims. In response, it is noted that MPEP 803.02 sets forth guidance concerning the examination of examination required for Markush claims:

> In applications containing a Markush-type claim that encompasses at least two independent or distinct inventions, the examiner may require a provisional election of a single species prior to examination on the merits. An examiner should set forth a requirement for election of a single disclosed species in a Markush-type claim using form paragraph 8.01 when claims limited to species are present or using form paragraph 8.02 when no species claims are present. See MPEP § 808.01(a) and § 809.02(a). Following election, the Markush-type claim will be examined fully with respect to the elected species and further to the extent necessary to determine patentability. If the Markush-type claim is not allowable, the provisional election will be given effect and examination will be limited to the Markush-type claim and claims to the elected species, with claims drawn to species patentably distinct from the elected species held withdrawn from further consideration.

All claims directed to the elected invention, as amended on 16 December 2008, will be examined following the guidance in MPEP 803.02.

Fourth, applicants wish to have the restriction requirement withdrawn. Because this application is filed as a national stage application in compliance with 35 USC 371, at each step of prosecution, the examiner should re-assess unity of invention with regard to the claims as pending and the state of the prior art.

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.

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).

In this application, the examiner maintained lack of unity in the Final Office action, even though there was no prior art rejection on elected product claims. This was incorrect. If the claimed product is free of the prior art, the examiner should be rejoining the first method of making and the first method of using the claimed product, per 37 CFR 1.475.

DECISION

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

The finality of the Office action mailed November 2008 has been withdrawn.

The amendment filed on 29 July 2008 will be entered.

All claims which encompass the elected species will be examined together, including claim 40.

The examiner will re-assess unity of invention with regard to the claims as pending between Group I, II and III and in each subsequent action, clarify on the record whether the Groups I, II and III are restricted or rejoined. If the same or corresponding technical feature makes a contribution over the prior art, the product, method of making and method of using with be examined together, per PCT Rules. If the elected species is allowable, the examiner will follow the practice in MPEP 803.02 and examined a second and subsequent species.

The application will be forwarded to the examiner for preparation of a non-final Office action consistent with this decision, and following the Markush examination guidelines in MPEP 803.02.

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.

Remy Yucel
Director, Technology Center 1600

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

FOX ROTHSCHILD LLP
PRINCETON PIKE CORPORATE CENTER
2000 MARKET STREET
TENTH FLOOR
PHILADELPIA PA 19103

COPY MAILED

APR 2 8 2009

OFFICE OF PETITIONS

In re Application of	:	
McGuigan et al.	:	DECISION ON PETITION
Application No. 10/551,569	:	TO WITHDRAW
Filed: October 13, 2006	:	FROM RECORD
Attorney Docket No. 05794.00002	:	

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 16, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the March 10, 2009 Revocation by Assignees and New Power of Attorney is unacceptable since no percent of interest by each assignee is included. Therefore, Power of Attorney was never properly given to Sean M. Coughlin, the practitioner filing the request to withdraw under 37 C.F.R. § 1.36(b). Accordingly, the request is dismissed as a moot issue.

Currently, there are no outstanding Office actions that require a reply.

A courtesy copy of this decision is being mailed to the address given on the Request to Withdraw under 37 CFR 1.36(b); however, the Office will mail all future correspondence solely to the address of record until *properly* notified.

Telephone inquires concerning this decision should be directed to Petitions Examiner Joan Olszewski at 571-272- 3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Liana Walsh/
LianaWalsh
Petitions Examiner
Office of Petitions

cc: Sean M. Coughlin
Mintz Levin Cohn Ferris Glovsky and Popeo, PC
One Financial Center
Boston MA 02111

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 AUG 2007

24498
THOMSON LICENSING INC.
Patent operations
P.O. Box 5312
Princeton, NJ 08543-5312

In re Application of
GANDOLPH *et al*
Application No.: 10/551,575
PCT No.: PCT/EP04/02998
Int. Filing Date: 22 March 2004
Priority Date: 02 April 2003
Attorney Docket No.: PD030037
For: METHOD FOR BUFFERING DATA STREAMS READ FROM A STORAGE MEDIUM

DECISION

This decision is in response to the papers filed 01 March 2007 which are treated as a petition under 37 CFR 1.182 to change the name of an inventor.

BACKGROUND

On 03 August 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee must be provided. Applicants were given two months to respond with extensions of time available pursuant to 37 CFR 1.136(a).

On 02 October 2006, applicants filed an executed declaration and surcharge fee. The name of the first inventor was listed as Dirk GANDOLPH on the declaration. However, the surname was listed as Dirk ADOLPH on the international publication.

On 02 February 2007, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed stating that the declaration submitted was not in compliance with 37 CFR 1.497(a) and (b) as the first inventor's name is different than the name recorded in the international application.

On 01 March 2007, applicants filed the subject response which was accompanied by, *inter alia*, a declaration of the inventor whose name had changed and authorization to charge any required fee to Deposit Account No. 07-0832.

DISCUSSION

Applicants' response is treated as a petition to change the name of the inventor. The $400.00 petition fee has been charged to Deposit Account No. 07-0832 as authorized

Section 605.04(c), *Inventor Changes Name*, of the Manual of Patent Examining Procedures (MPEP) states, in part:

> The petition must include an appropriate petition fee and an affidavit signed by the inventor setting forth both names and the procedure whereby the change of name was effected, **or** a certified copy of the court order.

In the response filed 01 March 2007, applicants submitted a declaration signed by the inventor listing both names and indicating that Mr. Gandolph legally changed his name. This is sufficient to meet the requirements noted above.

CONCLUSION

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

The declaration filed 02 October 2006 is now in compliance with 37 CFR 1.497(a) and (b).

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 22 March 2004, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 02 October 2006.

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

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

Epstein Drangel
Bazerman&James LLP

60 East 42nd Street, Suite 820, New York, NY 10165 - Phone: (212) 292-5390 - Fax: (212) 292-5391 - E-mail: mail@ipcounselors.com

FACSIMILE TRANSMITTAL COVER SHEET

August 25, 2009

To: Examiner Eric L. Bolda

Telecopier No.: (571) 273-8104

Address: U.S. Patent and Trademark Office
Alexandria, VA. 22313-1450

From: Robert L. Epstein

Our Fax No.: (212) 292-5391

Our Phone No.: (212) 292-5390

Message:

THIS MESSAGE IS BEING SENT BY FAX ONLY UNLESS OTHERWISE MARKED BELOW:

___REGULAR/AIR MAIL ____CERTIFIED MAIL ____REGISTERED MAIL ____BY HAND ____FEDERAL EXPRESS ____ COURIER

__14__ pages to follow

Our Ref: 2085-101

The information contained in this facsimile message is attorney-client privileged and confidential information only for the use of th individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this commun cation is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and return the original message to us at the above addre s via the U.S. Postal Service. Thank you.

Partners: Robert L. Epstein William C. Wright

PTO/SB/17 (10-08)
Approved for use through 08/30/2010. OMB 0651-0032
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

Effective on 12/08/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL
For FY 2009

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 130.00

Complete if Known	
Application Number	10/551,59[illegible]
Filing Date	10/2/2006
First Named Inventor	CAPOUILLET, Sylvain
Examiner Name	Eric L. Bolda
Art Unit	3663
Attorney Docket No.	2085-101

METHOD OF PAYMENT (check all that apply)

☐ Check ☑ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☑ Deposit Account Deposit Account Number: 502978 Deposit Account Name: EPSTEIN DRANGEL

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, **except for the filing fee**

☑ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☑ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES Fee ($)	FILING FEES Small Entity Fee ($)	SEARCH FEES Fee ($)	SEARCH FEES Small Entity Fee ($)	EXAMINATION FEES Fee ($)	EXAMINATION FEES Small Entity Fee ($)	Fees Paid ($)
Utility	330	165	540	270	220	110	
Design	220	110	100	50	140	70	
Plant	220	110	330	165	170	85	
Reissue	330	165	540	270	650	325	
Provisional	220	110	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee ($)	Small Entity Fee ($)
Each claim over 20 (including Reissues)	52	26
Each independent claim over 3 (including Reissues)	220	110
Multiple dependent claims	390	195

Total Claims _____ - 20 or HP = _____ x _____ = _____ (Extra Claims, Fee ($), Fee Paid ($))

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims _____ - 3 or HP = _____ x _____ = _____ (Extra Claims, Fee ($), Fee Paid ($))

HP = highest number of independent claims paid for, if greater than 3.

Multiple Dependent Claims Fee ($) _____ Fee Paid ($) _____

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is $270 ($135 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets _____ - 100 = _____ / 50 = _____ (round up to a whole number) x _____ = _____ (Extra Sheets, Number of each additional 50 or fraction thereof, Fee ($), Fee Paid ($))

4. OTHER FEE(S) Fees Paid ($)

Non-English Specification, $130 fee (no small entity discount) _____

Other (e.g., late filing surcharge): Petition for Extension on Time $ 130.00

SUBMITTED BY

Signature		Registration No. (Attorney/Agent) 26451	Telephone (212) 292-5390
Name (Print/Type)	Robert L. Epstein		Date May 26, 2009

This collection of information is required by 37 CFR 1.136. 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 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/22 (04-09)
Approved for use through 05/31/2009. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a) **FY 2009** *(Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).)*	Docket Number (Optional) 2085-101
Application Number 10/551,597	Filed 10/2/2006
For AN OPTICAL DEVICE FOR SURPRESSING DOUBLE BAYLEIGH BACKSCATTERING NOISE	
Art Unit 3663	Examiner Eric L. Bolda

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):

		Fee	Small Entity Fee	
☑	One month (37 CFR 1.17(a)(1))	$130	$65	$ 130.00
☐	Two months (37 CFR 1.17(a)(2))	$490	$245	$
☐	Three months (37 CFR 1.17(a)(3))	$1110	$555	$
☐	Four months (37 CFR 1.17(a)(4))	$1730	$865	$
☐	Five months (37 CFR 1.17(a)(5))	$2350	$1175	$

☐ Applicant claims small entity status. See 37 CFR 1.27.

☐ A check in the amount of the fee is enclosed.

☑ Payment by credit card. Form PTO-2038 is attached.

☐ The Director has already been authorized to charge fees in this application to a Deposit Account.

☑ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 502978.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

I am the
☐ applicant/inventor.
☐ assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96).
☑ attorney or agent of record. Registration Number 26451
☐ attorney or agent under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34

Signature — Date: May 26, 2009

Robert L. Epstein — Typed or printed name

(212) 292-5390 — Telephone Number

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☑ Total of 1 forms are submitted.

This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

Doc Code: TRAN.LET

Document Description: Transmittal Letter

PTO/SB/21 (04-09)
Approved for use through 05/31/2009. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number	10/551,697
Filing Date	10/2/2006
First Named Inventor	CAPOUILLIET, Sylvain
Art Unit	3663
Examiner Name	Eric L. Bolda
Attorney Docket Number	2085-101

ENCLOSURES *(Check all that apply)*

- [x] Fee Transmittal Form
  - [x] Fee Attached
- [x] Amendment/Reply
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [x] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [ ] Reply to Missing Parts/ Incomplete Application
  - [ ] Reply to Missing Parts under 37 CFR 1.52 or 1.53
- [ ] Drawing(s)
- [ ] Licensing-related Papers
- [ ] Petition
- [ ] Petition to Convert to a Provisional Application
- [ ] Power of Attorney, Revocation Change of Correspondence Address
- [ ] Terminal Disclaimer
- [ ] Request for Refund
- [ ] CD, Number of CD(s) _____
  - [ ] Landscape Table on CD
- [ ] After Allowance Communication to TC
- [ ] Appeal Communication to Board of Appeals and Interferences
- [ ] Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
- [ ] Proprietary Information
- [ ] Status Letter
- [x] Other Enclosure(s) (please identify below): Return Receipt Postcard

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	EPSTEIN DRANGEL BAZERMAN & JAMES, LLP		
Signature			
Printed name	Robert L. Epstein		
Date	May 26, 2009	Reg. No.	26451

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature			
Typed or printed name	Robert L. Epstein	Date	5/26/2009

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

----------X

In re Patent Application of
SYLVAIN CAPOUILLIET

Serial No.: 10/551,597

New York, New York 10165
May 26, 2009

Filed: 10/2//2006

For: AN OPTICAL DEVICE FOR SURPRESSING DOUBLE BAYLEIGH BACKSCATTERING NOISE

Examiner: Eric L. Bolda

Art Unit: 3663

----------X

2085-101

COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

AMENDMENT

Responsive to the Office Action dated February 2, 2009, please amend the application as follows:

AMENDMENTS TO THE CLAIMS

1. (currently amended) An optical signal processor device ~~(14)~~ for use with means (10) for optically transmitting an information-carrying signal ~~(S; S_1; S_2; S_3)~~ and a back-propagated pump signal for amplifying said information-carrying signal, said device comprising means ~~(20, 22)~~ for suppressing backscattered signals ~~(RS; RS_1; RS_2; RS_3)~~ in the optical transmission means ~~(10)~~ and comprising ~~being characterized in that it comprises~~:

an optical propagation medium ~~(16)~~ arranged for being connected in parallel with the optical transmission means ~~(10)~~,

divertor means ~~(18, 20)~~ being arranged for connecting, in parallel, at two connection points, the optical propagation medium to the optical transmission means and being arranged for diverting to this optical propagation medium, ~~any~~said pump signal and a Rayleigh backscattering signal propagating in the opposite direction of the information-carrying signal in the optical transmission means,

at least a portion of the means for optically transmitting an information-carrying signal extending between the two divertor means, and

wavelength discrimination means for discriminating between ~~a~~ said pump signal ~~intended to be back-propagated in the optical transmission means and a~~ said Rayleigh backscattering signal, ~~these signals being diverted by the divertor means to the optical propagation medium~~, said discrimination means being connected to the optical propagation medium, between the two connection points, to suppress the Rayleigh backscattering signal by allowing only the pump signal to pass.

2. (currently amended) An optical signal processor device ~~(14)~~ according to claim 1, characterized in that the divertor means comprise two circulators ~~(18, 20)~~, each disposed at one of the points of connection of the optical propagation medium ~~(16)~~ to the optical transmission means ~~(10)~~, to cause the information-carrying signal to travel in the optical transmission means ~~(10)~~, and to cause the back-propagated signals to travel in the optical propagation medium ~~(16)~~ between the two circulators.

3. (currently amended) An optical signal processor device ~~(14)~~ according to claim 1, characterized in that it further comprises an optical functional module ~~(24)~~ disposed on the optical transmission means (10) between the two circulators ~~(18, 20)~~.

4. (currently amended) An optical signal processor device ~~(14)~~ according to claim 3, characterized in that the optical functional module ~~(24)~~ comprises an optical add/drop multiplexer for adding and dropping wavelengths and/or an optical switch and/or a polarization mode dispersion compensator and/or an optical regenerator.

5. (currently amended) An optical signal processor device ~~(14)~~ according to any one of claims 1 to 4, characterized in that the signal discrimination means ~~(22)~~ comprise a band-pass filter centered on the wavelength of the Raman pump signal ~~(P)~~ intended to be propagated in the optical transmission means ~~(10)~~.

6. (currently amended) An optical signal processor device ~~(14)~~ according to claim 4, characterized in that the signal discrimination means (22) comprise a Bragg grating fiber

whose reflection wavelength corresponds to the wavelength of the Rayleigh backscattering signal derived from the information-carrying signal.

7. (currently amended) An optical signal processor device ~~(14)~~ according to claim 6, for use with means ~~(10)~~ for optically transmitting a plurality of information-carrying signals ~~(S_1, S_2, S_3)~~, which device is characterized in that the signal discrimination means comprise a plurality of Bragg gratings ~~(22a, 22b, 22c)~~ disposed in series with reflection wavelengths corresponding to respective wavelengths carrying backscattered signals ~~(RS_1, RS_2, RS_2)~~ derived from the plurality of information-carrying signals.

8. (currently amended) An optical signal processor device ~~(14)~~ according to claim 6, for use with means ~~(10)~~ for optically transmitting a plurality of information-carrying signals ~~(S_1, S_2, S_3)~~ and characterized in that the signal discrimination means comprise an optical signal demultiplexer ~~(26a)~~ adapted to transmit only certain signals of predetermined wavelengths and associated with an optical signal multiplexer ~~(26b)~~.

9. (currently amended) An optical signal processor device ~~(14)~~ according to claim 8, characterized in that the optical transmission means ~~(10)~~ include a line optical fiber and the optical propagation medium ~~(16)~~ comprises an optical fiber portion.

10. (currently amended) An optical signal transmission installation comprising a distributed Raman amplification system, characterized in that it further comprises an optical signal processor device ~~(14)~~ according to claim 9.

11. (currently amended) An optical signal processor device ~~(14)~~ for use with means ~~(10)~~ for optically transmitting a plurality of information-carrying signals propagating in optical transmission means ~~(10)~~ at different wavelengths ~~(S1, S2, S3)~~ and a plurality of back-propagated pump signals for amplifying said information-carrying signal, said device comprising :

means ~~(20, 22)~~ for suppressing backscattered signals ~~(RS1, RS2, RS3)~~ in the optical transmission means ~~(10)~~,

an optical propagation medium ~~(16)~~, and

divertor means ~~(18, 20)~~ arranged for connecting, in parallel, at two connection points, the optical propagation medium ~~(16)~~ to the optical transmission means ~~(10)~~, and suitable for diverting, to said optical propagation medium ~~(16)~~, the back-propagated signals ~~(P1, P2, P3; RS1, RS2, RS3)~~ in the optical transmission means ~~(10)~~, in which the backscattered signal suppression means are means ~~(22)~~ for discriminating between a plurality of pump signals ~~(P1, P2, P3)~~ intended to be back-propagated in the optical transmission means ~~(10)~~ and Rayleigh backscattering signals ~~(RS1, 1152, RS3)~~, said discrimination means ~~(22)~~ being connected to the optical propagation medium ~~(16)~~ to suppress the Rayleigh backscattering signals ~~(RS1, RS2, RS3)~~ by filtering that passes the pump signals ~~(P1, P2, P3)~~ only.

12. (currently amended) An optical signal processor device arranged for being fitted to means for optically transmitting an information-carrying signal and a back-propagated pump signal for amplifying said information-carrying signal, said device comprising

_____means for suppressing backscattered signals in the optical transmission means; ~~and being characterized in that it comprises :~~

an optical propagation medium arranged for being connected in parallel with the optical transmission means,

divertor means being arranged for connecting, in parallel, at two connection points, the optical propagation medium to the optical transmission means, the divertor means comprising two circulators, each disposed at one of the connection points, to cause the information-carrying signal to travel in the optical transmission means, and to cause any back propagated signal to travel in the optical propagation medium between the two circulators,

at least a portion of the means for optically transmitting an information-carrying signal extending between the two circulators, and

wavelength discrimination means for discriminating between ~~a~~said pump signal ~~intended to be back propagated in the optical transmission means~~ and a Rayleigh backscattering signal, these signals being diverted by the divertor means to the optical propagation medium, said discrimination means being connected to the optical propagation medium, between the two connection points, to suppress the Rayleigh backscattering signal by allowing only the pump signal to pass.

13. (currently amended) An optical signal processor device arranged for being fitted to means for optically transmitting an information-carrying signal and a back-propagated pump signal for amplifying said information-carrying signal, said device comprising:

means for suppressing backscattered signals in the optical transmission means~~and being characterized in that it comprises;~~:

an optical propagation medium arranged for being connected in parallel with the optical transmission means,

divertor means being arranged for connecting, in parallel, at two connection points, the optical propagation medium to the optical transmission means and being arranged for diverting to said optical propagation medium ~~the~~ said back-propagated signals in the optical transmission means,

at least a portion of the means for optically transmitting an information-carrying signal extending between the two divertor means, and

discrimination means for discriminating between ~~a~~said pump signal ~~intended to be backpropagated in the optical propagation means~~ and a Rayleigh backscattering signal, said discrimination means being connected to the optical propagation medium to suppress by filtering ~~the~~ Rayleigh backscattering signal and to allow only ~~the~~ said pump signal to pass, the signal discrimination means comprising a Bragg grating fiber whose reflection wavelength corresponds to the wavelength of ~~the~~ said Rayleigh backscattering signal derived from the information-carrying signal.

14. (currently amended) An optical signal processor device arranged for being fitted to means for optically transmitting an information-carrying signal and a back-propagated pump signal for amplifying said information-carrying signal, said device comprising:

means for suppressing backscattered signals in the optical transmission means, ~~and being characterized in that it comprises :~~

an optical propagation medium arranged for being connected in parallel with the optical transmission means,

divertor means being arranged for connecting, in parallel, at two connection points, the optical propagation medium to the optical transmission means and being arranged for diverting to said optical propagation medium ~~the~~ said back-propagated pump signals in the optical transmission means,

at least a portion of the means for optically transmitting an information-carrying signal extending between the two divertor means, and

discrimination means for discriminating between ~~a~~ said pump signal ~~intended to be backpropagated in the optical propagation means~~ and a Rayleigh backscattering signal, said discrimination means being connected to the optical propagation medium to suppress by filtering the Rayleigh backscattering signal and to allow only ~~the~~ said pump signal to pass, the signal discrimination means comprising a band-pass signal centered on the wavelength of the Raman pump signal intended to be propagated in the optical transmission means.

15. (new) An optical signal processor device according to claim 1, wherein said means for optically transmitting the information-carrying signal are adapted to transmit a plurality of information-carrying signals propagating at different wavelength and wherein said discrimination means are adapted to suppress a plurality of Rayleigh backscattering signals each associated with a corresponding information-carrying signal while allowing a plurality of pump signals to pass, each pump signal being associated with a corresponding information-carrying signal.

REMARKS

Claims 1, 2, 11 and 12 have been rejected under 35 USC 102(b) as anticipated by Liang or alternatively, under 35 USC 103(b) as unpatentable over Liang in view of Christodoulides.

The Examiner has rejected the independent claims based on Liang either because Liang discloses all the features of claim 1 (considering that the pump signal is not actually a feature of claim 1, see page 3 of the Office Action), or because the invention defined in the independent claims would be obvious in view of Liang when combined with the pump signal of Christodoulides.

All of the independent claims have been amended to recite the use of a pump signal is an explicit feature. Accordingly, the rejection based upon Liang as anticipation is clearly overcome.

As to the rejection based upon obviousness, it must be first pointed out that Liang (and its Figure 3, in particular) relates to the case where two information-carrying signals are transmitted in opposite direction (see e.g. column 2, lines 37-43 and column 9, lines 36-49) and teaches that this simple use of counter-propagating signals would be sufficient to "*significantly* [reduce]" the Raman effect (see again column 2, lines 37-53).

The teachings provided in Liang would therefore obviously not apply to a pump signal propagating in a direction opposite from the information-carrying signal because the pump signal is meant to amplify the information-carrying signal. Accordingly, one skilled in the art would know that applicant's invention is significantly different from the signal solution previously used for an information-carrying signal such as taught by Liang.

As a result, there is no teaching in Liang that would lead one to apply discrimination means to a diverted pump signal.

Turning now to Chistodoulides, this reference merely teaches to use circulators to combine an information-carrying signal and a pump signal within an optical fiber where a high pass filter is meant to remove noise (see e.g. column 4, line 52 to column 5, line 16). According to Chistodoulides, the filtering applies in the portion where the pump signal P and the information-carrying signal S are combined (see e.g. column 5, lines 8-10) and Christodoulides therefore teaches away from the claimed invention where the wavelength discrimination means apply in a portion where the pump signal has been separated from the information-carrying signal, because of the divertor means.

For the same reason, the proposed combination of the two references would be inappropriate because Liang teaches to separate signals propagating in opposite directions whereas Christodoulides teaches to apply a same filter to signals propagating in opposite directions.

Considering for completeness the rather specific embodiment of Figure 12 of Christodoulides, it may be pointed out that here again that this reference teaches away from the claimed invention as no filtering applies in path 74 used by the pump signal, as opposed to the claimed invention where the discrimination means apply to the optical propagation medium where the pump signal is diverted by the divertor means.

Accordingly, neither Liang nor Christodoulides could be considered to suggest the invention as now defined in the amended claims.

New claim 15 has been presented. New claim 15 is dependent upon claim 1, as amended and therefore defines over the cited art for the same reasons as claim 1 as

amended, noted above. Further, claim 15 requires that the discriminating means suppresses the Rayleigh backscattering signals associated with the corresponding information-carrying signal while allowing the pump signals to pass.

Respectfully submitted,

Robert L. Epstein, Esq., Reg. No. 26451
EPSTEIN DRANGEL
BAZERMAN & JAMES, LLP
Attorneys for Applicant
60 East 42nd Street, Suite 820
New York, New York 10165
Tel. No.: (212) 292-5390
Fax. No.: (212) 292-5391

PAGE 15/15 * RCVD AT 8/25/2009 10:21:04 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/46 * DNIS:2738104 * CSID:2122925391 * DURATION (mm-ss):02-28

12 AUG 2005

10/551598

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

JC20 Rec'd PCT/PTO 30 SEP 2005

Received

AUG 18 2005

Legal Office

Paul J White
NATIONAL RENEWABLE ENERGY LABORATORY
1617 Cole Blvd.
Golden, CO 80401-3393

In re Application of
WANLASS, Mark W.
Application No.: 10/932,375
Filing Date: Unknown
Attorney Docket No.: NREL 01-52
For: MONOLITHIC, PHOTOVOLTAIC ENERGY CONVERSION DEVICE

DECISION

This decision is in response to applicant's petition filed on 28 July 2005 requesting to convert the above-captioned application to a national stage application pursuant to 35 U.S.C. 371 which is hereby **DISMISSED** as follows:

Applicant claims that the above-captioned application was mistakenly filed under 35 U.S.C. 111(a) and requests to convert to a national stage application.

A review of the application file verifies that it was properly filed and processed by the USPTO under 35 U.S.C. 111(a) as one of the two transmittal letters was a PTO/SB/05 which stated under the title that it is "Only for new nonprovisional applications under 37 CFR 1.53(b)." As such, this is a clear case of conflicting instructions and the Office properly processed the above-identified application under 35 U.S.C. 111(a).

Nonetheless, applicant's petition to convert the application will be considered. This is treated as a petition under 37 CFR 1.182. The $400.00 petition fee has been charged to Deposit Account No. 14-0460 as authorized.

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, applicants have another remedy available.

Applicants could enter the national stage of PCT/US02/05781 by filing a national stage application with a petition under 37 CFR 1.137(b) and the appropriate petition fee. Therefore, applicant's request to convert will not be granted.

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.

10/551598

JC20 Rec'd PCT/PTO 30 SEP 2005

This application is being forwarded to the Office of Initial Patent Examination for further processing under 35 U.S.C. 111(a).

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

18 OCT 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paul J. White
NREL
1617 Cole Blvd.
Golden, CO 80401

In re Application of WANLASS et al	:	
U.S. Application No.: 10/551,598	:	
PCT Application No.: PCT/US02/05871	:	
Int. Filing Date: 28 February 2002	:	DECISION
Priority Date Claimed: 27 February 2002	:	
Attorney Docket No.: NREL 01-53	:	
For: VOLTAGE-MATCHED, MONOLITHIC,	:	
MULTI-BAND-GAP DEVICES	:	

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 30 September 2005.

BACKGROUND

On 28 February 2002, applicant filed international application PCT/US02/05871, which claimed priority of an earlier United States application filed 27 February 2002. The thirty-month period for paying the basic national fee in the United States expired on 27 August 2004.

International application PCT/US02/05871 became abandoned as to the United States for failure to timely enter the national phase.

On 30 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 reply under 35 U.S.C. 371.

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

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

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

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 28 February 2002, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 30 September 2005.

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

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BAKER & DANIELS LLP
300 NORTH MERIDIAN STREET
SUITE 2700
INDIANAPOLIS, IN 46204

Mail Date: 05/03/2010

Applicant	: Eric Risgalla	: DECISION ON REQUEST FOR
Patent Number	: 7658542	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/551,618	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/30/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1104** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

MORRISON & FOERSTER, LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

MAILED

NOV 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Nicholas William Anderson	:	
Application No. 10/551,620	:	DECISION ON PETITION
Filed: November 28, 2006	:	TO WITHDRAW
Attorney Docket No. 562492005400	:	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 1, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on October 6, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

cc: FITCH, EVEN, TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

UNITED STATES PATENT AND TRADEMARK OFFICE

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

17 JUL 2007

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

In re Application of DEAN et al	:	
U.S. Application No.: 10/551,628	:	
PCT Application No.: PCT/GB2004/001386	:	
Int. Filing Date: 31 March 2004	:	DECISION
Priority Date Claimed: 01 April 2003	:	
Attorney Docket No.: 05-803	:	
For: SIGNAL PROCESSING APPARATUS AND METHOD	:	

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 23 February 2007.

BACKGROUND

On 31 March 2004, applicant filed international application papers with the United States Receiving Office (RO/US). The submission was assigned the above-identified International Application Number and International Filing Date.

On 31 March 2004, applicant filed international application PCT/GB2004/001386, which claimed priority of an earlier United Kingdom application filed 01 April 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 on 01 October 2005.

On 30 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 13 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/GB2004/001386 became abandoned as to the United States for failure to timely respond to the Notification of Missing Requirements.

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

DISCUSSION

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

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

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

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

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

CONCLUSION

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

The application has an International Filing Date under 35 U.S.C. 363 of 31 March 2004 and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 23 February 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
www.uspto.gov

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

COPY MAILED

DEC 22 2008

OFFICE OF PETITIONS

In re Application of
GOTANI, HIROYUKI
Application No. 10/551,641
Filed: 08/14/2006
Attorney Docket No. 12480-000146/US

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181 (no fee), filed October 23, 2008, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue fee on or before July 30, 2008, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed April 30, 2008. On August 26, 2008, the Office mailed a Notice of Abandonment.

Petitioner asserts that petitioner did not receive the Notice of Allowance and Fee(s) Due.

A review of the written record indicates no irregularity in the mailing of the Notice of Allowance and Fee(s) Due and in the absence of any irregularity, there is a strong presumption that the Notice 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 file jacket and docket records where the Notice of Allowance and Fee(s) Due would have been entered had it been received and docketed. Additionally, the practitioner attested to the fact that a search of the records indicated that the Notice was not received at the correspondence address of record. Lastly, the practitioner outlined the firm's procedures for handling incoming correspondence from the USPTO.

In view of the above, the holding of abandonment is withdrawn and the application is restored to pending status. No petition fee is required.

This application is being referred to the Technology Center AU 2121 technical support staff for re-mailing the Notice of Allowance and Fee(s) Due of April 30, 2008. The period for paying the issue fee will be reset to expire three (3) months from the date the Notice is re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

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

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

0 2 JUN 2008

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

Sughrue Mion, PLLC
2100 Pennsylvania Avenue, N.W.
Suite 800
Washington, D.C. 20037

In re Application of SAMUHEL et al.	:	
Application No.: 10/551,642	:	
PCT No.: PCT/AU04/00407	:	DECISION ON PETITION
Int. Filing Date: 31 March 2004	:	UNDER 37 CFR 1.181
Priority Date: 31 March 2003	:	
Attorney Docket No.: Q90647	:	
For: METHOD AND APPARATUS FOR FLUID DISPENSATION, PREPARATION AND DILUTION	:	

This decision is issued in response to applicants' "Petition for New Office Action and Withdrawal Holding of Abandonment under MPEP Section 7.11.03(c)(I)" filed 03 May 2007, treated herein as a petition under 37 CFR 1.181 to withdraw the holding of abandonment based on applicants' purported failure to receive the Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed 23 May 2006. No petition fee is required.

BACKGROUND

On 31 March 2004, applicants filed international application PCT/AU04/00407 which designated the United States. On 14 October 2004, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB"). 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 October 2005.

On 27 September 2005, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment for the basic national fee; a copy of the international application; and a preliminary amendment.

On 23 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 that an oath or declaration in compliance with 37 CFR 1.497 and a surcharge for providing the oath or declaration later than 30 months from the priority date were required.

On 08 February 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the

application was abandoned with respect to the United States based on applicant's failure to file a response to the Notification Of Missing Requirements.

On 03 May 2007, applicants filed the "Petition under 37 CFR 1.181 to Withdraw Holding of Abandonment and to Issue Another Notice of Missing Requirements" considered herein.

DISCUSSION

In the present petition, applicants argue that the holding of abandonment should be withdrawn because applicants never received the Notification Of Missing Requirements mailed on 23 May 2006. Section 711.03(c) of the MPEP sets forth the requirements for such a petition:

> 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.

Here, the petition contains the required statements from the practitioner that the Notification Of Missing Requirements was not received and that a search of the file jacket and docket records indicates that the Notification Of Missing Requirements was not received. Applicants have also attached a copy of the docket records where the Notification would have been entered had it been received, along with a statement from counsel explaining the docket records and how they are maintained.

Applicants have therefore satisfied the requirements of a grantable petition to withdraw a holding of abandonment based on the failure to receive an office action. Accordingly, the Notification Of Abandonment mailed on 08 February 2007 is appropriately vacated.

CONCLUSION

Applicants' Petition to Withdraw Holding of Abandonment is **GRANTED** and the Notification Of Abandonment mailed on 08 February 2007 is hereby **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the International Division for treatment in accordance with this decision, that is, for preparation and mailing of the Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905).

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-329
Fax: (571) 273-0459

16 JUN 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Oliff & Berridge, PLC
P.O. Box 19928
Alexandria, VA 22320

In re Application of :
ALEXANDRE et al. :
Application No.: 10/551,652 :
PCT No.: PCT/FR04/00658 :
Int. Filing Date: 18 March 2004 : DECISION ON PETITION
Priority Date: 21 March 2003 :
Attorney Docket No.: 125319 :
For: NEEDLELESS INJECTION DEVICE COMPRISING A PYROTECHNIC CARTRIDGE, AND METHOD OF ASSEMBLING SUCH A DEVICE

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 reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

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

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

Anthony Smith

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

UNITED STATES PATENT AND TRADEMARK OFFICE

22 DEC 2006

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

GOODWIN PROCTER LLP
599 Lexington Avenue
New York, NY 10022

In re Application of CHENG et al. Application No.: 10/551,661 PCT No.: PCT/US04/10027 Int. Filing: 01 April 2004 Priority Date: 01 April 2003 Attorney Docket No.: 102907-437-NP For: ADVANCED VERSATILE LAYOUT AND RENDERING SYSTEM, METHOD AND PRODUCT	:	DECISION ON PETITION UNDER 37 CFR 1.47(a)

This decision is in response to applicants' "Petition under 37 CFR 1.47(a) For Filing on Behalf of Non-Signing Inventor(s)" filed 17 August 2006 to accept the application without the signature of joint inventor, Joseph Fusion. The $200 petition fee has been submitted.

BACKGROUND

On 01 April 2004, applicants filed international application PCT/US04/10027, which claimed a priority date 01 April 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, 01 October 2005.

On 30 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.

On 26 May 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 17 August 2006, applicants filed the present petition under 37 CFR 1.47(a) and a petition for an one-month extension of time.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Items (1) - (4) have been satisfied.

Regarding item (2) above, Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47. Such a petition will be dismissed as inappropriate.
>
> The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted.
>
> Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Petitioner states that Joseph Fusion has refused to execute the application. A review of the present petition and the accompanying papers reveals that applicants have not satisfied item (2) above, in that, the showing of record is also consistent with the conclusion that Joseph Fusion simply moved to a new address and changed jobs. As such the 37 CFR 1.47 applicant would be obligated to make a diligent effort to locate the non-signing inventor. It is noted that petitioner fails to include evidence to demonstrate that the materials were actually received by the nonsigning inventor at his last known address.

Regarding item (4) above, only Lewis Chen executed the declaration on Joseph Fusion's behalf.

For the above reasons, it would not be appropriate to accept this application without the signature of Joseph Fusion at this time.

CONCLUSION

For reasons above, the petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

A proper response must be filed within TWO (2) MONTHS from the mail date of this decision. A proper response is either oath or declaration in compliance with 37 CFR 1.497 executed by Joseph Fusion, or a renewed petition under 37 CFR 1.47(a) overcoming the deficiencies indicated above. Extensions of term under 37 CFR 1.136(a) are available. Failure to timely file the proper response will result in ABANDONMENT. 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.

Peter Kim
PCT Legal Administration Detailee
Tel.: 571-272-6095
Facsimile: 571-273-0459

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

14 MAY 2007

GOODWIN PROCTER LLP
599 Lexington Avenue
New York, NY 10022

In re Application of	:	DECISION ON
Cheng et al	:	
PCT No.: PCT/US04/10027	:	
Application No: 10/551,661	:	PETITION UNDER
Int. Filing Date: 01 April 2004	:	
Priority Date: 01 April 2003	:	
Attorney's Docket No.: 102907-437-NP	:	
For: ADVANCED VERSATILE LAYOUT AND	:	37 CFR 1.47(a)
RENDERING SYSTEM, METHOD AND PRODUCT	:	

This is in response to the "RENEWED PETITION UNDER 37 CFR 1.47(a) TO FILE ON BEHALF OF NONSIGNING INVENTORS" filed on 30 January 2007.

BACKGROUND

In a decision from this Office on 22 December 2006, the petition filed on 17 August 2006 was dismissed. The decision indicated that petitioner failed to meet requirements (2) and (4) under 37 CFR 1.47(a).

On 30 January 2007, petitioner submitted a renewed petition accompanied, inter alia, with a declaration from Patrice A. King.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Petitioner has still not satisfied requirements (2) and (4) of 37 CFR 1.47(a).

Regarding requirement (2), as stated in the previous decision it is unclear if Mr. Fusion still resides in the last known address where the papers were mailed because no evidence has been submitted showing that he either received the papers or read his emails.

Where the Office is being asked to accept the silence of the nonsigning inventor's as evidence of a refusal to sign, petitioner must provide some evidence that the application materials have been received by the nonsigning applicant. Absent further firsthand evidence that the application and request for signature were received by the nonsigning inventor, item (2) cannot be considered satisfied.

If Mr. Fusion does not reside there, then petitioner is under an obligation to try to find or reach Mr. Fusion. Where there is an inability to find or reach a joint inventor "after diligent effort, " petitioner may file a statement of facts that fully describes the exact facts which are relied on to establish that a diligent effort was made under **37 CFR 1.47**.

Regarding requirement (4), there has to be a statement that all the inventors (Cheng and Lee) have sign on the behalf of the nonsigning inventor in the declaration, and not just Mr. Cheng.

Consequently, the petition does not satisfy all the requirements under 37 CFR 1.47(a).

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration of the merits of the petition under 37 CFR 1.47(a) is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)."

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
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

10 SEP 2007

GOODWIN PROCTER LLP
599 Lexington Avenue
New York, NY 10022

In re Application of	:	DECISION ON RENEWED
Cheng et al	:	
PCT No.: PCT/US04/10027	:	
Application No: 10/551,661	:	PETITION UNDER
Int. Filing Date: 01 April 2004	:	
Priority Date: 01 April 2003	:	
Attorney's Docket No.: 102907-437-NP	:	
For: ADVANCED VERSATILE LAYOUT AND	:	37 CFR 1.47(a)
RENDERING SYSTEM, METHOD AND PRODUCT	:	

This is in response to the "RENEWED PETITION UNDER 37 CFR 1.47(a)" filed on 16 July 2007 that seeks the acceptance of the application without the signature of the inventor Mr. Joseph Fusion.

BACKGROUND

In a decision from this Office on 14 May 2007, the petition filed on 30 January 2007 was dismissed. The decision stated that items (2) and (4) were not met.

On 16 July 2007, petitioner filed the present renewed petition, inter alia, with a statements of the steps taken by the undersigned attorney, Betsy Kingsbury, as a bona fide attempt and effort to contact the nonsigning inventor Joseph Fusion, and also a statement that the signing inventors are signing on there behalf and on the behalf of the nonsigning inventor Joseph Fusion.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

The renewed petition of 16 July 2007 has satisfied the requirements under 37 CFR 1.47(a).

Item (2) has been satisfied. The renewed petition is accompanied by a statement of Betsy Kingsbury, who states that a LexisNexis searched was made and it indicated Mr. Fusion last address and the a copy of the application papers were mailed to him.

Item (4) has satisfied because a statement that the signing inventors are signing on there behalf and on the behalf of the nonsigning inventor

Petitioner has now satisfied items (1), (2), (3), and (4) under 37 CFR 1.47(a), thus completing the requirements under 37 CFR 1.47(a).

CONCLUSION

The petition under 37 CFR 1.47(a) is **GRANTED**.

The Application Division and the International Division are authorized to accept the application as a 37 CFR 1.47(a) application and to mail a filing receipt. The application will be given a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **17 August 2006.**

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

11 DEC 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

Patrice A King
GOODWIN PROCTOR
103 Eisenhower Parkway
Roseland NJ 07068

In re Application of CHENG et al.	:
Application No.: 10/551,663	: DECISION ON PETITION
PCT No.: PCT/US04/10222	:
Int. Filing: 02 April 2004	: UNDER 37 CFR 1.47(a)
Priority Date: 02 April 2003	:
Attorney Docket No.: 102907-438-NP	:
For: ADAPTIVE ENGINE LOGIC USED IN	:
TRAINING ACADEMIC PROFICIENCY	:

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 16 August 2006, to accept the application without the signature of joint inventor, Joshua Levine.

BACKGROUND

On 30 September 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 26 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 16 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, Joshua Levine alleging that Mr. Levine refuses to sign the application.

DISCUSSION

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(h), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application

or cannot be reached after diligent effort, (3) a statement of the last known address of the non-signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

The petition included the requisite petition fee, satisfying Item (1). Item (3) is satisfied because the last known address of non-signing inventor Joshua Levine was provided. With regard to item (4), the declaration executed by the available joint inventors on their behalf and on behalf of the non-signing inventor was submitted and satisfies the requirements of 37 CFR 1.47(a).

With respect to Item (2) above, Petitioner provided the declaration of Robert P. Udal in support of the petition under 37 CFR 1.47(a). According to Dr. Udal, a review of the law firm's application file reveals that Patrice King, a former Goodwin Procter attorney, sent a copy of the declaration of inventorship, patent assignment and PCT publication to Mr. Levine via email dated 13 April 2005 and via Federal Express. Further, Mr. Levine was instructed to return a copy of the executed documents to Goodwin Procter via email or facsimile and by mail. Reminder letters were sent on 18 May 2005 and 19 September 2005 via email to Mr. Levine. Similar reminder letters were sent via Federal Express. Mr. Levine did not respond to these communications. Dr. Udal concludes that Mr. Levine refuses to sign the declaration. Copies of the email correspondence accompanied the petition.

A statement of first hand knowledge from Patrice King regarding the details of her attempts to contact Mr. Levine was not provided. No explanation as to the lack of first hand statement is given, other than Ms. King was formerly an attorney at the firm. This raises the questions as to whether she is unavailable or unwilling to make such statement. Also it appears from the letters sent to Mr. Levine that a "Declaration of Inventorship" and a "Patent Assignment" were attached but no mention is made in the letter that a copy of the application papers (specification, claims and drawings) were presented. Thus, without the first hand statement of the person who prepared and sent the email/letter, it is not clear that a complete copy of the application papers, including *specification, claims and drawings* and declaration, were provided to Mr. Levine. What is required is that Mr. Levine be presented with a copy of all of the national stage application papers (oath and declaration, specification, including claims and drawings) for this application.

Furthermore, there is no evidence that the emails and letters were delivered to Mr. Levine. Petitioner has not produced a Federal Express delivery statement or an email delivery confirmation. Proof that a bona fide attempt was made to present a copy of the application papers to the nonsigning inventor for signature should be provided. The circumstances of the presentation of the application papers and the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and to whom the refusal was made.

Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP), Proof of Unavailability or Refusal, states, in pertinent part:

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or , if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.... *It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956)

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which the conclusion is based should be stated in a statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

(Emphasis added.)

In sum, Petitioner has satisfied Items (1), (3) and (4) above. However, Petitioner has not satisfied Item (2) by demonstrating: (1) a *bona fide* attempt was made to present a *copy of the application papers for U.S. application 10/551,663 (specification, including claims, drawings, and declaration*) to the nonsigning inventor for his signature and (2) Mr. Levine's refusal to sign,

either in writing or by telephone, these documents.

For the reasons set forth above, the evidence submitted does not support a finding that the nonsigning inventor refuses to sign the application at this time. Accordingly, it is inappropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

The petition under 37 CFR §1.47(a) is **DISMISSED WITHOUT PREJUDICE**.

Any reconsideration on the merits of the petition under 37 CFR §1.47(a) must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.47(a)." No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile (571) 272-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

07 JUN 2007

Patrice A. King
Goodwin Proctor
103 Eisenhower Parkway
Roseland, NJ 07068

In re Application of	:	
CHENG, et al.	:	DECISION ON RENEWED
Application No.: 10/551,663	:	
PCT No.: PCT/US04/10222	:	PETITION UNDER
Int. Filing Date: 02 April 2004	:	
Priority Date: 02 April 2003	:	37 CFR 1.47(a)
Atty. Docket No.: 102907-438-NP	:	
For: ADAPTIVE ENGINE LOGIC USED IN	:	
TRAINING ACADEMIC PROFICIENCY	:	

This decision is in response to the applicant's renewed petition under 37 CFR 1.47(a) filed 09 February 2007 and supplemented on 18 April 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 11 December 2006, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(a) to accept the application without the signature of joint inventor Joshua Levine. 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 09 February 2007, applicant filed the present renewed petition. The renewed petition was supplemented on 18 April 2007.

DISCUSSION

As detailed in the decision mailed 11 December 2006, a petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant previously satisfied items 1, 3 and 4.

With the filing of the present renewed petition and accompanying paperwork applicant has satisfied all of the items of concern from the decision mailed 11 December 2006.

For the reasons stated above, it is proper to grant applicant's renewed petition at this time.

CONCLUSION

For the reasons above, applicant's petition under 37 CFR 1.47(a) is **GRANTED**.

The application has an international filing date of 02 April 2004 under 35 U.S.C. 363, and will be given a date of **16 August 2006** under 35 U.S.C. 371 (c).

As provided in 37 CFR 1.47(c), a notice of the filing of this application will be forwarded to the non-signing inventors at their last known addresses of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the DO/EO/US for processing in accordance with this decision. Specifically, the mailing of a Notification of Acceptance (Form PCT/DO/EO/903).

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8704

MAILED

JUL 19 2010

OFFICE OF PETITIONS

In re Application	:	
Lu, et al.	:	
Application No. 10/551,667	:	DECISION ON APPLICATION
Filed: July 18, 2006	:	FOR PATENT TERM ADJUSTMENT
Docket No. 104825-0017-101	:	

This is a decision on the "PETITION RE: PATENT TERM ADJUSTMENT", filed December 30, 2009. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) remain zero (0) days, but that eight-six (86) additional days of Applicant delay be accorded.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **zero (0) days, including three hundred three (303) days of Applicant delay**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 1, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date was zero (0) days.

The Office initially determined a patent term adjustment of zero (0) days based on an adjustment for PTO delay of one (1) day pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. §

1.703(a)(1), reduced by thirty-four (34), ninety-one (91), and ninety-two (92) days of applicant delay pursuant to 37 C.F.R. § 1.704(b).

However, Applicants point out that the ninety-one (91) days of Applicant delay should be ninety-two (92) days, as their October 28, 2008 response as reflected in PAIR was actually filed on October 29, 2009. A review of the application file in the Image File Wrapper reveals that Applicants are correct. Accordingly, ninety-two (92) days of Applicant delay pursuant to 37 CFR 1.704(b) should be assessed for this reply.

Furthermore, Applicants point out that they filed an IDS on April 16, 2008, after they had previously filed an Election on January 22, 2008. As such, pursuant to 37 CFR 1.704(c)(8), Applicants should have been assessed eighty-five (85) days for filing this supplemental paper.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **zero (0) days** (1 day of PTO delay, reduced by 303 (34+92+92+85) days of applicant delay).

The $200 fee for filing the instant application for patent term adjustment under 37 CFR 1.705(b) has been charged to Deposit Account No. 06-1075, as authorized.

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of Revised PAIR Screen

Day : Sunday
Date: 7/18/2010

PALM INTRANET

Time: 11:44:09

PTA Calculations for Application: 10/551667			
Application Filing Date:	07/18/2006	PTO Delay (PTO):	1
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	217
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-96		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
59	07/18/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		96	
49	10/01/2009	MAIL NOTICE OF ALLOWANCE			
48	09/30/2009	ISSUE REVISION COMPLETED			
47	09/30/2009	DOCUMENT VERIFICATION			
46	09/30/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
45	09/30/2009	NOTICE OF ALLOWABILITY			
41	08/19/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
40	08/19/2009	FEE PAYMENT RECORDED (FEES FILED SEPARATELY E.G. NOT WITH ORIGINAL PAPERS, ETC).			
39	08/19/2009	REFERENCE CAPTURE ON IDS			
38	08/19/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	36
37	09/28/2009	DATE FORWARDED TO EXAMINER			
36	08/19/2009	RESPONSE AFTER NON-FINAL ACTION		92	33
35	08/19/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
34	08/19/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
33	02/19/2009	MAIL NON-FINAL REJECTION			
32	02/17/2009	NON-FINAL REJECTION			
31	10/28/2008	NEW OR ADDITIONAL DRAWING FILED			
30	12/07/2008	DATE FORWARDED TO EXAMINER			
29	10/28/2008	RESPONSE AFTER NON-FINAL ACTION		91	26
28	10/28/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			

27	11/25/2008	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
26	04/29/2008	MAIL NON-FINAL REJECTION			
25	04/28/2008	NON-FINAL REJECTION			
24	04/16/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
23	04/16/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	02/13/2008	DATE FORWARDED TO EXAMINER			
20	01/22/2008	RESPONSE TO ELECTION / RESTRICTION FILED		34	15
19	01/22/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
18	01/22/2008	MISCELLANEOUS INCOMING LETTER			
17	11/13/2007	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
16	11/10/2007	CORRESPONDENCE ADDRESS CHANGE			
15	09/19/2007	MAIL RESTRICTION REQUIREMENT	1		7
14	09/15/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
13	02/16/2007	MISCELLANEOUS INCOMING LETTER			
12	01/04/2007	PG-PUB ISSUE NOTIFICATION			
11	11/06/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
10	11/06/2006	CASE DOCKETED TO EXAMINER IN GAU			
7	07/18/2006	371 COMPLETION DATE			
6	09/01/2006	APPLICATION DISPATCHED FROM OIPE			
5	07/18/2006	ADDITIONAL APPLICATION FILING FEES			
4	07/18/2006	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

1 5 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

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
345 SCARBOROUGH ROAD
BRIARCLIFF MANOR, NY 10510-800

In re Application of	:	
RICHARD KABZINSKI et al.	:	
Application No.: 10/551,674	:	
PCT No.: PCT/AU04/00387	:	DECISION ON
Int. Filing Date: 29 March 2004	:	
Priority Date: 28 March 2003	:	PETITION
Attorney's Docket No.: 60136-0011	:	
For: Security System and Method for Computer Operating Systems	:	UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed 03 October 2006, to permit the applicants to file the above-captioned application on behalf of the non-signing inventor, Russell Powers. The petition under 37 CFR 1.47(a) is DISMISSED.

BACKGROUND

On 29 March 2004, applicants filed international application PCT/AU04/00387, claiming a priority date of 28 March 2003.

On 28 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 as required by 35 U.S.C. 371(c)(1), a copy of the international application, the requisite priority document, a preliminary amendment and, a surcharge for late filing of the oath or declaration. An oath or declaration was not submitted.

On 23 May 2006, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/905) indicating that an oath or declaration must be filed. The notification set a two-month time limit in which to respond.

On 03 October 2006 applicant filed the present petition accompanied by a petition fee, a three-month extension fee, an oath executed by inventors Richard Kabzinski and Michael A. Hearn and a declaration by Mr. Christopher Palermo.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each applicant on his or her own behalf and on behalf of the non-signing joint inventor. A review of the papers indicates that applicants have satisfied items (3) and (4).

As to item (1), applicants have submitted an incorrect fee of $130.00 under 37 CFR 1.17(h). The correct fee for a petition filed under 37 CFR 1.47(a) is $200.00 under 37 CFR 1.17(g). Based on applicant's authorization filed with the instant petition on 03 October 2006, an additional amount of $70.00 will be charged to Deposit Account No. 50-1302.

As to item (2), the evidence submitted to show that inventor Russell Powers has refused to sign is insufficient. The declaration by Mr. Palermo indicates that Mr. Steven Starkie mailed a letter to inventor Russell Powers without receiving any response. The copy of the letter mailed by Mr. Steven Starkie shows that the letter was mailed on 23 May 2006. A copy of the mail return receipt shows a delivery date of 27 May 2006. The letter identifies the application by title and serial number and, includes a "complete copy of the application as filed." The letter also indicates that the mailing includes declaration and assignment forms to be signed by inventor Russell Powers.

However, the declaration by Mr. Palermo is not a first-hand statement from the person who tried to contact non-signing inventor Russell Powers. Mr. Steven Starkie has not indicated that he has any firsthand knowledge of the facts. Instead the declaration of Mr. Palermo has offered an explanation of the facts and a copy of the letter purportedly sent to Russell Powers. In the present instance, a statement from Mr. Steven Starkie should be presented.

CONCLUSION

Applicant's petition to permit the applicants to file the above-captioned application on behalf of the non-signing inventor, Russell Powers, is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Leonard Smith
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

1 5 MAY 2007

UNITED STATES PATENT AND TRADEMARK OFFICE IAP12 Rec'd PCT/PTO 25 MAY 2007

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

07 MAY 21 AM 10: 38

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
345 SCARBOROUGH ROAD
BRIARCLIFF MANOR, NY 10510-800

In re Application of	:	
RICHARD KABZINSKI et al.	:	
Application No.: 10/551,674	:	
PCT No.: PCT/AU04/00387	:	DECISION ON
Int. Filing Date: 29 March 2004	:	
Priority Date: 28 March 2003	:	PETITION
Attorney's Docket No.: 60136-0011	:	
For: Security System and Method for Computer Operating Systems	:	UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed 03 October 2006, to permit the applicants to file the above-captioned application on behalf of the non-signing inventor, Russell Powers. The petition under 37 CFR 1.47(a) is DISMISSED.

BACKGROUND

On 29 March 2004, applicants filed international application PCT/AU04/00387, claiming a priority date of 28 March 2003.

On 28 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 as required by 35 U.S.C. 371(c)(1), a copy of the international application, the requisite priority document, a preliminary amendment and, a surcharge for late filing of the oath or declaration. An oath or declaration was not submitted.

On 23 May 2006, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/905) indicating that an oath or declaration must be filed. The notification set a two-month time limit in which to respond.

On 03 October 2006 applicant filed the present petition accompanied by a petition fee, a three-month extension fee, an oath executed by inventors Richard Kabzinski and Michael A. Hearn and a declaration by Mr. Christopher Palermo.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each applicant on his or her own behalf and on behalf of the non-signing joint inventor. A review of the papers indicates that applicants have satisfied items (3) and (4).

As to item (1), applicants have submitted an incorrect fee of $130.00 under 37 CFR 1.17(h). The correct fee for a petition filed under 37 CFR 1.47(a) is $200.00 under 37 CFR 1.17(g). Based on applicant's authorization filed with the instant petition on 03 October 2006, an additional amount of $70.00 will be charged to Deposit Account No. 50-1302.

As to item (2), the evidence submitted to show that inventor Russell Powers has refused to sign is insufficient. The declaration by Mr. Palermo indicates that Mr. Steven Starkie mailed a letter to inventor Russell Powers without receiving any response. The copy of the letter mailed by Mr. Steven Starkie shows that the letter was mailed on 23 May 2006. A copy of the mail return receipt shows a delivery date of 27 May 2006. The letter identifies the application by title and serial number and, includes a "complete copy of the application as filed." The letter also indicates that the mailing includes declaration and assignment forms to be signed by inventor Russell Powers.

However, the declaration by Mr. Palermo is not a first-hand statement from the person who tried to contact non-signing inventor Russell Powers. Mr. Steven Starkie has not indicated that he has any firsthand knowledge of the facts. Instead the declaration of Mr. Palermo has offered an explanation of the facts and a copy of the letter purportedly sent to Russell Powers. In the present instance, a statement from Mr. Steven Starkie should be presented.

CONCLUSION

Applicant's petition to permit the applicants to file the above-captioned application on behalf of the non-signing inventor, Russell Powers, is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Leonard Smith
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

0 1 JUN 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

In re Application of	:	
RICHARD KABZINSKI et al.	:	
Application No.: 10/551,674	:	
PCT No.: PCT/AU04/00387	:	DECISION ON
Int. Filing Date: 29 March 2004	:	
Priority Date: 28 March 2003	:	PETITION
Attorney's Docket No.: 60136-0011	:	
For: Security System and Method for Computer Operating Systems	:	UNDER 37 CFR 1.47(a)

This decision is being remailed to the correct correspondence address of record.

This is in response to the petition under 37 CFR 1.47(a), filed 03 October 2006, to permit the applicants to file the above-captioned application on behalf of the non-signing inventor, Russell Powers. The petition under 37 CFR 1.47(a) is DISMISSED.

BACKGROUND

On 29 March 2004, applicants filed international application PCT/AU04/00387, claiming a priority date of 28 March 2003.

On 28 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 as required by 35 U.S.C. 371(c)(1), a copy of the international application, the requisite priority document, a preliminary amendment and, a surcharge for late filing of the oath or declaration. An oath or declaration was not submitted.

On 23 May 2006, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/905) indicating that an oath or declaration must be filed. The notification set a two-month time limit in which to respond.

On 03 October 2006 applicant filed the present petition accompanied by a petition fee, a three-month extension fee, an oath executed by inventors Richard Kabzinski and Michael A. Hearn and a declaration by Mr. Christopher Palermo.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each applicant on his or her own behalf and on behalf of the non-signing joint inventor. A review of the papers indicates that applicants have satisfied items (3) and (4).

As to item (1), applicants have submitted an incorrect fee of $130.00 under 37 CFR 1.17(h). The correct fee for a petition filed under 37 CFR 1.47(a) is $200.00 under 37 CFR 1.17(g). Based on applicant's authorization filed with the instant petition on 03 October 2006, an additional amount of $70.00 will be charged to Deposit Account No. 50-1302.

As to item (2), the evidence submitted to show that inventor Russell Powers has refused to sign is insufficient. The declaration by Mr. Palermo indicates that Mr. Steven Starkie mailed a letter to inventor Russell Powers without receiving any response. The copy of the letter mailed by Mr. Steven Starkie shows that the letter was mailed on 23 May 2006. A copy of the mail return receipt shows a delivery date of 27 May 2006. The letter identifies the application by title and serial number and, includes a "complete copy of the application as filed." The letter also indicates that the mailing includes declaration and assignment forms to be signed by inventor Russell Powers.

However, the declaration by Mr. Palermo is not a first-hand statement from the person who tried to contact non-signing inventor Russell Powers. Mr. Steven Starkie has not indicated that he has any firsthand knowledge of the facts. Instead the declaration of Mr. Palermo has offered an explanation of the facts and a copy of the letter purportedly sent to Russell Powers. In the present instance, a statement from Mr. Steven Starkie should be presented.

CONCLUSION

Applicant's petition to permit the applicants to file the above-captioned application on behalf of the non-signing inventor, Russell Powers, is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Leonard Smith
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

UNITED STATES PATENT AND TRADEMARK OFFICE

2 9 AUG 2007

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

In re Application of RICHARD KABZINSKI et al. Application No.: 10/551,674 PCT No.: PCT/AU04/00387 Int. Filing Date: 29 March 2004 Priority Date: 28 March 2003 Attorney's Docket No.: 60136-0011 For: Security System and Method for Computer Operating Systems	DECISION ON RENEWED PETITION UNDER 37 CFR 1.47(a)

This is in response to the "Request For Reconsideration Of Petition," filed 01 August 2007, to permit the applicants to file the above-captioned application on behalf of the non-signing inventor, Russell Powers.

BACKGROUND

On 29 March 2004, applicants filed international application PCT/AU04/00387, claiming a priority date of 28 March 2003. The thirty-month deadline for paying the basic national fee in the United States expired at midnight on 28 September 2005.

On 28 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 as required by 35 U.S.C. 371(c)(1), a copy of the international application, the requisite priority document, a preliminary amendment and, a surcharge for late filing of the oath or declaration. An oath or declaration was not submitted.

On 23 May 2006, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/905) indicating that an oath or declaration must be filed. The notification set a two-month time limit in which to respond.

On 03 October 2006 applicant filed a petition under 37 CFR 1.47(a) accompanied by a petition fee, a three-month extension fee, an oath executed by inventors Richard Kabzinski and Michael A. Hearn and a declaration by Mr. Christopher Palermo.

On 01 June 2007, the Office mailed "Decision on Petition under 37 CFR 1.47(a)" dismissing applicants' petition without prejudice. Specifically, the Decision found that a statement from a person having first-hand knowledge of presenting the complete application papers to non-signing inventor was required.

On 01 August 2007, applicants filed the instant "Request For Reconsideration Of Petition," including, a declaration from Mr. Steven Starkie and a copy of the Toll Priority customer receipt (a courier service of Toll Transport Pty Ltd of Australia).

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 noted in the "Decision on Petition Under 37 CFR 1.47(a)," mailed 01 June 2007, items (1)-(3) have been satisfied.

With regard to item (4), applicants have provided evidence to show that non-signing inventor Russell Powers has been presented with a complete copy of the application papers (specification, including claims, drawings and, oath or declaration). The declaration of Mr. Steven Starkie (a person having first-hand knowledge of presenting the complete application papers to non-signing inventor Russell Powers), and the Toll Priority customer receipt (see Exhibits 1 and 2), together, show that a complete copy of the application papers were presented to non-signing inventor Russell Powers. Furthermore, the results of an Internet address search (www.whitepages.com.au), showing that the address of Mr. Russell Powers is the same as the last known address, together with the declaration of Mr. Steven Starkie and the Toll Priority customer receipt, reinforces the evidence that Mr. Russell Powers refuses to execute the application. Hence, item (4) has been satisfied.

CONCLUSION

Applicants' petition to permit the applicants to file the above-captioned application on behalf of the non-signing inventor, Russell Powers , is **GRANTED**.

This application has an International Filing Date of 29 March 2004 and a date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) of 03 October 2006.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

As provided in 37 CFR 1.47(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.

Leonard Smith
PCT Legal Examiner
Office of PCT Legal Administration

Stefan Staicovici
PCT Legal Examiner
Office of PCT Legal Administration
Telephone: (571) 272-1208
Facsimile: (571) 273-0459

Cc: Internet address search (www.whitepages.com.au)

White Pages®
.com.au

YOUR SEARCH:
powers, r, leicester sq, alexander heights, western australia.

RESULTS:
1-1 of 1 listing found.

We haven't found a listing that matches exactly with your input. It may be listed differently.

Powers R
67 Leicester Sq Alexander Heights 6064 (08) 9247 1837

Page 1

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

05 JAN 2007

Basell USA Inc.
Intellectual Property
912 Appleton Road
Elkton, Maryland 21921

In re Application of
NEWS et al.
Application No.: 10/551,682
PCT No.: PCT/EP04/03307
Int. Filing Date: 29 March 2004
Priority Date: 03 April 2003
Atty. Docket No.: MI 6097 (US)
For: IMPACT RESISTANT POLYOLEFIN COMPOSITIONS

DECISION

This decision is issued in response to applicant's "Petition under 37 CFR 1.53 to Correct Official Filing Receipt" filed on 15 November 2006. No petition fee is due.

BACKGROUND

On 29 March 2004, applicant filed international application PCT/EP04/03307 which claimed a priority date of 03 April 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 14 October 2004. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 03 October 2006.

On 29 September 2005, applicant filed a Transmittal Letter (PTO-1390) requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, *among others*, the requisite basic national fee; a copy of the international application; a preliminary amendment; and a declaration (in compliance with 37 CFR 1.497) previously submitted in the international application under PCT Rule 4.17(iv).

On 24 May 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 19 July 2006, applicant filed "Letter Transmitting Missing Requirements under 35 U.S.C. 371" which included a copy of the PCT Request executed by the applicant/ inventors.

On 04 October 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 1.495" (Form PCT/DO/EO/903) which set forth the date of receipt 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) requirements as 19 July 2006 and a 35 U.S.C. 371 completion date of 19 July 2006.

On 15 November 2006, applicants filed "Request for Corrected Filing Receipt."

DISCUSSION

Applicant requests a corrected filing date (or 371(c) date) from 19 July 2006 to 29 September 2005. The actual filing date of the present application is the international filing date, i.e., 29 March 2004. (See 35 U.S.C. 363) The date in the filing date portion on the filing receipt of a national stage application is the date upon which the requirements set forth in 35 U.S.C. 371(c) for entry into the national stage were completed. (See MPEP §1895.01) A review of the application file reveals that the basic national fee, a copy of the international application, and an executed declaration (PCT Request which included a copy of the Declaration of Inventorship under PCT Rules 4.17(iv) and 51bis.1(a)(iv)) was filed with the USPTO on 29 September 2005, the date which the requirements set forth in 35 U.S.C. 371(c) for entry into the national stage was completed. Therefore, the correction of the "FILING DATE" on the filing receipt to indicate a date of 29 September 2005 is proper since applicants completed the requirements set forth in 35 U.S.C. 371(c) on 29 September 2005. (See MPEP section 1893.03(b)).

The information listed in the "Assignment for Published Patent Application" section of the Filing Receipt will be corrected to Bassell Poliolefine.

CONCLUSION

Applicant's request for a corrected filing receipt is **GRANTED** and the Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) mailed on 04 October 2006 is hereby **VACATED**.

The application has an international filing date of 29 March 2004 under 35 U.S.C. 363 and a date of **29 September 2005** under 35 U.S.C. 371(c). This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: 571-272-3298
Fax: 571-273-0459

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

BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510

Mail Date: 05/04/2010

Applicant	: Fabrice Jaques	: DECISION ON REQUEST FOR
Patent Number	: 7608795	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/551,688	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/03/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **755** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

14 FEB 2008

CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON DE 19899

In Re Application of	:	
CALLENS et al.	:	
Application No.: 10/551,723	:	DECISION
PCT No.: PCT/EP04/03688	:	
Int. Filing Date: 02 April 2004	:	
Priority Date: 04 April 2003	:	
Attorney Docket No.: 05129-00104-US	:	
For: PROCESS FOR PRODUCING ENANTIOPURE	:	
ß-AMINO ACID DERIVATIVES	:	

This is a decision on applicant's "REQUEST FOR CORRECTED FILING RECEIPT" filed in the United States Patent and Trademark Office (USPTO) on 05 July 2006.

On 02 April 2004, applicant filed international application No. PCT/EP04/03688 which claimed a priority date of 04 April 2003 and which designated the United States. On 03 October 2006, before the expiration of the thirty month period, applicant filed, *inter alia*, a transmittal letter for entry into the national stage and the basic national stage filing fee.

On 14 February 2006, applicants filed an executed declaration.

On 19 June 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 14 February 2006.

On 05 July 2006, applicant filed the instant petition. Applicant contends the U.S. national stage papers were filed in the USPTO on 03 October 2005 along with an executed declaration under PCT Rule 4.17. Applicant urges that the Form PCT/DO/EO/903 be vacated and that a new Notification of Acceptance and corrected filing receipt be issued indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 03 October 2005.

DISCUSSION

A review of the USPTO records indicates that the national stage filing of international application PCT/EP04/03688 comprising of PTO-1390, Preliminary Amendment, and declaration under PCT Rule 4.17, among other documents, were deposited with the USPTO on 03 October 2005. A review of the finance records indicates that the national stage fee was also paid on 03 October 2005. The papers are assigned U.S. serial number 10/551,723.

The declaration, filed under PCT Rule 4.17 and submitted on 03 October 2005, does not identify the application to which it is directed. Moreover, the declaration was executed by each inventor on 7 May 2004. This date is after the international filing date and thus, it can be concluded that the executed declaration did not accompany the filing of the international application. This declaration was not acceptable and did not meet the requirements of 37 CFR 1.497(a) and (b). The declaration submitted on 14 February 2006 did meet the requirements of 37 CFR 1.497(a) and (b).

The Notification of Acceptance mailed on 19 June 2006 was issued bearing the correct 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 14 February 2006.

CONCLUSION

For the reasons set forth above, applicant's request for a corrected filing receipt and request to vacate the Notification of Acceptance is **DISMISSED without prejudice**.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 19 June 2006 remains in effect.

The application will be forwarded to Art Unit 1616 for examination in due course.

Cynthia M. Kratz

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

JAMES B. CONTE
120 S. RIVERSIDE PLAZA, 22ND FLOOR
CHICAGO IL 60606

COPY MAILED

JUN 24 2008

OFFICE OF PETITIONS

In re Application of :
POULTER, Trevor :
Application No. 10/551,724 :
Filed: October 3, 2005 :
Attorney Docket No. **926512-100535** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 18, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request "file responsibility was transferred" 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- 7253.

Monica A. Graves
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

28 JUL 2006

Dr. Nicholas Sisti, esq.
Lundbeck Research USA, Inc.
215 College Road
Paramus, NJ 07652

In re Application of	:	
SMITH, et al.	:	
Application No.: 10/551,737	:	DECISION ON PETITION
PCT No.: PCT/DK04/00290	:	
Int. Filing Date: 27 April 2004	:	UNDER 37 CFR 1.10(c)
Priority Date: 30 April 2003	:	
Atty. Docket No.: 05432/100M810-US1	:	
For: AROMATIC OXYPHENYL AND AROMATIC	:	
SULFANYLPHENYL DERIVATIVES	:	

This is a decision on applicant's "REQUEST FOR CORRECTED FILING RECEIPT AND NOTICE OF ACCEPTANCE" filed 27 July 2006 in the United States Patent and Trademark Office (USPTO). The request is being treated as a petition under 37 CFR 1.10. No petition fee is required.

BACKGROUND

On 27 April 2004, applicant filed international application PCT/DK04/00290 which claimed priority to an earlier Australian application filed 30 April 2003. A copy of the International Application was forwarded to the United States Patent and Trademark Office (USPTO) from the International Bureau (IB) on 11 November 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 30 November 2005.

On 29 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 an Application Data Sheet.

On 08 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.

On 11 July 2006, applicant was mailed a "Notification of Acceptance" (Form PCT/DO/EO/903) indicating a 371 date of 06 June 2006.

On 20 July 2006, applicant filed a revocation of power of attorney with new power of attorney and change of correspondence address.

On 27 July 2006, 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 05 June 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 "June 05, 2006, 8:34pm, New York, NY 1022." 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 27 April 2004 under 35 U.S.C. 363 and a date of **05 June 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 11 July 2006 indicating a date of 06 June 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FRANK J UXA
STOUT UXA BUYAN & MULLINS
SUITE 300
4 VENTURE
IRVINE CA 92618

MAILED

MAR 1 2 2010

OFFICE OF PETITIONS

In re Application of	:	
Manesis	:	
Application No. 10/551,753	:	ON PETITION
Filed: September 30, 2005	:	
Attorney Docket No. D-3132	:	

This is in response to petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed January 4, 2010.

The petition under 37 CFR 1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled, "Renewed Petition under 37 CFR 1.137(b)". No further petition fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed June 3, 2009, which set a shortened statutory period for reply of three (3) months. Applicant filed an Amendment on August 3, 2009. However, in an Advisory Action mailed on September 8, 2009, the Examiner informed Applicant that the Amendment would not be entered because it failed to place the application in condition for allowance. No further proper reply having been received, the application became abandoned on

September 4, 2009. The Office mailed a courtesy Notice of Abandonment on December 17, 2009.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 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 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

The instant petition has not satisfied requirement (1). Applicant has not submitted a proper reply to the June 3, 2009 final Office action. As set forth above, a proper response to a final office action consists of either: (1) an amendment that *prima facie* (i.e. on its face) places the application in condition for allowance; (2) a Notice of Appeal (and the required fee); (3) a Request for Continued Examination (and the required fee), or (4) a continuing application.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria VA 22313-1450

By FAX: 571-273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision may be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

MAR 25 2010

OFFICE OF PETITIONS

FRANK J UXA
STOUT UXA BUYAN & MULLINS
SUITE 300
4 VENTURE
IRVINE CA 92618

In re Application of	:	
Manesis	:	CORRECTED DECISION
Application No. 10/551,753	:	ON PETITION
Filed: September 30, 2005	:	
Attorney Docket No. D-3132	:	

This is a corrected decision on petition. Applicant previously filed a petition under 37 CFR 1.137(b) on January 4, 2010, which was dismissed in a decision mailed on March 10, 2010.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed June 3, 2009, which set a shortened statutory period for reply of three (3) months. Applicant filed an Amendment on August 3, 2009. However, in an Advisory Action mailed on September 8, 2009, the Examiner informed Applicant that the Amendment would not be entered because it failed to place the application in condition for allowance. No further proper reply having been received, the application became abandoned on September 4, 2009. The Office mailed a courtesy Notice of Abandonment on December 17, 2009.

With the instant petition, applicant paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of continuation application No. 12/655,513, filed December 30, 2009.

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 the continuation application, no. 12/655,513, filed December 30, 2009.

Telephone inquiries concerning this decision may be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

16 NOV 2006

Jeffrey R. Filipek
Wenderoth, Lind & Ponack, LLP
2033 "K" Street, N.W., Suite 800
Washington, D.C. 20006-1021

In re Application of	:	
NONAKA, et al.	:	
Application No.: 10/551,767	:	
PCT No.: PCT/JP04/04796	:	DECISION ON PAPERS
Int. Filing Date: 01 April 2004	:	
Priority Date: 04 April 2003	:	UNDER 37 CFR 1.42
Attorney Docket No.: 2005_1235A	:	
For: CONTENT-RELATED INFORMATION	:	
DELIVERY SYSTEM	:	

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 17 May 2006 is being treated as a request for status under 37 CFR 1.42. No petition fee is due.

BACKGROUND

On 01 April 2004, applicant filed international application PCT/JP04/04796, which claimed priority to an earlier application filed 04 April 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 21 October 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 October 2005.

On 03 October 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 08 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 executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 17 May 2006, applicant responded with the executed combined declaration and power of attorney discussed herein.

DISCUSSION

37 CFR 1.42 When the Inventor is Dead, states, in part:

"In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

The declaration submitted on 17 May 2006 was executed by Masami Yamamichi, Satomi Yamamichi and Keiko Yamamichi heirs of the estate of deceased inventor, Masato Yamamichi. However, the filed declaration does not satisfy the requirements under 37 CFR 1.497 (a)-(b). Specifically, the oath or declaration must provide the citizenship of both the deceased inventor and the signing heirs per 37 CFR 1.497(a)(3). The present declaration provides this information for the signing heirs but is blank for the deceased inventor, Mr. Masato Yamamichi. In addition, applicant is required to provide a statement that the declaration lists all of the heirs of the deceased inventor and that a legal representative has not been appointed nor is statutorily required to be appointed.

CONCLUSION

Applicant's petition under 37 CFR 1.42 is **DISMISSED, without prejudice**.

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file an oath or declaration in compliance with 37 CFR 1.497 (a)-(b). Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.42." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

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

13 FEB 2007

Jeffrey R. Filipek
Wenderoth, Lind & Ponack, LLP
2033 "K" Street, N.W., Suite 800
Washington, D.C. 20006-1021

In re Application of	:	
NONAKA, et al.	:	
Application No.: 10/551,767	:	
PCT No.: PCT/JP04/04796	:	DECISION ON RENEWED
Int. Filing Date: 01 April 2004	:	
Priority Date: 04 April 2003	:	PETITION UNDER
Attorney Docket No.: 2005_1235A	:	
For: CONTENT-RELATED INFORMATION	:	37 CFR 1.42
DELIVERY SYSTEM	:	

This decision is in response to applicant's "Renewed Petition Under 37 CFR 1.42" filed 12 January 2007 in the United States Patent and Trademark Office (USPTO). No petition fee is due.

BACKGROUND

On 16 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 12 January 2007, applicant filed the response considered herein.

DISCUSSION

As detailed in the 16 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. While the declaration did provide the citizenship, residence, and mailing address of all of the signing heirs; it did not provide the citizenship of the deceased inventor. Applicant has presently provided an executed declaration which provides all of the required information. In addition, counsel has provided a statement that the signers of the declaration constitute all of the heirs and no legal representative has been, nor is required to be, appointed. 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 01 April 2004 and will be given a date of **12 January 2007** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the DO/EO/US for processing in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

2 9 JAN 2008

BOURQUE & ASSOCIATES
INTELLECTUAL PROPERTY ATTORNEYS, P.A.
835 HANOVER STREET
SUITE 301
MANCHESTER NH 03104

In re Application of: BURGESS, John, et al.	:	
U.S. Application No.: 10/551,801	:	
PCT No.: PCT/EP2004/003465	:	DECISION
International Filing Date: 01 April 2004	:	
Priority Date: 01 April 2003	:	
Attorney's Docket No.: DUMMETT-039XX	:	
For: COMMUNICATION SYSTEM	:	

In a communication mailed by this Office on 13 September 2007, the declaration filed 07 February 2007 and executed on behalf of inventor John BURGESS by "J. Burgess (Legal Representative) was rejected without prejudice. Specifically, the declaration was rejected because applicants had not made clear whether the declaration was being filed under 37 CFR 1.42 or 37 CFR 1.43, and the declaration did not appear to include all required information.

On 04 October 2007, applicants filed the "Response To Communication" considered herein. The Response states that inventor John BURGESS is deceased and that the declaration filed herein is therefore submitted under 37 CFR 1.42. In addition, the Response identifies the person who signed the declaration on behalf of the deceased inventor as the inventor's wife and legal representative Jill Burgess, and it confirms that the citizenship, address, and residence listed on the declaration applies for both the deceased inventor and the legal representative.

Based on the above and a review of the declaration document, the declaration filed 07 February 2007 is accepted as including all the information required for acceptance under 37 CFR 1.42 and 1.497(b)(2). The request for status under 37 CFR 1.42 with respect to deceased inventor John BURGESS is therefore **GRANTED**.

The application will be 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 07 February 2007.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

Mail Date: 04/20/2010

Applicant	: Sang Won Yang	: DECISION ON REQUEST FOR
Patent Number	: 7650329	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/551,815	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/30/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **240** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

NICOLAS E. SECKEL
Patent Attorney
1250 Connecticut Avenue, NW Suite 700
WASHINGTON DC 20036

COPY MAILED

MAR 02 2009

OFFICE OF PETITIONS

In re Application of :
Robinet : DECISION ON PETITION
Application No. 10/551,825 :
Filed: February 23, 2007 :
Docket No.: PSA0304233 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed January 27, 2009.

The Notice of Abandonment mailed November 26, 2008 indicates that the application is abandoned for failure to timely reply to the final Office action mailed May 20, 2008.

Petitioner asserts that a request for continued examination and extension of time were filed November 20, 2008 in response to the final Office action.

The reply to the final Office action filed November 20, 2008 has been located in the official application file.

In view of the evidence presented, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Technology Center 3700 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/
Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NICOLAS E. SECKEL
Patent Attorney
1250 Connecticut Avenue, NW Suite 700
WASHINGTON DC 20036

In re Application of:
DUVERGER, THIERRY et al
Serial No. 10/551,826
Filed: Oct. 3, 2005
Docket: PSA0304231
Title: SELF-IGNITING PETROL INTERNAL COMBUSTION ENGINE

5/15/09

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed May 12, 2009 under 37 CFR 1.181 requesting withdrawal of the finality of the last Office action mailed March 12, 2009 and re-mail a non-final Office action.

The petition is granted.

It is noted that the record does show that in the amendment filed with the RCE on July 29, 2008, the applicant added a new dependent claim 13. Therefore, the rejection of claim 13 under 35 U.S.C. 103(a) as being unpatentable over Clarke et al. (US Patent No. 5,271,229) in view of Dazzi (US Patent No. 4,467,757) was not twice rejected. The Office action of March 12, 2009 also failed to address the Rule 132 Affidavit filed by the applicant on November 4, 2008. The last Office action of March 12, 2009 is deficient.

As such, the finality of the Office action issued on March 12, 2009 is incomplete and hereby withdrawn. In finding petitioner's points of argument persuasive, the requested relief is granted. The examiner is directed to issue a new non-final Office action as soon as possible.

The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3744 for consideration of the applicant's Rule 132 filed on November 4, 2008 and preparation a new non-final Office action. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

for

Karen M. Young, Director
Technology Center 3700

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

MAILED

SEP 23 2009

OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
P.O BOX 1022
Minneapolis MN 55440-1022

In re Patent No. 7,541,335	:	DECISION ON REQUEST FOR
Roman J. Giger	:	RECONSIDERATION OF
Issue Date: June 2, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/551,833	:	AND NOTICE OF INTENT TO ISSUE
Filed: July 20, 2006	:	CERTIFICATE OF CORRECTION
Docket No. 20724-011US1	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d), filed July 29, 2009. Patentee requests that the determination of patent term adjustment for the above-identified patent be corrected from zero (0) days to one hundred ninety-six (196) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED** to the extent indicated herein.

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer,** from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **196 days**.

On June 2, 2009, the above-identified application matured into U.S. Patent No. 7,541,335. The patent issued with a revised patent term adjustment of 0 days. The present request for reconsideration of patent term adjustment was timely filed on July 29, 2009, within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees aver that the correct number of days of patent term adjustment is 196 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q.2d 1538 (D.D.C. 2008). Patentees maintain that the total period of Office delay is the sum of the period of Three Year Delay[1] (241 days) and the period of examination delay (0 days) to the extent that these periods of delay are not overlapping. Patentees contend no periods of delay attributable to grounds specified under 35 U.S.C. 154(b)(1)(A) and 35 U.S.C. 154(b)(1)(B) overlap. Therefore, patentees assert that they are entitled to the sum of 0 days of examination delay - 45 days of applicant delay + 241 days of Three Year Delay, for a total patent term adjustment of 196 days.

The Office has reviewed patentees' argument and finds it persuasive.

37 CFR 1.703(b) provides, in pertinent part:

> The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in

---

[1] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides:

> Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:
>
> (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);
> (2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);
> (3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;
> (4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or
> (5) Any delay in the processing of the application by the Office that was requested by the applicant.

> an international application and ending on the date a patent was issued[.]

Pursuant to 37 CFR 1.703(b)(1), a period of adjustment under § 1.702(b) of 241 days should have been entered, 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), October 5, 2008, and ending on the date the patent issued, June 2, 2009.

Accordingly, a period of adjustment of 241 days pursuant to 37 CFR 1.702(b) will be entered.

In view thereof, the patent term adjustment indicated on the patent should be 196 days (241 days of Office delay - 45 days of applicant delay).

The Office acknowledges the submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 196 days.

Telephone inquiries regarding this matter should be directed to Kenya A. McLaughlin, Petition Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,541,335 B2

DATED : Jun. 2, 2009

INVENTOR(S) : Giger

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 (0) days

Delete the phrase "by 0 days" and insert – by 196 days--

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

10 MAY 2007

FULBRIGHT & JAWORSKI LLP
600 CONGRESS AVENUE, SUITE 2400
AUSTIN, TEXAS 78701

In re Application of ROCHELLE, Gary et al. Application No.: 10/551,834 PCT No.: PCT/US04/09962 Int. Filing Date: 01 April 2004 Priority Date: 04 April 2003 Attorney's Docket No.: UTSB:719US For: Polyamine/Alkali Salt Blends For Carbon Dioxide Removal From Gas Streams	DECISION TO PETITION UNDER 37 CFR 1.10(c)

This decision is in response to applicant's "Petition to Accord Filing Date Under 37 CFR 1.10(c)" filed 07 February 2007, requesting correction of the 371(c) filing date, to accord a 371(c) filing date of 17 October 2006 to the above-identified application. No petition fee is required. The petition under 37 CFR 1.10(c) is **GRANTED.**

BACKGROUND

On 01 April 2004, applicant filed international application PCT/US04/09962, claiming a priority date of 04 April 2003.

On 03 October 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, search and examination fees, a preliminary amendment and the surcharge for late filing of an oath or declaration.

On 18 August 2006, 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) is required.

On 17 October 2006, applicant filed a declaration for each of the two inventors of record.

On 22 November 2006, the Office mailed the Notice of Acceptance (Form PCT/DO/EO/903) and the Filing Receipt showing a 371(c) filing date of 26 October 2006.

On 07 February 2007, applicant submitted the present petition under 37 C.F.R. 1.10(c) requesting a 371(c) filing date of 17 October 2006 and a corrected filing receipt. Included with applicants' petition are copies of the "Express Mail" mailing label (EXHIBIT A) and the Transmittal Form (EXHIBIT B).

DISCUSSION

37 CFR 1.10(c) 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 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 Director to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
>
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

The instant petition complies with 37 CFR 1.10(c)(1).

The petition complies with 37 CFR 1.10(c)(2) because an Express Mail mailing number, EV603374207US, appears on the Transmittal Form (See EXHIBIT B). Further, the Transmittal Form specifically indicates that two (2) declarations are being submitted.

The petition complies with 37 CFR 1.10(c)(3) because petitioner has provided a true copy of the "Express Mail" mailing label showing a "Date-In" of 17 October 2006 (See EXHIBIT A).

Based on the presented evidence, it is appropriate to consider that the requirements of 37 C.F.R. 1.10(c) have been satisfied and to accord the instant application a 371(c) filing date of 17 October 2006.

CONCLUSION

Applicant's petition requesting that the application papers be accorded a 371(c) filing date of 17 October 2006 is **GRANTED.**

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing in accordance with this decision. A corrected Notice of Acceptance (PCT/DO/EO/903) and filing receipt will be mailed.

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

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.
10/551,844	10/03/2005	Takashi Koike	278167US6PCT	5814

7590 01/31/2008
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
BARRON JR, GILBERTO

ART UNIT	PAPER NUMBER
2132	

NOTIFICATION DATE	DELIVERY MODE
01/31/2008	ELECTRONIC

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☑ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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.
10/551,847	06/23/2006	Lin Haixiang	NBMP-001	6184

24353 7590 11/09/2009
BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

EXAMINER
LE, EMILY M

ART UNIT	PAPER NUMBER
1648	

MAIL DATE	DELIVERY MODE
11/09/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Carol L. Francis
BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO CA 94303

In re Application of: Lin Haixing Serial No.: 10/551,847 Filed: June 23, 2006 Docket: NBMP-001 Title: **POLYINOSINIC ACID-POLYCYTIDYLIC ACID-BASED ADJUVANT**	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 29, 2005 to make the above-identified application special under 37 C.F.R. § 1.102(d).

The petition to make special appears to be based on the provisions of MPEP §708.02 I. Manufacture.

The requirements as set forth in MPEP §708.02 I are:

> An application may be made special on the ground of prospective manufacture upon the filing of a petition accompanied by the fee under 37 CFR 1.17(h) and a statement by the applicant, assignee or an attorney/agent registered to practice before the Office alleging:
>
> (A) The possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) to manufacture the invention in quantity or that sufficient capital and facilities will be made available if a patent is granted; If the prospective manufacturer is an individual, there must be a corroborating statement from some responsible party, as for example, an officer of a bank, showing that said individual has the required available capital to manufacture;
>
> (B) That the prospective manufacturer will not manufacture, or will not increase present manufacture, unless certain that the patent will be granted;
>
> (C) That the prospective manufacturer obligates himself, herself or itself, to manufacture the invention, in the United States or its possessions, in quantity immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and
>
> (D) That the applicant or assignee has made or caused to be made a careful and thorough search of the prior art, or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The instant petition does not specifically address each of the requirements set forth in (A)-(D) above.

DECISION

For the above-stated reasons, the petition is **DISMISSED**. The application will therefore be taken up by the examiner for action in its regular turn.

Petitioner is given a single opportunity to perfect the petition. Any request for reconsideration of this decision must be submitted within 1 (one) month or 30 (thirty) days, whichever is longer, (no extension of time under 37 CFR 1.136(a)) from the date of this decision in order to be considered timely. Any request for reconsideration must address the deficiencies indicated above.

Petitioner is reminded that, upon granting of the special status of the application on request for reconsideration, the application will be processed expeditiously. However, due to the dismissal of the instant petition, examination may not be completed within twelve months of the filing date of the application.

Any inquiry regarding this decision should be directed to Michael P Woodward, Quality Assurance Specialist, at (571) 272-8373.

/MP Woodward/
Michael P Woodward, Quality Assurance Specialist
Technology Center 1600

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

3 1 MAR 2009

James E. Bradley
BRACEWELL & GIULIANI
P.O. Box 61389
Houston, TX 77208-1389

In re Application of
HAUG, Rune
U.S. Application No.: 10/551,850
PCT No.: PCT/NO2004/000095
Int. Filing Date: 01 April 2004
Priority Date: 02 April 2003
Docket No.: 037960.002
For: DEVICE FOR DISTRIBUTING FISH FEED

DECISION

This decision is in response to applicants' request for a corrected filing receipt filed on 08 May 2007 and again on 07 November 2008 which is hereby **DISMISSED** as follows:

Applicants request that the "Filing Date" for the subject application be amended to 03 October 2005. Applicants entered the national stage on 03 October 2005. However, applicants did not provide an executed declaration at this time. Applicants filed an executed declaration in compliance with 37 CFR 1.497(a) and (b) on 27 November 2006.

Section 1893.03(b) of the MPEP explains that the filing date of the international stage application is also the filing date for the national stage application and states, in part:

> The "Application Filing Date" field . . . was changed to "Filing or 371 (c) Date" to clearly indicate that for international applications that enter the national stage under 35 U.S.C. 371, the information displayed in this field is the date of receipt of the 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements. Applicants are quite often confused as to the true filing date and will ask for corrected filing receipts thinking that the information thereon is wrong. This explanation should offer some clarity. For most legal purposes, the filing date is the PCT international filing date . . .

As such, the "Filing or 371(c) Date" of "11/27/2006" recorded on the filing receipt mailed 19 March 2007 is correct. *See* 35 U.S.C. 371(c)(4). A corrected filing receipt is not warranted.

10/551,850

The application will be forwarded to Technology Center 3643 for further processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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.
10/551,873	09/30/2005	Joseph Emmanual Zarb	131279.1050 (B.062APC)	2018

60148 7590 11/07/2007
GARDERE / JAMES HARDIE
GARDERE WYNNE SEWELL, LLP
1601 ELM STREET
SUITE 3000
DALLAS, TX 75201

EXAMINER
ROBINSON, LAUREN E

ART UNIT	PAPER NUMBER
4174	

MAIL DATE	DELIVERY MODE
11/07/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

11-7-07

caf

In re Application of: JOSEPH EMMANUAL ZARB et al. :
Application No. 10/551,873 : DECISION ON
Filed: September 30, 2005 : PETITION
For: A DURABLE HIGH PERFORMANCE FIBRE CEMENT :
PRODUCT AND METHOD OF MANUFACTURE :

This is a decision on the PETITION TO RESET OR RESTART REPLY PERIOD filed on October 19, 2007.

On September 19, 2007, an office action was mailed to Applicant. A three month shortened statutory period was set in the office action. In the office action, WO 2001/068777 was cited in the Election/Restriction section on page 2 to establish that lack of unity exists. WO 2001/068777 is a German language document with an English language abstract. No translation of the document was provided to applicant.

Applicants request that the period for response be restarted so that it runs from the date a translation is provided.

DECISION

Upon review of the WO 2001/068777 document in the electronic record it is noted that only the abstract is in the English language. The office action does not cite a particular area of the document as being relevant. Thus, it is agreed that the lack of an English translation affects Applicants' ability to respond to the office action.

The petition is **GRANTED**. The application is being forwarded to the examiner so that the translation can provided and the office action remailed thereby resetting the reply period.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

GARDERE / JAMES HARDIE
GARDERE WYNNE SEWELL, LLP
1601 ELM STREET
SUITE 3000
DALLAS TX 75201

17 OCT 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

HAYNES AND BOONE, LLP
901 MAIN STREET
SUITE 3100
DALLAS, TX 75202-3789

In re Application of BRISCO et al	:	
U.S. Application No.: 10/551,880	:	
PCT Application No.: PCT/US2004/010317	:	
Int. Filing Date: 02 April 2004	:	
Priority Date Claimed: 02 April 2003	:	DECISION
Attorney Docket No.: 25791.270.06	:	
For: APPARATUS FOR RADIALLY	:	
EXPANDING AND PLASTICALLY	:	
DEFORMING A TUBULAR MEMBER	:	

This is in response to applicant's "Petition under 37 C.F.R. § 1.182" filed 28 August 2007.

BACKGROUND

On 02 April 2004, applicant filed international application PCT/US2004/010317, which claimed priority of an earlier United States application filed 02 April 2003. The thirty-month period for paying the basic national fee in the United States expired on 02 October 2005.

On 30 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) and a substitute specification.

On 28 August 2007, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

A review of international application PCT/US2004/010317 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 30 September 2005 did not include a proper preliminary amendment. However, it is apparent from the papers filed 30 September 2005 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 95 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 95 claims as opposed to 520 claims. A proper preliminary amendment was filed with the present petition, reducing the total number of claims to 95. Because of applicant's intent to reduce the number of claims for examination and because the fees due for the presence of 520 claims at the time of the initial national stage submission would not be 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.

A review of the fee records for the present application reveals that $8,350.00 has been paid for excess claim fees. The application currently contains 95 total claims, 27 of which are independent claims. Thus, a fee of $3,750.00 for 75 claims in excess of 20 is required, and a fee of $4,800.00 for 24 independent claims in excess of 3 is required. A total of $200.00 will be charged 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

```
10/17/2007 SBASHEIR 00000009 081394    10551880
Sale Ref: 00000009 DA#: 081394    10551880
01 FC:1462        400.00 DA
02 FC:1614        200.00 DA
```

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

15 AUG 2006

Leffert Jay & Polglaze
P O Box 581009
Minneapolis MN 55458-1009

In re Application of SPERA Application No.: 10/551,893 PCT No.: PCT/IT03/00206 Int. Filing: 04 April 2003 Priority Date: None Attorney Docket No.: 118.035US01 For: ENDOSCOPIC INSTRUMENT WITH TWO INDEPENDENT ARMS	DECISION ON PETITION TO REVIVE UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 08 August 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the basic national fee of $150 has been provided. The required petition fee of $750 was also paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing, including issuance of a Notification of Missing Requirements indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b) and the $130 surcharge for filing the oath or declaration after the thirty month period, is required.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

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

RAYMOND HO
GENESIS GROUP
315 MOOREFIELD ROAD SW
VIENNA, VA 22180

COPY MAILED

OCT 3 1 2007

OFFICE OF PETITIONS

In re Application of	:	
Kevin Liu, et al.	:	
Application No. 10/551,930	:	DECISION ON PETITION
Filed: October 3, 2005	:	TO WITHDRAW
Attorney Docket No. K0002-502-US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed June 11, 2007.

The request is **NOT APPROVED**.

A review of the file record indicates that Raymond Ho of Genesis 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.

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.

April M. Wise
Petitions Examiner
Office of Petitions

cc: GLOBAL PATENT GROUP – KAL
ATTEN: MS LAVERNE HALL
10411 CLAYTON ROAD
SUITE 304
ST LOUIS, MO 63131

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

Mailed: 9-13-06

In re application of	:	
Ohata, et al.	:	DECISION ON
Serial No. 10/551,934	:	PETITION
Filed: October 4, 2005	:	
For: LITHIUM ION SECONDARY BATTERY	:	

This is a response to applicant's petition under 37 C.F.R. 1.102(d) on January 31, 2006. An application may be granted special status provided that applicant complies with each of the following items:

(A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement if the claims in the corresponding foreign application are of the same or similar scope to the claims in the U.S. application for which special status is requested;

(D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

DECISION

Applicant has complied with the conditions set forth above.

The Petition is **Granted**.

William Krynski, SPRE
Technology Center 1700
Chemical and Materials Engineering

Bernard P. Codd
McDermott Will & Emery
600 13th Street, N.W.
Washington, DC 20005

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
HARETFORD CT 06103

MAILED
JUL 20 2010
OFFICE OF PETITIONS

In re Application of Seok Koo Kim et al Application No. 10/551,946 Filed: October 5, 2005 Attorney Docket No. LEE0033US	: : : : :	DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 27, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 18, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and Pre-Brief Conference request; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1795 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

YOUNG & THOMPSON
745 SOUTH 23RD STREET, 2ND FLOOR
ARLINGTON VA 22202

COPY MAILED

MAY 15 2007

OFFICE OF PETITIONS

In re Application of	:	
KAHN, et al.	:	
Application No. 10/551,948	:	DECISION ON PETITION
Filed: October 6, 2005	:	TO WITHDRAW
Attorney Docket No. 0617-1028	:	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 14, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request do 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- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MYRTIL KAHN**
110 GRANDE RUE SAINT MICHEL
TOULOUSE, France 31400

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

MAILED

SEP 10 2009

OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,514,421	:	
Abrahamsson, et al.	:	DECISION ON REQUEST
Issue Date: April 7, 2009	:	FOR RECONSIDERATION OF PATENT
Application No. 10/551,999	:	TERM ADJUSTMENT
Filed: October 4, 2005	:	
Attorney Docket No. 23854-0004US1	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)," filed on June 9, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from zero (0) days to nine hundred seventy(970) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any changes to the patent term adjustment of zero (0) days.

For the reasons stated herein, the patent term adjustment of zero (0) days has been changed to decrease the period of adjustment for Office delay by 1 day to 148 days. As the patent term adjustment remains 0 days, no further action is required.

On April 7, 2009, the above-identified application matured into U.S. Patent No. 7,514,421 with a patent term adjustment of 0 days.

This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 1.705(d).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), of 533 days and the period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), of 701 days do not overlap, as these periods do not occur on the same day.

Patentees argue that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.702(b), is calculated from the application's international filing date to the filing of a RCE.

Patentees are informed that the Three Year Delay period is triggered by the application's commencement date, not the international filing date. The commencement date is 30 months from the priority date claimed in the international application, or earlier[1]. The priority date claimed in the international application is April 5, 2003. Thirty months from that date is October 5, 2005. The period is terminated by the filing of a Request for Continued Examination (RCE). The filing of a RCE cuts-off the applicants' ability to accumulate any additional patent term adjustment against the three-year pendency provision, but does not otherwise affect patent term adjustment. 37 CFR §1.703(b)(1) Accordingly, the period of adjustment under § 1.702(b) is 0 days because a RCE was filed on September 15, 2008 and the Three Year Delay period would have started on October 6, 2008, which is after the RCE was filed.

A discussion of patentees' definition of overlap is not necessary, because there is no period of adjustment under § 1.702(b) in this case. Therefore, the issue of overlap is moot.

For future reference, a discussion of the errors in patentees' other calculations is warranted.

Patentees assert that they are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a)(1) of 701 days for the failure by the Office to mail

---

[1] See 35 U.S.C. 371(b) and (f).

at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date the application's filing date. Patentees are informed that the 14 month provision is calculated from the date the application fulfilled the requirements of 35 U.S.C. 371 in an international application. Therefore, patentees' calculation is inaccurate. The application fulfilled the requirements of 35 U.S.C. 371 on October 5, 2005. Fourteen months after that date is December 5, 2006. The period of adjustment is from December 6, 2006 to May 2, 2007, which is 148 days. It is noted that the Office PTA calculations currently lists the adjustment in connection with the 14 month delay as 149 days. The adjustment of 149 days will be removed and an adjustment of 148 days will be entered. However, as discussed below, this change does not impact the patent term adjustment because applicant delay is greater than Office delay.

Patentees assert that the Office underestimated an applicant delay period. Applicants responded to the May 2, 2007 non-final Office action on July 27, 2007, but the response was deemed non-responsive by the Office. A complete response was not filed until December 10, 2007. Patentees assert applicant delay should be measured from August 2, 2007, the three month date for response to the Office action, to December 10, 2007 for a period of reduction of 142 days. Patentees are informed that this delay falls under 37 CFR 1.704(c)(7). A reduction of 136 days is in order because applicants' July 27, 2007 reply had omissions. A complete reply to the May 2, 2007 non-final Office action was filed on December 10, 2007. The period of reduction is measured from the day after the date the reply having an omission was filed, July 28, 2007, and ends on the date that the reply correcting the omission was filed, December 10, 2007. Therefore, the period of delay was properly calculated as 136 days.

In summary, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent and the Office calculation with respect to applicant delay was correct. The Office calculation with respect to Office delay was incorrect, however, even when corrected, no change to the over all patent term adjustment is warranted.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 0 days.

Telephone inquiries specific to this matter should be directed to Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

www.uspto.gov

MAILED

MAR 23 2010

OFFICE OF PETITIONS

BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN CT 06510

In re Application of	:	
Jurgen BAUMLE, et al	:	
Application No. 10/552,006	:	ON PETITION
Filed: May 15, 2006	:	
Attorney Docket No. 05-650	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 5, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 2, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is September 3, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) the required statement of unintentional delay have been received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 3652 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

12 JUN 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
500 W. MADISON STREET
SUITE 3800
CHICAGO IL 60661

In re Application of	:	
WONG et al.	:	
Application No.: 10/552,009	:	DECISION ON
PCT No.: PCT/US2004/009390	:	
Int. Filing Date: 26 March 2004	:	PETITION UNDER
Priority Date: 26 March 2003	:	
Attorney Docket No.: BIO1819P0081US	:	37 CFR 1.137(b)
For: INSTANTANEOUS AUTONOMIC NERVOUS	:	
FUNCTION AND CARDIAC PREDICTABILITY	:	
BASED ON HEART AND PULSE RATE	:	
VARIABILITY ANALYSIS	:	

This decision is in response to applicant's submission filed 06 October 2005.

BACKGROUND

On 26 March 2004, applicant filed international application PCT/US2004/009390 which designated the U.S. and claimed a priority date of 26 March 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (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.

On 06 October 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, 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 06 October 2005.

As to item (2), applicant submitted the petition fee on 06 October 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 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
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
New York, NY 10008-0770

Mail Date: 04/21/2010

Applicant	: Nobuhiro Umeda	: DECISION ON REQUEST FOR
Patent Number	: 7652155	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/552,015	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1005** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

MORGAN, LEWIS & BOCKIUS LLP (SF)
ONE MARKET, SPEAR STREET TOWER, SUITE 2800
SAN FRANCISCO, CA 94105

COPY MAILED

JUN 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Lawrence M. Blatt	:	DECISION ON PETITION
Application No. 10/552,020	:	TO WITHDRAW
Filed: October 3, 2005	:	FROM RECORD
Attorney Docket No. INTM-032/01US	:	

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 2, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to practitioners associated with Morgan, Lewis & Bockius LLP (SF), has been revoked by the applicant of the patent application on August 28, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
SUITE 1100
777 - 6TH STREET, NW
WASHINGTON DC 20001

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

FINNEGAN, HENDERSON, GARRETT, DUNNER, LLP
901 NEW YORK AVENUE, NW
WASHINGTON D.C., 20001-4413

COPY MAILED

SEP 0 4 2008

Applicant: Chang
Appl. No.: 10/552,029
Filing Date: October 18, 2006
Title: COMPOSITION AND METHOD FOR SUPPORTING CANCER TREATMENT
Attorney Docket No.: 09541.0001
Pub. No.: 2007/0166404 A1
Pub. Date: July 19, 2007

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on September 18, 2007, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

It would greatly benefit the Office if the request for corrected publication pointed out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted

Inquiries relating to this matter may be directed to Mark O. Polutta at (571) 272-7709.

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: Andrew T. Yule	: DECISION ON REQUEST FOR
Patent Number	: 7619662	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/552,049	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/04/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **716** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,064	10/05/2005	Oliver Schadt	MERCK-3067	6539

23599 7590 02/09/2009
MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

EXAMINER
JARRELL, NOBLE E

ART UNIT	PAPER NUMBER
1624	

MAIL DATE	DELIVERY MODE
02/09/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FEB 0 9 2009

Csaba Henter
MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON VA 22201

In re Application of	:
Schadt	:
Serial No.: 10/552,064	:Decision on Petition
Filed: 5 October 2005	:
Attorney Docket No.: Merck-3067	:

This letter is in response to the Petition filed under 37 C.F.R. 1.181 filed on 26 September 2008 requesting withdrawal of the restriction requirement. The delay in acting upon this petition is regretted.

BACKGROUND

This application was filed under the provisions of 35 U.S.C. 371 and as such is subject to PCT Unity of Invention practice.

On 14 March 2007, the examiner mailed a restriction requirement in which the original 17 claims were divided into 111 groups. The examiner also required the election of a single species of Formula I. The examiner stated that the compound of formula I is taught by Baron et al and as such, does not make a contribution over the prior art.

On 3 April 2007, Applicants elected Group III, claims 1-7, 10, 14 and 17 and compound 8 of example 7 with the traversal that the Office has not established that it would be a burden to examine the full scope of the claimed invention. Group III is defined in the restriction requirement as the compounds of Formula I wherein variables X, R2, and R3/R4 are defined as C, C0-5-Furan and C0-5-Piperazine, respectively.

On 7 May 2007, the examiner considered the traversal and rejoined claims 8-13 and 15-17, directed to methods of making the compounds of Group III and the methods of using the

compounds of Group III with elected Group III. The examiner made the restriction requirement FINAL. Claims 1-17 were searched and examined on the merits, as follows:

> Claims 11-13 and 16 were rejected under 35 U.S.C. 112, 2nd paragraph and 35 USC 101as being directed to "use" claims.
> Claims 1-17 were rejected under 35 U.S.C. 112 2nd paragraph for indefiniteness concerning values of R3 and R4.
> Claims 1-2 and 11-14 were provisionally rejected under non-statutory obviousness type double patenting.

The examiner indicated that compounds I-703 that fall within the elected group are free of the prior art of record.

On 8 July 2007, applicants filed a response to the Office action, an amendment to the claims and a Terminal Disclaimer.

On 26 September 2007, the examiner rejected claims 1-13 and 15-22 under 35 USC 112, 1st paragraph for lack of enablement. Claims 1, 3, 6, 10 and 19 were rejected under 35 USC 102(b) as being anticipated by Bamaung et al. Claims 1, 4, 6-8, 10, 19 and 21 were rejected under 35 USC 102(b) as being anticipated by Beck et al. Claims 1, 4-7, 19 and 21 were rejected under 35 USC 103(a) as being unpatentable over Schiemann et al. Claim 19 and 21 were objected to for being substantial duplicates of claims 1 and 7, respectively. Claims 1-2 and 11-14 were provisionally rejected under non-statutory obviousness type double patenting. The Office action was made FINAL.

In an Interview Summary dated 19 October 2007, the examiner withdrew the finality of the Office action mailed 26 September 2008 in view of the new grounds of rejection.

On 26 February 2008, Applicants filed a response to the Office action, including an amendment to the claims.

On 9 July 2008, the examiner rejected claims 1-13, 15-18, 23 and 25-27 under 35 USC 112, 1st paragraph for lack of enablement. Claims 1, 7-13 and 15-24 were objected to for containing non-elected subject matter. The Office action was made FINAL.

On 26 September 2008, Applicants filed a response to the Office action and this petition.

DISCUSSION

The petition and file history have been carefully considered.

At the onset, it is noted that the Office action mailed 9 July 2008 is incomplete and inconsistent with regard to the treatment of the claims, and as such, was vacated on 9 January 2009.

Further, it is noted that the statement identifying an "improper Markush group" in the unity of invention determination mailed 14 March 2007 is incorrect. There is no established criteria for

what is a proper or an improper Markush group, nor does the Office have any means to object or reject a claim solely for containing an improper Markush group.

Moreover, it is noted that applicants elected Group III as defined in the restriction requirement as the compounds of Formula I wherein variables X, R2, and R3/R4 are defined as C, C0-5-Furan and C0-5-Piperazine, respectively. The examiner rejoined the methods of making or using with the elected product and then issued an Office action on the merits for Claims 1-17. This included an Office action on Claim 6.

> 6. (Previously Presented) A compound of formula I according to claim 1, in which X denotes N.

Claim 6 is defined by Group XI, the compounds of Formula I wherein variables X, R2, and R3/R4 are defined as N, C0-5-Furan and C0-5-Piperazine, respectively. Because Claim 6 has been examined on the merits, the restriction requirement set forth between Group III and XI is withdrawn.

Turning now to the merits of the petition, the petition argues that the examiner should follow the practice set forth in MPEP 803.02 for the restriction practice of MPEP 803.02 for Markush claims. This is not persuasive for the following reasons.

This application is a national stage filing of PCT/EP04/02453 and as such, is eligible for the restriction practice set forth in Chapter 10 of the International Preliminary Search and Examination Guidelines and Unity of Invention Practice set forth in MPEP Chapter 1800, particularly sections 1850 and 1893.03(d). Moreover, even if the guidance in MPEP 803.02 applied to this application, it is noted that the examiner is not required to extend the search and examination to a second or subsequent species until the elected species is in condition for allowance. At this time, not all claims directed to the elected species are in condition for allowance, so any request for extended examination is considered premature.

Next, the petition argues that 35 USC 121 does not give the Office authority to divide a single claim up into several applications. This is not persuasive because 37 CFR 1.475(e) permits the Office to restrict among inventions recited in the alternative of a single claim in an application filed under 35 USC 371. See 37 CFR 1.475(e).

> The determination whether a group of inventions is so linked as to form a single general inventive concept shall be made without regard to whether the inventions are claimed in separate claims or as alternatives within a single claim.

Guidance on unity of invention for chemical compounds may be found in the International Search and Preliminary Examination Guidelines. Paragraph 10.17 states:

> Rule 13.2 also governs the situation involving a single claim that defines alternatives (chemical or non-chemical), the so-called "Markush practice." In this special situation, the requirement of a technical interrelationship and the same or corresponding special technical

features as defined in Rule 13.2, is considered met when the alternatives are of a similar nature.

(a) When the Markush grouping is for alternatives of chemical compounds, they are regarded as being of a similar nature where the following criteria are fulfilled:

(A) all alternatives have a common property or activity, and

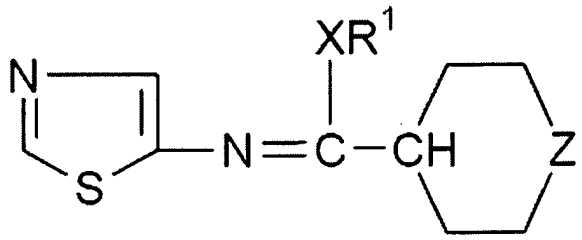
(B)(1) a common structure is present, that is, a significant structural element is shared by all of the alternatives, or

(B)(2) in cases where the common structure cannot be the unifying criteria, all alternatives belong to a recognized class of chemical compounds in the art to which the invention pertains.

(b) In paragraph (a)(B)(1), above, the words "significant structural element is shared by all of the alternatives" refer to cases where the compounds share a common chemical structure which occupies a large portion of their structures, or in case the compounds have in common only a small portion of their structures, the commonly shared structure constitutes a structurally distinctive portion in view of existing prior art, and the common structure is essential to the common property or activity. The structural element may be a single component or a combination of individual components linked together....

The ISPE Guidelines provide several examples, including Example 20: Common Structure

Claim 1: A compound of the formula:

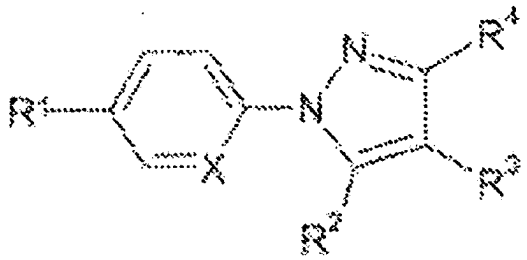


wherein R1 is methyl or phenyl, X and Z are selected from oxygen (O) and sulfur (S).

The compounds are useful as pharmaceuticals and contain the 1,3-thiazolyl substituent which provides greater penetrability of mammalian tissue which makes the compounds useful as relievers for headaches and as topical anti-inflammatory agents. All compounds share a common chemical structure, the thiazole ring and the six atom heterocyclic compound bound to an imino group, which occupy a large portion of their structure. Thus, since all the claimed compounds are alleged to possess the same use, unity would be present.

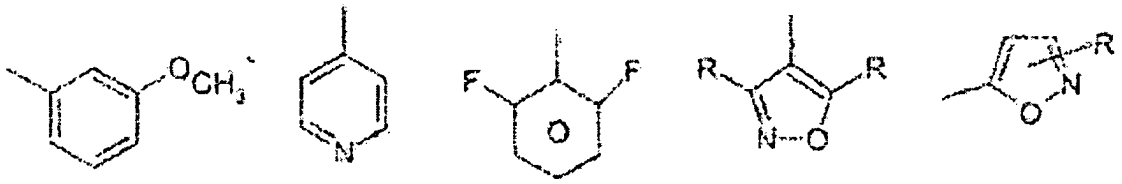
In Example 20, the core structure permits three variables which result in 8 possible compounds. The substituents for "X", "Z" and "R1" are all small in size in comparison to the overall core structure. Thus the common chemical structure of Example 20 occupies a large portion of the structure.

In contrast, to ISPE Guidelines Example 20, the claimed compound of Formula 1 has 5 variables described by two full pages of possible substituents. See Formula I:

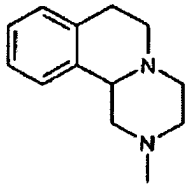
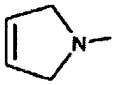
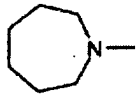
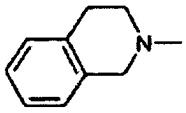


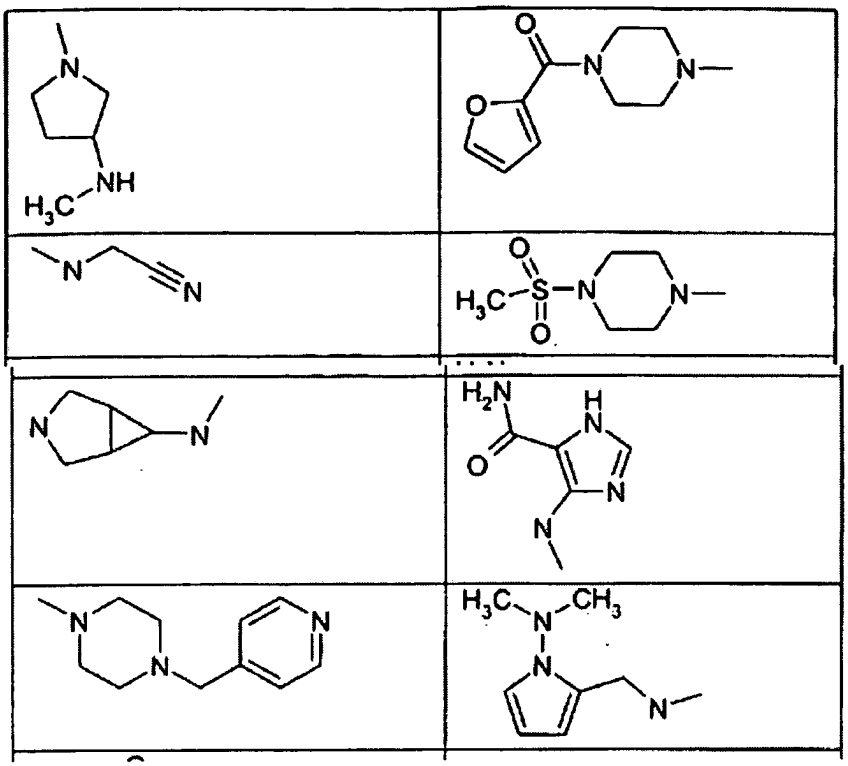
I

in which R2 may be, for example,



Pages 12-16 of the specification provide many options for the "Het" portion of R2, R3 and R4, including, for examples,



Thus, the possible side chains of the compounds encompassed by the claim vary in structure and in size. It is noted that structural variation permitted by the instant claims is far more complicated and extensive than just two page list of claim, as it recites nested variables, provisos and ranges of substituents described in generic terms. Given the possible variables for R3 and R4, 20 possibilities for R1, 12 possibilities for R2, and two possible meanings for X, there are at least 35 billion compounds encompassed by the scope of Formula I.

Moreover, a sample search query for the required core structure projected at least 38 million iterations, indicating that the required common core does not make a contribution over the prior art. For these reasons, the common structure of Formula I is not considered as a significant structural feature and the requirement to elect a particular combination of variables for R2 and R3/R4 for examination is maintained.

DECISION

The petition is **GRANTED-IN PART** for the reasons set forth above.

Because Claim 6 has been examined, the restriction requirement set forth between Group III and Group XI is withdrawn. The elected invention is defined as the compounds of Formula I wherein variables R2 and R3/R4 are defined as C0-5-Furan and C0-5-Piperazine, respectively, compositions comprising such and products of making and using such. The lack of unity determination amongst the compounds groups is otherwise maintained.

Should the shared technical become a contribution over the prior art the examiner should re-consider the lack of unity determination. Moreover, should all claims directed to the elected invention become in condition for allowance, the examiner should follow rejoinder practice set forth in MPEP 821.04.

The application will be forwarded to the examiner for consideration of the papers filed on 26 September 2008 and for action consistent with this decision.

Any request for reconsideration must be filed within two (2) months of the mailing date of this decision.

Should there be any questions about this decision, please contact Special Program Examiner Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Remy Yucel
Director, Technology Center 1600

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

MILLEN, WHITE, ZELANO &
BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON VA 22201

COPY MAILED

JUN 23 2008

OFFICE OF PETITIONS

In re Application of

Schiemann, et al.

Application No. 10/552,065

Filed: October 5, 2005

Attorney Docket No. MERCK-3074

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed April 10, 2008.

The petition is **granted**.

This application was held abandoned October 13, 2007, after no reply was received to the restriction/election requirement mailed September 12, 2007. The notice set forth a shortened period of reply of one month from its mailing date. No response was received within the allowable period and the application became abandoned on October 13, 2007. A Notice of Abandonment was mailed April 30, 2008. The instant petition was filed on April 10, 2008. Petitioner maintains that the notice of September 12, 2007, was never received and provides a copy of the relevant docketing calendar as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology 1600, GAU 1614 for further processing that may include remailing the restriction/election requirement and resetting of the period for reply.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

#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

25 JAN 2006

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

In re Application of	:	
DESJEUX, Olivier	:	
Application No.: 10/552,070	:	DECISION
PCT No.: PCT/EP02/05328	:	
Int. Filing Date: 14 May 2002	:	ON PETITION UNDER
Priority Date: 14 May 2001	:	
Docket No.: Q90088	:	37 CFR 1.137(b)
For: SYSTEM AND METHOD ... LEAST	:	
AN ENTRANCE	:	

Applicants' "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 04 October 2005 is **GRANTED**.

Applicants state "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," as required by 37 CFR 1.137(b)(3). The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

The declaration of the inventor complies with 37 CFR 1.497(a)-(b).

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The fees for late filing of the search fee, examination fee or oath or declaration and for late furnishing of the translation will be charged to deposit account no. 19-4880, as authorized. The application has a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of 04 October 2005.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Jun-10

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

MAILED

JUN 22 2010

OFFICE OF PETITIONS

In re Application of :
Andrei Terechko :
Application Number: 10/552076 :
Filing Date: 10/04/2005 :
Attorney Docket Number: NL :
030344 :

DECISION ON PETITION

This is a decision on the petition filed on April 2, 2010, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on November 26, 2009, for failure to timely submit a reply as required by the Board of Patent Appeals and Interferences Decision on Appeal mailed on September 25, 2009, which set a two (2)-month period for reply. Notice of Abandonment was mailed on December 15, 2009.

Receipt of the amendment in reply to the Decision on Appeal is acknowledged.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The application is referred to Technology Center Art Unit 2183 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

RATNERPRESTIA
P O BOX 980
VALLEY FORGE PA 19482-0980

COPY MAILED

APR 0 7 2008

OFFICE OF PETITIONS

In re Application of	:	
Gunther Schwarzer	:	
Application No. 10/552,093	:	DECISION ON PETITION
Filed: June 7, 2006	:	TO WITHDRAW
Attorney Docket No. FRZ-100US	:	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 6, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, ***applicant's failure to execute Terms of Engagement letter necessitated by prior withdrawal of foreign in this matter***, do not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Gunther Schwarzer**
Fasangasse 3
Willendorf A-2732
Austria

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

COPY MAILED

JUL 2 1 2008

OFFICE OF PETITIONS

RATNERPRESTIA
P O BOX 980
VALLEY FORGE PA 19482-0980

In re Application of	:	
SCHWARZER, Gunther	:	
Application No. 10/552,093	:	DECISION ON PETITION
Filed: June 07, 2006	:	TO WITHDRAW
Attorney Docket No. **FRZ-100US**	:	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, 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 Joseph Maenner on behalf of all attorneys of record who are associated with customer No. 23122. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Gunther Schwarzer at the address indicated below.

There is an outstanding Office action mailed May 01, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R Eason
Paralegal Specialist
Office of Petitions

cc: **GUNTHER SCHWARZER**
FASANGASSE 3
WILLENDORF, A-2732
AUSTRIA

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

MIDDLETON & REUTLINGER
2500 BROWN & WILLIAMSON TOWER
LOUISVILLE KY 40202

MAILED
JUL 06 2010
OFFICE OF PETITIONS

In re Application :
Navarro, et al. :
Application No. 10/552,094 : PATENT TERM ADJUSTMENT
Filed: October 4, 2005 :
Dkt. No.: ZP193-05002 :

This is in response to the "REQUEST FOR PATENT TERM ADJUSTMENT (PTA) UNDER 35 U.S.C. 154 AND 37 C.F.R. § 1.705(b)," filed February 26, 2010.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 406 days, not 218 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

Insofar as the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is DISMISSED as PREMATURE.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the

patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

Receipt is hereby acknowledged of the required patent term adjustment application fee of $200.00. See, 37 CFR 1.18(e).

However, any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

---

[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.

09 SEP 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

JC12 Rec'd PCT/PTO 03 OCT 2005 10/552102

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PAUL J WHITE, SENIOR COUNSEL
NATIONAL RENEWABLE ENERGY LABORATORY (NREL)
1617 COLE BOULEVARD
GOLDEN CO 80401-3393

Received
SEP 15 2005
Legal Office

In re Application of
HANNA et al.
Application No.: 10/844,463
Attorney's Docket No.: NREL-01-14
For: REACTIVE CO-DOPING OF GaAlInP COMPOUND SEMICONDUCTORS

DECISION ON PETITION UNDER 37 CFR 1.182

This is in response to applicant's "Petition to Convert A Filing Under 37 CFR 1.53(b) to 35 U.S.C. 371" filed in the United States Patent and Trademark Office (USPTO) on 28 March 2005, treated as a petition under 37 CFR 1.182. Applicant requests that the above referenced application be converted from a U.S. application filed under 35 U.S.C. 111(a) to an application filed under 35 U.S.C. 371(c). A $400.00 petition fee has been paid.

BACKGROUND

On 07 May 2004, applicant filed both a Utility Transmittal Letter (Only for new nonprovisional application under 37 CFR 1.53(b) and a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning A Filing under 35 U.S.C. 371" with authorization to charge applicant's deposit account for the basic national fee. Applicant did not file a specification, claims or drawings.

On 15 March 2005, a Notification of Incomplete Non-Provisional Application was mailed to applicant. On 28 March 2005, applicant filed a response, including the instant petition to convert. Petitioner requests that the application mistakenly filed under 35 U.S.C. 111(a) and 37 CFR 1.53 be converted to a national stage application filed under 35 U.S.C. 371.

DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). *See* MPEP 1893.03(a). The official PTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in part, the following:

> The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.

* * *

If there are any conflicting instructions as to which section of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111.

The Transmittal Letter (Form-1390) used by applicant is to be used only with submissions under 35 U.S.C. 371. The Office provides the TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A FILING UNDER 35 U.S.C. 371 (FORM PTO-1390) so that applicants can comply with 37 CFR 1.495(g) and so that the Office's personnel can readily distinguish between submissions under 35 U.S.C. 371 and 35 U.S.C. 111(a).

Nevertheless, applicants' use of the "Utility Patent Application Transmittal" filed 07 May 2004 contradicts the request in the Transmittal Letter to file under 35 U.S.C. 371. A national application which requests treatment under 37 CFR 1.53(b) cannot be considered the national stage application of international application PCT/US01/49921 and is an indication of papers filed under 35 U.S.C. 111(a). In view of the above, it is proper to treat the initial filing as a filing under 35 U.S.C. 111(a).

Applicant's reference to 37 CFR 1.53(b) in the transmittal letter is inconsistent with and would have contradicted any desire expressed in any papers filed to enter the national stage of the PCT under 35 U.S.C. 371. Application papers submitted under 37 CFR 1.53(b) are considered filed under 35 U.S.C. 111(a). Accordingly, the original papers deposited on 07 May 2004 were properly accepted as a filing under 35 U.S.C. 111(a).

Furthermore, U.S. statutes and regulations do not make specific provision for the requested action and as such, the Office does not grant such petitions for conversion as a mere matter of course. The Office will only grant such petitions upon a showing by applicant of sufficient cause (i.e., the loss of patent rights) where no other remedy is available. In the present case, applicant requested that the application be converted but has not demonstrated that he will suffer a loss of any right if the petition to convert is not granted.

Since the application is deemed to have been filed under 35 U.S.C. 111(a), international application PCT/US01/49921 is abandoned with respect to the United States. Applicant may wish to consider filing a petition to revive the international application along with a request for entry into the national stage.

The present application has been properly processed by the Office as a national stage application under 35 U.S.C. 111(a). Accordingly, it would not be appropriate to consider the conversion of the application to an application under 35 U.S.C. 371 at this time.

CONCLUSION

The petition under 37 CFR 1.182 to consider the papers filed on 07 May 2004 as a U.S. application filed under 35 U.S.C. 371(c) is **DISMISSED WITHOUT PREJUDICE.**

The Notification of Incomplete Non-Provisional Application mailed on 15 March 2005 remains in effect. The application will be forwarded to Office of Initial Patent Examination (OIPE) for processing as a regular national application under 35 U.S.C. 111(a).

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administraton
Telephone: (571) 272-3286
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

21 JUL 2006

Paul J. White
NREL
1617 Cole Boulevard
Golden, CO 80401

In re Application of	:	
HANNA et al.	:	
Application No.: 10/552,102	:	DECISION ON PETITION
PCT No.: PCT/US01/49921	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 08 November 2001	:	
Priority Date: None	:	
Attorney Docket No.: NREL 01-14	:	
For: REACTIVE CO-DOPING OF GaAlInP COMPOUND SEMICONDUCTORS VIRTUAL OBJECTS	:	

The petition to revive under 37 CFR 1.137(b) filed 03 October 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicants have submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

#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

23 NOV 2005

CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

In re Application of LOEVLI et al	:	
U.S. Application No.: 10/552,118	:	
PCT Application No.: PCT/DK04/00242	:	
Int. Filing Date: 02 April 2004	:	
Priority Date Claimed: 04 April 2003	:	DECISION
Attorney Docket No.: APH-0154	:	
For: PROCESS FOR THE PREPARATION OF	:	
STEROIDAL CARBOTHIOIC ACID	:	
DERIVATIVES AND INTERMEDIATES	:	

This application is before the Office of PCT Legal Administration for consideration of issues arising under 35 U.S.C. 371.

BACKGROUND

On 02 April 2004, applicant filed international application PCT/DK04/00242, which claimed priority of an earlier European Patent Office application filed 04 April 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 on 04 October 2005.

On 03 October 2005, applicant filed purported national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission, which was signed by agent Patrick Halloran, listed "AL-05-006-US" as the attorney docket number and was assigned U.S. Application Number 10/551,906.

On 04 October 2005, applicant filed purported national stage papers in the DO/EO/US. The submission, which was filed by Cantor Colburn LLP, listed "APH-0154" as the attorney docket number and was assigned U.S. Application Number 10/552,118.

DISCUSSION

The submission of two sets of national stage papers for a single international application was improper. A petition under 37 CFR 1.182 along with the requisite $400.00 petition fee is required to resolve the matter.

CONCLUSION

A proper response must be filed within TWO (2) MONTHS from the mail date of this communication. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are available under 37 CFR 1.136(a). A proper response would include an appropriate petition under 37 CFR 1.182 along with the required petition fee.

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
Office of PCT Legal Administration

Telephone: 571-272-3303
Facsimile: 571-273-0459

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

06 MAR 2007

CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

In re Application of LOEVLI et al	:	
U.S. Application No.: 10/552,118	:	
PCT Application No.: PCT/DK04/00242	:	
Int. Filing Date: 02 April 2004	:	
Priority Date Claimed: 04 April 2003	:	DECISION
Attorney Docket No.: APH-0154	:	
For: PROCESS FOR THE PREPARATION OF	:	
STEROIDAL CARBOTHIOIC ACID	:	
DERIVATIVES AND INTERMEDIATES	:	

This is in response to applicant's "Petition Under 37 CFR 1.137(b) and 37 CFR 1.182" filed 08 February 2007.

BACKGROUND

On 02 April 2004, applicant filed international application PCT/DK04/00242, which claimed priority of an earlier European Patent Office application filed 04 April 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 on 04 October 2005.

On 03 October 2005, applicant filed purported national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission, which was signed by agent Patrick Halloran, listed "AL-05-006-US" as the attorney docket number and was assigned U.S. Application Number 10/551,906.

On 04 October 2005, applicant filed purported national stage papers in the DO/EO/US. The submission, which was filed by Cantor Colburn LLP, listed "APH-0154" as the attorney docket number and was assigned U.S. Application Number 10/552,118.

On 23 November 2005, this Office mailed a communication which informed applicant that the submission of two sets of national stage papers for a single international application was improper. The communication set a two month period for response.

On 24 January 2006, the present application became abandoned for failure to file a timely response to the communication mailed 23 November 2005.

On 08 February 2007, applicant filed the present petitions under 37 CFR 1.137(b) and 37 CFR 1.182.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), the petition states, "The entire delay was unintentional." This statement is interpreted as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

Applicant's explanation for the erroneous submission of two sets of national stage papers for a single international application is accepted. The papers for U.S. Application Number 10/551,906 have been placed in the present application file.

CONCLUSION

For the reasons above, the petitions under 37 CFR 1.137(b) and 37 CFR 1.182 are GRANTED.

The serialization of U.S. Application Number 10/551,906 is hereby VACATED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Administration

Telephone: 571-272-3303
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

Mail Date: 04/21/2010

Applicant	: Tamas Hume	: DECISION ON REQUEST FOR
Patent Number	: 7661664	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/552,121	: 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 **433** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

VOLPE AND KOENIG, P.C.
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

COPY MAILED

MAR 2 2 2007

OFFICE OF PETITIONS

Applicant: Fluckiger et al.
Appl. No.: 10/552,123
International Filing Date: March 19, 2004
Title: SEWING OR EMBROIDERY MACHINE
Attorney Docket No.: HRG-PT022
Pub. No.: US 2006/0180065 A1
Pub. Date: August 17, 2006

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on September 27, 2006, for the above-identified application.

The instant request is that the application be republished because the patent application publication contains a material error, as the patent application publication indicates the wrong filing date 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

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

Judge Patent Associates
Dojima Building, 5th Floor
6-8 Nishitemma 2-Chome, Kita-ku
Osaka-Shi, 530-0047
JAPAN

Mail Date: 04/21/2010

Applicant	: Nobuhiro Ota	: DECISION ON REQUEST FOR
Patent Number	: 7622225	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/552,125	: 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 **1082** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON, DE 19899

Mail Date: 05/07/2010

Applicant	: Petra Cirpus	: DECISION ON REQUEST FOR
Patent Number	: 7629503	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/552,127	: 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 **632** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

THOMSON LICENSING LLC
P.O. BOX 5312
TWO INDEPENDENCE WAY
PRINCETON, NJ 08543-5312

MAILED

AUG 21 2009

OFFICE OF PETITIONS

In re Application of	:	
Prigent et al.	:	
Application No. 10/552,138	:	ON PETITION
Filed: July 10, 2006	:	
Attorney Docket No. PF030060	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 12, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 18, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 19, 2008. A Notice of Abandonment was mailed March 23, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment , (2) the petition fee of $1,620, and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center 2457 for further examination on the merits.

/SDB/
Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HOGAN & HARTSON LLP
IP GROUP, COLUMBIA SQUARE
555 THIRTEENTH STREET, NW
WASHINGTON, DC 20004

MAILED

MAR 0 3 2009

OFFICE OF PETITIONS

In re Application of
Daksh SADARANGANI, et al
Application No. 10/552,159
Filed: December 8, 2006
Attorney Docket No. 87036-0005

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 31, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 29, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 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 $1620; 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.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1110 extension of time fee submitted with the petition on December 31, 2008,

was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's Deposit Account No. 50-1349.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 1637 for appropriate action by the Examiner in the normal course of business on the reply received December 31, 2008.

/ Thurman H. Page

Thurman Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

15 OCT 2008

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Rene A. Vazquez
Williams Mullen
8270 Greensboro Drive, Suite 700
McLean VA 22102

In re Application of:
TOLOSA, Leah, et al.
U.S. Application No.: 10/552,164
PCT No.: PCT/US2004/006276
International Filing Date: 01 March 2004
Priority Date: 09 May 2003
Atty Docket No.: UMBC-0012
For: PROTEINS, SENSORS, AND METHODS OF CHARACTERIZING ANALYTES USING THE SAME

DECISION ON PETITION

The petition for revival under 37 CFR 1.137(b) filed 20 May 2008 in the above-captioned application is hereby **GRANTED** as follows:

The present application became abandoned with respect to the United States at midnight on 17 October 2007 based on applicants' failure to file a timely response to the "Notification Of Defective Response" (Form PCT/DO/EO/916) mailed 17 September 2007.

The present petition for revival was accompanied by payment of the required petition fee.[1] The petition was also accompanied by the "required reply" in the form of a proper response to the Notification Of Defective Response mailed 17 September 2007, that is, acceptable sequence listing materials, including a computer readable form (CRF) of the sequence listing.

The petition includes a statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," satisfying the requirement of 37 CFR 1.137(b)(3).

Based on the above, the requirements of 37 CFR 1.137(b) have been satisfied. Accordingly, the request to revive the application is appropriately granted.

It is noted that, on 11 July 2008, a Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt were issued identifying the 35 U.S.C. 371 date herein as 11 October 2005. The

[1] The petition for revival was accompanied by payment of an $820 extension fee. However, an extension of time under 37 CFR 1.136(a) 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). The $820 extension of time fee submitted with the present petition on 20 May 2008 was filed subsequent to the maximum extendable period for reply; therefore, the fee is unnecessary and will be credited to petitioner's deposit account.

present decision does not serve to change the 35 U.S.C. 371(c) date for the present application. Accordingly, the previously mailed Notification of Acceptance and filing receipt remain in effect.

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

12 APR 2007

Kenneth A. Weber
Townsend and Townsend and Crew, LLP
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834

In re Application of	:	
AHEARN, et al.	:	
U.S. Application No.: 10/552,177	:	DECISION ON PETITION
PCT No.: PCT/US04/11982	:	
Int. Filing Date: 16 April 2004	:	UNDER 37 CFR 1.497(d)
Priority Date: 16 April 2003	:	
Attorney Docket No.: 021182-000410US	:	
For: IDENTIFICATION AND MONITORING OF	:	
SYSTEMATIC LUPUS ERYTHEMATOSUS	:	

This decision is in response to applicant's "Request to Correct Inventorship Under 37 C.F.R. § 1.48(a)" filed 20 November 2006 in the United States Patent and Trademark Office (USPTO). The request is being treated as a petition under 37 CFR 1.497(d).

BACKGROUND

On 16 April 2004, applicant filed international application PCT/US04/11982, which claimed a priority date of 16 April 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, 16 October 2005.

On 05 October 2005, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee.

On 25 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 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 22 August 2006, applicant filed a declaration executed by Joseph Ahearn and Susan Manzi accompanied by a petition for one-month extension of time.

On 20 November 2006, applicant filed the present petition under 37 CFR 1.48(a) to add Jeannine Navratil as an inventor in the application.

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 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**.

The application has an international filing date of 16 April 2004 under 35 U.S.C. 363, and will be given a date of **20 November 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the DO/EO/US for processing in accordance with this decision. Specifically, the mailing of a Notification of Acceptance (Form PCT/DO/EO/903).

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

COPY MAILED

DEC 0 7 2007

OFFICE OF PETITIONS

In re Application of

WATSON, Robert John. et al.
Application No. 10/552,187
Filed: July 6, 2006
Attorney Docket No. **CELI-0302**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 06, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, no longer represents the client, does not meet any of the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MICHAEL S. GREENFIELD**
MCDONNELL BOEHNEN HULBERT &
BERGHOFF LLP
300 SOUTH WACKER DRIVE
CHICAGO, IL 60606

2 2 JUN 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

23409
MICHAEL BEST & FRIEDRICH, LLP
100 E. Wisconsin Ave.
Suite 3300
Milwaukee, WI 53202-4108

In re Application of	:	
ZANGARY et al	:	
U.S. Application No.: 10/552,205	:	
PCT No.: PCT/US04/10577	:	**DECISION**
Int. Filing Date: 07 April 2004	:	
Priority Date: 07 April 2003	:	
Attorney Docket No.: 047177-9121-US01	:	
For: MODULAR REFRIGERATION UNIT	:	

This decision is in response to applicants' "Petition Under 37 C.F.R. 1.182" filed on 11 May 2007 which is treated under 37 CFR 1.181. No fee is required.

BACKGROUND

On 06 October 2005, applicants submitted papers to enter the national stage of PCT/US04/10577. These papers included a declaration signed by four of the five named inventors.

On 31 May 2006, 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 that 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 is 06 October 2005.

On 12 February 2007, a Notice of Allowability and Notice of Allowance was mailed.

On 11 May 2007, applicants filed the subject petition which was accompanied by, *inter alia*, a Request for Continued Examination (RCE).

DISCUSSION

A review of the subject application shows that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was not submitted on 06 October 2005. The declaration filed with the national stage papers was not signed by all of the inventors.

Accordingly, the Form PCT/DO/EO/903 mailed 31 May 2006 was sent in error, and is hereby **VACATED**.

Applicants' reference to 37 CFR 1.53(b) for the filing date in the petition is inappropriate. The above-captioned application was filed pursuant to 35 U.S.C. 371, not 111(a). Section 1896 of the MPEP explains the differences and states:

> The filing date of a 35 U.S.C. 111(a) application is the date when the USPTO receives a specification as prescribed by 35 U.S.C. 112 containing a description and at least one claim, and any required drawings. See 37 CFR 1.53(b).
>
> The filing date of a PCT international application is the date applicant satisfies Article 11 requirements, i.e., includes a description, a claim, names at least one applicant who is a resident or national of a PCT Contracting State, filed in the prescribed language, and designates at least one Contracting State. See MPEP § 1810. By virtue of 35 U.S.C. 363[1], the U.S. filing date of an international application that designates the United States is, for most legal purposes, the international filing date. See MPEP § 1893.03(b).

The"Filing or 371(c) Date" noted in PAIR and the Bib Data Sheet will change in the above-captioned application as this date reflects the date of completion of all 35 U.S.C. 371(c) requirements. 35 U.S.C. 371(c)(4) requires applicants to provide an acceptable oath or declaration. This change, however, will not affect applicants' legal rights. The international filing date will remain the same.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **GRANTED**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for the mailing 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).

James Thomson
Attorney Advisor

---

[1] 35 U.S.C. 363 provides that:

An international application designating the United States shall have the effect, from its international filing date under Article 11 of the treaty, of a national application for patent regularly filed in the Patent and Trademark Office except as otherwise provided in section 102(e) of this title.

10/552,205

Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

0 9 JAN 2008

23409
MICHAEL BEST & FRIEDRICH, LLP
100 E. Wisconsin Avenue
Milwaukee, WI 53202

In re Application of
ZANGARI *et al*
U.S. Application No.: 10/552,205
PCT No.: PCT/US2004/010577
Int. Filing Date: 07 April 2004
Priority Date: 07 April 2003
Attorney Docket No.: 047177-9121-US01
For: MODULAR REFRIGERATION UNIT

DECISION

This decision is in response to applicants' petition under 37 CFR 1.47(a) filed 23 November 2007.

BACKGROUND

On 22 June 2007, a decision granting applicants' petition under 37 CFR 1.181 was mailed. The application was forwarded to DO/EO/US to mail a Notification of Missing Requirements (Form PCT/DO/EO/905) requesting a declaration in compliance with 37 CFR 1.497(a) and (b) and the $130.00 surcharge fee.

On 23 November 2007, applicants filed the instant petition which was accompanied by, *inter alia*, the petition fee; a declaration of Aaron Hernandez; and a declaration executed by four of the five named inventors.

DISCUSSION

Applicants claim that Raul Gutierrez refuses to cooperate and have filed the subject petition under 37 CFR 1.47(a).

A petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the missing joint inventor cannot be located or refuses to cooperate; (3) a statement of the last known address(es) of the nonsigning joint inventor(s); (4) and an oath or declaration executed by the signing joint inventor(s) on their behalf and on behalf of the nonsigning joint inventor(s).

Concerning item (1), the $200.00 petition fee has been paid.

With regards to item (3), the address for Mr. Gutierrez has been provided.

Items (1) and (3) of 37 CFR 1.47(a) are satisfied.

Regarding item (2), section 409.03(d) of the MPEP discusses a refusal by an inventor to cooperate 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 . . .
>
> 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 . . .
>
> 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.

The 37 CFR 1.47(a) applicants submitted a declaration by Mr. Hernandez who claims that a complete copy of the subject application was presented to the nonsigning inventor on 06 October 2007. Mr. Hernandez states that Mr. Gutierrez refused to cooperate by signing the declaration in a telephone call the next day.

For the oral refusal to be accepted, the 37 CFR 1.47(a) applicants must show that a complete copy of the subject application was presented to the nonsigning inventor. Here, petitioners did not provide any documentary evidence to support Mr. Hernandez's claim that the nonsigning inventor received a complete copy of the application on 06 October 2005. Petitioners should provide a copy of the cover letter and postal receipts showing that Mr. Gutierrez received a complete copy of the subject application (description, claims and drawings) with any renewed petition.

Concerning item (4), the 37 CFR 1.47(a) applicants submitted a declaration signed by four of the five joint inventors on behalf of both nonsigning joint inventor. However, this declaration does not comply with 37 CFR 1.497(a) and (b).

Specifically, petitioners submitted one first page and two second pages of the declaration. 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. Applicants must submit the complete declaration signed by each co-inventor.

For the reasons noted above, item (2) and (4) of 37 CFR 1.47(a) are not yet satisfied.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required.

It is noted that applicant's $400.00 petition fee submitted on 11 May 2007 has been credited back to Deposit Account No. 13-3080. The $130.00 surcharge fee has been charged to Deposit Account No. 13-3080 as authorized.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

3 0 MAY 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

23409
MICHAEL BEST & FRIEDRICH, LLP
100 E. Wisconsin Avenue
Milwaukee, WI 53202

In re Application of ZANGARI *et al* U.S. Application No.: 10/552,205 PCT No.: PCT/US2004/010577 Int. Filing Date: 07 April 2004 Priority Date: 07 April 2003 Attorney Docket No.: 047177-9121-US01 For: MODULAR REFRIGERATION UNIT	**DECISION**

This decision is in response to applicants' renewed petition under 37 CFR 1.47(a) filed 10 March 2008.

BACKGROUND

On 09 January 2008, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Applicants were given two months to respond.

On 10 March 2008, applicants filed the subject response which was accompanied by, *inter alia*, a complete copy of the declaration previously filed.

DISCUSSION

A petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the missing joint inventors cannot be located or refuse to cooperate; (3) a statement of the last known addresses of the nonsigning joint inventors; (4) and an oath or declaration executed by the signing joint inventors on their behalf and on behalf of the nonsigning joint inventors.

Items (2) and (4) were not satisfied in the initial petition filed 23 November 2007.

Concerning item (4), the 37 CFR 1.47(a) applicants submitted a complete copy of the declaration signed by each of the four joint inventors on behalf of the nonsigning joint inventor. This is sufficient to satisfy item (4).

With regards to item (2), the 37 CFR 1.47(a) applicants failed to satisfy this item because they did not provide any documentary evidence to support Mr. Hernandez's claim that the nonsigning inventor received a complete copy of the application on 06 October 2005. The 37 CFR 1.47(a) applicants were requested should provide a copy of the cover letter and postal receipts showing that Mr. Gutierrez received a complete copy

of the subject application (description, claims and drawings) with any renewed petition.

In the renewed response, the 37 CFR 1.47(a) applicants did not provide the documentary evidence as requested. The 37 CFR 1.47(a) applicants claim that the submission of the documentary evidence as outlined in the MPEP is "merely optional." Applicants argue that they have declared all facts in their conclusion that Mr. Gutierrez refused to join in the application and this is sufficient to satisfy item (2) of 37 CFR 1.47(a).

Applicants' argument has been carefully considered and dismissed.

As indicated in the prior decision, the purported oral refusal on 07 October 2005 will not be accepted unless the 37 CFR 1.47(a) applicants demonstrate with documentary evidence that a complete copy of the subject application was presented to the nonsigning inventor. The statement by Mr. Hernandez is not sufficient. Corroborating evidence is required.

For the reason noted above, item (2) of 37 CFR 1.47(a) is still not yet satisfied.

CONCLUSION

For the reason discussed above, applicants' renewed 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 may be filed electronically via the USPTO EFS-Web or if mailed addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

2 2 AUG 2008

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

23409
MICHAEL BEST & FRIEDRICH, LLP
100 E. Wisconsin Avenue
Milwaukee, WI 53202

In re Application of	:	
ZANGARI *et al*	:	
U.S. Application No.: 10/552,205	:	
PCT No.: PCT/US2004/010577	:	
Int. Filing Date: 07 April 2004	:	**DECISION**
Priority Date: 07 April 2003	:	
Attorney Docket No.: 047177-9121-US01	:	
For: MODULAR REFRIGERATION UNIT	:	

This decision is in response to applicants' renewed petition under 37 CFR 1.47(a) filed 11 July 2008.

BACKGROUND

On 30 May 2008, a decision dismissing applicants' renewed petition under 37 CFR 1.47(a) was mailed. Applicants were given two months to respond.

On 11 July 2008, applicants filed the subject response which was accompanied by, *inter alia*, exhibits A - C.

DISCUSSION

Petitioners failed to satisfy item (2) of 37 CFR 1.47(a) with their prior petition mailed 10 March 2008. Documentary evidence that a complete copy of the subject application was presented to the nonsigning inventor was required.

In the response filed 11 July 2008, petitioners have provided a statement of facts showing that a complete copy of the application was sent to the nonsigning inventor on 05 March 2008. A copy of the cover letter dated 05 March 2008 was provided. Petitioners also submitted evidence demonstrating that the documents were received by Mr. Gutierrez on 07 March 2008.

Mr. Gutierrez responded via email on 11 March 2008 stating that he was not interested in this issue. A copy of this email was provided. This email constitutes a written refusal to cooperate as contemplated by section 409.03(d)(II) of the MPEP. Applicants have now provided sufficient evidence to meet the requirements of item (2) of 37 CFR 1.47(a).

Accordingly, all the requirements of 37 CFR 1.47(a) are complete.

10/552,205

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 07 April 2004 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 10 March 2008.

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 including the mailing of a new Notification of Acceptance of Application Under 35 U.S.C. 371 and 1.495 (Form PCT/DO/EO/903).

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

2 2 AUG 2008

Mr. Raul Gutierrez
Jesus Guajardo #424 Sur,
Bueno Vista: C.P. 88120
Nuevo Laredo, Tamps
Mexico

In re Application of
ZANGARI *et al*
U.S. Application No.: 10/552,205
PCT No.: PCT/US2004/010577
Int. Filing Date: 07 April 2004
Priority Date: 07 April 2003
Attorney Docket No.: 047177-9121-US01
For: MODULAR REFRIGERATION UNIT

Mr. Gutierrez:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. The counsel for the applicant is listed below. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

MICHAEL BEST & FRIEDRICH, LLP
100 E. Wisconsin Avenue
Milwaukee, WI 53202

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

19 FEB 2008

TREXLER, BUSHNELL, GIANGIORGI,
BLACKSTONE & MARR, LTD.
105 WEST ADAMS STREET
SUITE 3600
CHICAGO IL 60603

In re Application of	:	DECISION ON
Colin Roy Tarry	:	
Application No.: 10/552,221	:	
PCT No.: PCT/GB2004/002957	:	PETITION UNDER
Int. Filing Date: 08 July 2004	:	
Priority Date: 12 July 2003	:	37 CFR 1.10 (e)
Attorney's Docket No.: 198/43889/Case 522- PCT-US	:	
For: CONDUCTIVE MATERIALS	:	

This is in response to applicant's "PETITION TO REVIVE" filed 29 January 2008, which is being treated as a petition under 37 CFR 1.10(e) requesting that the "RESPONSE TO NOTIFACATION ... DESIGNATED/ELECTED OFFICE (DO/EO/US) " be considered as received in the United States Patent and Trademark Office (USPTO) timely. No petition fee is required.

BACKGROUND

On 06 October 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, which was accompanied by, inter alia, the U.S. basic national fee. No executed declaration or oath was submitted at such time.

On 21 August 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 1.497(a), and (b), identifying the application by the International application number and international filing date. The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it: is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68." The notice indicated that the items must be submitted within two months from date of mailing or by 32 months from the priority date of the application, in order to avoid abandonment of the national stage application.

On 22 January 2008, the United States Patent and Trademark Office mailed the Notification of Abandonment (PCT/DO/EO/909) since applicant failed to respond to the notification of MISSING REQUIREMENTS (Form PCT/DO/EO/905), mailed 08/21/2006 within the time period set therein.

On 29 January 2008, applicant filed the present petition. The petition states that on August 25, 2006, applicant submitted a Response to the Notification of Missing Requirement, which was timely. The petition includes, *inter alia*, a copy of "Express Mail" Label No. EV389414962US, however it is blank with respect to the "date-in" box and there is no date stamped by the USPS.

DISCUSSION

37 CFR 1.10(e) states:

> (e) Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS, but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";
>
> (3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and
>
> (4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence, and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence original Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

Applicants has satisfied item (1), but not items (2) - (4) of 37 CFR 1.10(e).

With regard to item (1), the present petition was promptly filed.

With regard to item (2), a review of the application file indicates that the number of the Express Mail mailing label "EV389414962US" was not placed on the correspondence, i.e., it does not appear to be placed any of pages of the correspondence received.

With regard to item (3), applicant not has provided a copy of the originally purported a copy of the Express Mail label "EV389414962US" showing the "date-in" as 25 August 2008. The statement provided by Amy Lazzari is not a substitute for the requirement of the "Date-in" date on the "Express Mail" label showing the date the papers were filed at the USPS.

With regard to item (4), applicant has not provided the requisite statement that applicant submits true copies of the documents submitted on 25 August 2008.

For the above reasons, it would not be appropriate to grant the petition under 37 CFR 1.10(e) at this time.

Accordingly, the application remains abandoned.

CONCLUSION

For reasons above, the petition under 37 CFR 1.10(e) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(e)." 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.

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

3 1 MAR 2008

TREXLER, BUSHNELL, GIANGIORGI,
BLACKSTONE & MARR, LTD.
105 WEST ADAMS STREET
SUITE 3600
CHICAGO IL 60603

In re Application of	:	DECISION ON
Colin Roy Tarry	:	
Application No.: 10/552,221	:	
PCT No.: PCT/GB2004/002957	:	PETITION UNDER
Int. Filing Date: 08 July 2004	:	
Priority Date: 12 July 2003	:	37 CFR 1.10 (e)
Attorney's Docket No.: 198/43889/Case 522- PCT-US	:	
For: CONDUCTIVE MATERIALS	:	

This is in response to applicant's "RENEWED PETITION UNDER 37 CFR 1.10(e)" filed 04 March 2008, requesting that the "RESPONSE TO NOTIFACATION ... DESIGNATED/ELECTED OFFICE (DO/EO/US)" be considered as received in the United States Patent and Trademark Office (USPTO) timely.

BACKGROUND

In a decision from this Office on 19 February 2008, the petition filed on 29 January 2008 because items (2) – (4) of 37 CFR 1.10(e) were not met.

On 4 March 2008, applicant filed the current renewed petition, which includes a true copy of the Express Mail mailing label and the Response which identifies the Express Mail mailing number.

DISCUSSION

37 CFR 1.10(e) states:

> (e) Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS, but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence, and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence original Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

Applicants has now satisfied items (1) - (4) of 37 CFR 1.10(e).

With regard to item (2), a review of the application file indicates that the number of the Express Mail mailing label "EV389414962US" was placed on the correspondence prior to the original mailing by Express Mail on 25 August 2006.

With regard to item (3), applicant has provided a copy of the originally purported a copy of the Express Mail label "EV389414962US" showing the "date-in" as 25 August 2006.

With regard to item (4), applicant has provided the requisite statement that applicant submits true copies of the documents submitted on 25 August 2006.

The petition is deemed to satisfy requirements (1), (2), (3) and, (4) under 37 CFR §1.10(e).

For the above reasons, it would be appropriate to grant the petition under 37 CFR 1.10(e) at this time.

Accordingly, the date of receipt for the executed Declaration is 25 August 2006.

CONCLUSION

For the reasons above, the petition under 37 C.F.R. §1.10(e) is **GRANTED**.

The Notification of Abandonment (PCT/DO/EO/909) mailed 22 January 2008 was in error and is hereby **VACATED**.

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 **25 August 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
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

SCHMEISER, OLSEN & WATTS
22 CENTURY HILL DRIVE
SUITE 302
LATHAM, NY 12110

Mail Date: 04/21/2010

Applicant	: Volker Fricke	: DECISION ON REQUEST FOR
Patent Number	: 7610398	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/552,230	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/30/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **435** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

SCHMEISER, OLSEN & WATTS
22 CENTURY HILL DRIVE
SUITE 302
LATHAM, NY 12110

Mail Date: 05/18/2010

Applicant : Volker Fricke
Patent Number : 7610398
Issue Date : 10/27/2009
Application No : 10/552,230
Filed : 06/30/2006

: 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 **468** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Brinks Hofer Gilson & Lione/Ann Arbor
524 South Main Street
Suite 200
Ann Arbor MI 48104

MAILED

MAY 03 2010

OFFICE OF PETITIONS

In re Patent No. 7,531,580	:	
Issue Date: May 12, 2009	:	
Application No. 10/552,236	:	ON PETITION
Filed: October 7, 2005	:	
Attorney Docket No. 121036-0088	:	

This is a decision on the petition filed December 28, 2009, which is being treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Pursuant to petitioner's authorization, deposit account no. 23-1925 will be charged the required $130.00 processing fee and the $100.00 certificate of correction fee.

Petitioner requests issuance of a certificate of correction in the name of "Unimatec Co., Ltd., Tokyo (JP) and NOK Corporation, Tokyo (JP)."

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 **before issuance of the patent**, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

The present petition is dismissed because the proposed certificate of correction lists an incorrect application number.

A review of Office database assignment records reflects that assignments to Unimatec Co., Ltd., Tokyo (JP) and NOK Corporation, Tokyo (JP) have been recorded. Therefore, upon submission of an acceptable certificate of correction, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that Unimatec Co., Ltd., Tokyo (JP) and NOK Corporation, Tokyo (JP) were the assignees of record at the time of issuance of the application into a patent. *Note also* 35 U.S.C. § 152.

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignees set forth in this request, since this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3230. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

17 OCT 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

HAYNES AND BOONE, LLP
901 MAIN STREET
SUITE 3100
DALLAS, TX 75202-3789

In re Application of BRISCO et al	:	
U.S. Application No.: 10/552,253	:	
PCT Application No.: PCT/US2004/010762	:	
Int. Filing Date: 06 April 2004	:	
Priority Date Claimed: 07 April 2003	:	DECISION
Attorney Docket No.: 25791.273.06	:	
For: APPARATUS FOR RADIALLY	:	
EXPANDING AND PLASTICALLY	:	
DEFORMING A TUBULAR MEMBER	:	

This is in response to applicant's "Petition under 37 C.F.R. § 1.182" filed 28 August 2007.

BACKGROUND

On 06 April 2004, applicant filed international application PCT/US2004/010762, which claimed priority of an earlier United States application filed 07 April 2003. The thirty-month period for paying the basic national fee in the United States expired on 07 October 2005.

On 04 October 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 23 August 2006, applicant's deposit account was debited for excess claim fees.

On 28 August 2007, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

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/US2004/010762 reveals that the application contained 521 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 04 October 2005 did not include a proper preliminary amendment. However, it is apparent from the papers filed 04 October 2005 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 98 claims, rather than the 521 claims contained in the international application. Furthermore, the transmittal letter (Form PTO-1390) contained a payment calculation based on the presence of 98 claims as opposed to 521 claims. A proper preliminary amendment was filed with the present petition, reducing the total number of claims to 98. 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 521 claims, less the claim fees based on the remaining 98 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 $34,150.00 has been paid for excess claim fees. The application currently contains 98 total claims, 28 of which are independent claims. Thus, a fee of $3,900.00 for 78 claims in excess of 20 is required, and a fee of $5,000.00 for 25 independent claims in excess of 3 is required. A total of $25,250.00 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 3672 for examination in due course.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

Adjustment Date: 10/17/2007 SBASHEIR
08/23/2006 SAHMED1 00000001 081394 10552253
01 FC:1615 21050.00 CR

10/17/2007 SBASHEIR 00000008 081394 10552253
Sale Ref: 00000008 DA#: 081394 10552253
01 FC:1462 400.00 DA

Adjustment Date: 10/17/2007 SBASHEIR
08/23/2006 SAHMED1 00000001 081394 10552253
02 FC:1614 4200.00 CR

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton, NJ 08543-5312

Mail Date: 04/21/2010

Applicant	: Jobst Horentrup	: DECISION ON REQUEST FOR
Patent Number	: 7643384	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/552,264	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/28/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **830** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

25 APR 2007

Ted Sabety
Sabety & Associates, PLLC
1500 Broadway, 12th Floor
New York, New York 10036

In re Application of	:	
PIRRIE, Alastair	:	
Application No.: 10/552,272	:	DECISION ON PETITION
PCT No.: PCT/GB04/01431	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 01 April 2004	:	
Priority Date: 07 April 2003	:	
Attorney Docket No.: 089244-000100US	:	
For: SPRAY ELECTRODE		

The petition to revive under 37 CFR 1.137(b) filed 26 March 2007 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted an oath/declaration and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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.
10/552,299	08/25/2006	Orit Kollet	30694/41506	2069

4743 7590 05/03/2010
MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO, IL 60606-6357

EXAMINER
SHEN, WU CHENG WINSTON

ART UNIT	PAPER NUMBER
1632	

MAIL DATE	DELIVERY MODE
05/03/2010	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.

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

MAY 0 3 2010

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

In re Application of:	:
Kollet et al.	:
Serial No.: 10/522,299	: PETITION DECISION
Filed: August 25, 2006	:
Attorney Docket No.: **DE 020188**	:

This is in response to the petition under 37 CFR § 1.181, filed March 17, 2010, requesting that the finality of the Office action of January 20, 2010 be withdrawn.

BACKGROUND

The examiner mailed a non-final Office action on May 27, 2009 setting a three month statutory limit for reply. At the time of this non-final Office action, claims 1-62 were pending, claims 1-29, 37 and 40-62 were withdrawn as being directed toward a non-elected invention and claims 30-36, 38 and 39 were examined on their merits. Claims 30-36, 38 and 39 were rejected under 35 USC 112, second paragraph, for being indefinite. Claims 30-36, 38 and 39 were rejected under 35 USC 102 (b) as being anticipated by Kollet et al. as evidenced by Janowska-Wieczorek et al. . Claims 30-36, 38 and 39 were rejected again under 35 USC 102 (b) as being anticipated by Kollet et al. as evidenced by Janowska-Wieczorek et al.

On October 12, 2009, applicants submitted a response including arguments and amendments to the claims.

On January 20, 2010, the examiner mailed a final Office action setting a three month statutory limit for reply. At the time of this final Office action, claims 1-62 were pending in the application. Claims 30-36, 38 and 39 were newly rejected under 35 USC 103(a) as being unpatentable over Kollet et al. in view of Heissing et a., Togawa et al., Rafii et al. and Sadatmansoori et al.

In response thereto, applicants filed this petition on March 17, 2010, requesting that the finality of the Office action of January 20, 2010 be withdrawn.

DISCUSSION

The petition and the file history have been carefully considered.

Applicants argue that the "first amendment added the limitation that the matrix metalloprotease (or active portion thereof) be exogenous. In the sole claim rejection in the outstanding final Office Action, the Examiner relied on Kollet, Heissig, Rafii, Togawa and Sadatmansoori, but the Examiner did not cite any of these references as disclosing or suggesting an exogenous matrix metalloprotease. Based on the failure to rely on any cited reference as disclosing or suggesting the "exogenous" matrix metalloprotease of the amended claims, it cannot be true that so amending the claims necessitated the admittedly new rejection imposed in the outstanding final Office Action." This argument is not persuasive because the secondary reference to Togawa et al. teach that the functionally active MMP-2 and MMP-9 Highly activated matrix metalloproteinase-2 secreted from clones of metastatic lung nodules of nude mice are exogenous to the stem cells embraced by the claims.

Applicants also argue that "The second amendment to claim 30 clarified the scope of the claimed subject matter. The Examiner rejected claim 30 under 35 U.S.C. § 112, second paragraph, as indefinite in reciting a "predetermined threshold" without adequate definition of the threshold. In response, Applicants defined the threshold as an increase in CXCR4 levels in the presence versus the absence of the matrix metalloprotease. Again, the Examiner did not rely on any of the references cited in the outstanding final Office Action as disclosing or suggesting this element of the amended claim." This argument is also not persuasive since the final Office action of January 20, 2010 recites that Kollet et al. teach an increase in CXCR4 levels (see first paragraph of page 7 continuing onto page 8).

Accordingly it is considered that applicants' amendments necessitated new grounds of rejection. Consequently, the final Office action of January 20, 2010 is not considered improper and the finality of said Office action will not be withdrawn.

DECISION

The petition is **DENIED.**

Any new or renewed petition must be filed within TWO MONTHS of the mail date of this decision.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

George C. Elliott

George Elliott
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

07 JAN 2008

CATHERINE M. MCCARTY
FISH & RICHARDSON P.C.
225 FRANKLIN STREET
BOSTON, MA 02110

In re Application of	:	
VU *et al*	:	
Application No.: 10/552,306	:	
PCT No.: PCT/US04/11007	:	
Int. Filing Date: 09 April 2004	:	NOTIFICATION
Priority Date: 09 April 2003	:	
Atty. Docket No.: 10274-156US1	:	
For: Triazolo (1, 5-A) Pyrimidines & Pyrazolo (1, 5-A) Pyrimidines and Methods of Making and Using The Same	:	

This application is before the Office of PCT Legal Administration for consideration of matters relating to 35 U.S.C. 371.

BACKGROUND

On, 09 April 2004, applicant filed International Application No. PCT/US04/11007 which claimed a priority date of 09 April 2003, and which designed the United States. The international application named three inventors as applicant for the United States.

The deadline for submission of a copy of the international application (unless previously communicated by the International Bureau) and payment of the basic national fee was set to expire 30 months from the priority date, i.e. 09 October 2005.

On, 07 October 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, 15 June 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENT UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors was required.

On, 25 September 2007, applicant filed a Submission of Missing Parts of Application which was accompanied by, inter alia, Combined Declaration and Power of Attorney.

On, 05 December 2007, the United States Designated/Elected Office (DO/EO/US) issued a NOTIFICATION OF ACCEPTANCE....UNDER 35 U.S.C.371 and 37 C.F.R. 1.495 (Form PCT/DO/EO/903) indicating that the application had been accepted into the national stage under 35 U.S.C. 371 and had a 35 U.S.C. 371 (c) (1), (2), and (4) date of 25 September 2007.

DISCUSSION

A review of the application file reveals that applicants have not submitted an acceptable declaration of the inventors. The declaration filed during the international stage is unacceptable in that it appears to be a composite of portions of multiple separate declarations. Therefore, in view of the fact that applicants have not submitted a declaration in compliance with 37 CFR 1.497, the Form PCT/DO/EO/903 was issued in error.

Applicants must submit either a complete single declaration executed by all inventors or complete separate declarations as executed by the individual inventors.

CONCLUSION

For the reasons above, NOTIFICATION OF ACCEPTANCE mailed 05 December 2007, is hereby **VACATED**.

This application is being returned to the DO/EO/US for further processing including the issuance of a NOTICE OF DEFECTIVE RESPONSE (Form DO/EO/916) requiring a new declaration.

Stacy Duncan
Paralegal Specialist
Office of PCT Legal Administration
(571) 272-4989
Fax: (571) 273-0459

Richard Cole
Sr. Legal Examiner
Office of PCT Legal Administration
(571) 272-3281
(571) 272-0459

26 SEP 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK, NY 10168

In re Application of	:	
HATTENDORF, Heike et al.	:	DECISION
Application No.: 10/552,310	:	
PCT No.: PCT/DE04/00454	:	ON PETITION UNDER
Int. Filing Date: 08 March 2004	:	
Priority Date: 11 March 2003	:	37 CFR 1.137(b)
Docket No.: F-8856	:	
For: IRON-CHROMIUM-ALUMINUM ALLOY	:	

Applicant's "Petition For Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 07 October 2005 is **GRANTED**.

Applicant indicates that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, as required by 37 CFR 1.137(b)(3). The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

Applicant supplied a declaration in compliance with 37 CFR 1.497(a)-(b) during the international phase. The fee for late furnishing of the search fee, examination fee or oath or declaration will be charged to deposit account no. 10-1250, 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 mailing of a Notification of Missing Requirements indicating that an English translation of the international application is required.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

09/26/2006 SWASHEIK 00000002 101250 10552310
01 FC:1618 130.00 DA

UNITED STATES PATENT and TRADEMARK OFFICE

25 AUG 2006

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Ronald J. Baron
Hoffmann & Baron, LLP
6900 Jericho Turnpike
Syosset, New York 11791

In re Application of	DECISION ON
Oonk et al	
Application No.: 10/552,311	
PCT No.: PCT/NL2004/000213	
Int. Filing Date: 29 March 2004	PETITION UNDER
Priority Date: 28 March 2003	
Attorney's Docket No.: 294-229 PCT/US	
For: PURIFICATION OF OFF-GASES FROM	
GAS-FIRED PLANTS	37 CFR 1.137(b)

This decision is in response to applicants' "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. 1.137(b)," filed on 07 October 2005. The required fee of $65.00 (the surcharge under 1.492(h) for late filing of the executed declaration) has charged to Deposit Account No 08-2461 as specified in the transmittal letter.

BACKGROUND

On 29 March 2004, this international application was filed, claiming an earliest priority date of 28 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 28 September 2005. This international application became abandoned with respect to the United States at midnight on 28 September 2005 for failure to pay the required basic national fee.

On 07 October 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 **07 October 2005.**

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

HOXIE & ASSOCIATES LLC
75 MAIN STREET , SUITE 301
MILLBURN, NJ 07041

Mail Date: 04/21/2010

Applicant	: Birgit Bollbuck	: DECISION ON REQUEST FOR
Patent Number	: 7615562	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/552,317	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/06/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **796** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

1 3 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

Ranbaxy Inc.
600 College Road East
Suite 2100
Princeton, New Jersey 08540

In re Application of
MEHTA et al.
U.S. App. No.: 10/552,322
PCT No.: PCT/IB03/01266
Int. Filing Date: 07 April 2003
Priority Date: None
Attorney Docket No.: RLL-313US
For: OXAZOLIDINONE DERIVATIVES AS ANTIMICROBIALS

DECISION ON PETITION
UNDER 37 CFR 1.182

This decision is issued in response to the "Petition To Withdraw The Holding Of Abandonment Under 37 CFR 1.181(b) and 1.182" filed 31 January 2008 (treated as a petition under 37 CFR 1.182). Deposit Account No. 50-0912 will be charged the $400 petition fee.

BACKGROUND

On 07 April 2003, applicants filed international application PCT/IB03/01266 which claimed no priority date and which designated the United States. On 21 October 2004, a copy of the international application was transmitted to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB"). Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 21 October 2004.

On 07 October 2005, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, the basic national fee.

On 20 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/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 was required.

On 05 December 2007, the DO/EO/US mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned with respect to the United States for failure to respond to the Notification Of Missing Requirements.

On 31 January 2008, applicants filed the petition to withdraw the holding of abandonment considered herein. In the petition, applicants assert that they timely

submitted the materials required by the Notification Of Missing Requirements. Specifically, applicants assert that a declaration was filed on 19 January 2007, however, applicants note that the submission was submitted under an incorrect application number (10/522,322).

DISCUSSION

Where, as here, materials have been filed under the wrong application number, a grantable petition under 37 CFR 1.182 is required to confirm the previous submissions and to have such submissions treated as having have been filed in the present application on the respective filing dates, as required to withdraw the holding of abandonment. Such a petition requires: (1) payment of the petition fee; (2) the presence in the earlier submissions of an adequate reference to the correct application, and (3) evidence confirming the previous submissions (including copies of such materials).

In order to confirm the purported 19 January 2007 submission, applicants have provided copies of return postcards itemizing the materials filed by applicants on 19 January 2007 bearing USPTO receipt stamps for the respective dates, as well as copies of materials which appear to correspond to items filed on 19 January 2007. With respect to the declaration filed on 19 January 2007, the original submission has been located and transferred to the present application file. This document bears a USPTO receipt stamp dated 19 January 2007, confirming the asserted filing date. The 19 January 2007 filing of the declaration is therefore confirmed.

CONCLUSION

Applicants' petition under 37 CFR 1.182 is **GRANTED**.

In view of the receipt of the declaration filed 19 January 2007, which was a timely response to the Notification of Missing Requirements mailed 20 June 2006, the holding of abandonment is hereby **WITHDRAWN**.

This application will be given an international filing date of 07 April 2003 and a date of 19 January 2007 under 35 U.S.C. 371. The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

05 JUL 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6780

In re Application of	:	
HUFFMAN	:	
Application No.: 10/552,339	:	DECISION ON
PCT No.: PCT/US2004/009112	:	
Int. Filing Date: 26 March 2004	:	PETITION UNDER
Priority Date: 27 March 2003	:	
Attorney Docket No.: 239104	:	37 CFR 1.137(b)
For: MODULAR SPRAY GUN	:	
WITH MULTIPLE CONTROL MODULES	:	

This decision is in response to applicant's submission filed 07 October 2005.

BACKGROUND

On 26 March 2004, applicant filed international application PCT/US2004/009112 which designated the U.S. and claimed a priority date of 27 March 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (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 27 September 2005.

On 07 October 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 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 October 2005.

As to item (2), applicant submitted the petition fee on 07 October 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

14 JUN 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Thomas E. Sisson & Jackson Walker
112 E. Pecan St., Suite 2100
San Antonio, TX 78205

In re Application of :
SETLIFF *et al* :
U.S. Application No.: 10/552,345 :
PCT No.: PCT/US2004/007247 :
Int. Filing Date: 10 March 2004 : **DECISION**
Priority Date: 10 March 2003 :
Attorney's Docket No.: P-122314.2(PCT)(US) :
For: CONTROLLED LOW STRENGTH :
FLOWABLE FILL COMPOSITION . . . :

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 06 October 2005 is hereby **GRANTED** as follows:

The basic national fee and petition fee have been paid. Applicants' statement is sufficient to meet the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

The declaration filed 06 October 2005 is not in compliance with 37 CFR 1.497. The declaration consists of one Page 1 and three Page 2's. While each inventor need not execute the same oath or declaration, each oath or declaration must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. By providing only a partial declaration, it is not clear what inventive entity was listed on the declaration signed by each co-inventor. Applicants must submit the complete declaration signed by each co-inventor.

This application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) is required.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

AUG 29 2007

OFFICE OF PETITIONS

GLOBAL PATENT GROUP
ATTN: MS LAVERN HALL
10411 CLAYTON ROAD, SUITE 304
FRONTENAC, MO 63131

In re Application of
LIU, Kevin et al.
Application No. 10/552,358
Filed: July 10, 2006
Attorney Docket No. **K0001-502-US**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 11, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, (transfer of representation by assignee/owner), do not meet any the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary

evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272- 4231.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Patrick W Rasche
Armstrong Teasdale
Suite 2600
One Metropolitan Square
St Louis, MO 63012

Mail Date: 04/21/2010

Applicant	: Hai Yu	: DECISION ON REQUEST FOR
Patent Number	: 7595713	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/552,359	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/03/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **965** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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

Patrick W Rasche
Armstrong Teasdale
Suite 2600
One Metropolitan Square
St Louis, MO 63012

Mail Date: 04/21/2010

Applicant	: Hai Yu	: DECISION ON REQUEST FOR
Patent Number	: 7595713	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/552,359	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/03/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **965** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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

MAIL

NOV 15 2006

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

WENDEROTH, LIND & PONACK L.L.P.
2033 K. STREET, NW
SUITE 800
WASHINGTON DC 20006

In re Application of :
Hiroshi YAHATA, et al. :
Application No. 10/552,371 : DECISION ON PETITION
Filed: October 7, 2005 : TO MAKE SPECIAL
For: **INFORMATION RECORDING MEDIUM, AND APPARATUS AND METHOD FOR RECORDING INFORMATION INTO INFORMATION RECORDING MEDIUM** :

This is a decision on the petition filed February 10, 2006 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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

MAIL

NOV 15 2006
DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

WENDEROTH, LIND & PONACK L.L.P.
2033 K. STREET, NW
SUITE 800
WASHINGTON DC 20006

In re Application of
Hiroshi YAHATA, et al.
Application No. 10/552,372
Filed: October 7, 2005
For: **INFORMATION RECORDING MEDIUM, AND APPARATUS AND METHOD FOR RECORDING INFORMATION TO INFORMATION RECORDING MEDIUM**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed February 6, 2006 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

23 JUN 2006

United States Patent and Trademark Office

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HONEYWELL TURBO TECHNOLOGIES
23326 HAWTHORNE BOULEVARD, SUITE #200
TORRANCE CA 90505

In re Application of	:	
Chen	:	
Application No.: 10/552,376	:	DECISION
PCT No.: PCT/GB02/03779	:	
Int. Filing Date: 13 August 2002	:	ON
Earlier Priority Date: N/A	:	
Attorney Docket No.: H0003955	:	PETITION
For: Compressor	:	

The petition to revive under 37 CFR 1.137(b) filed 07 October 2005 in the above-captioned application is hereby **GRANTED** as follows:

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." This statement is 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. 01-1125, per the "Petition Fee Under 37 CFR 1.17(m)" fee transmittal letter.

This application is being forwarded to the United States Designated/Elected Office for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **07 October 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

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

26 OCT 2006

Kevin D. McCarthy
Roach Brown McCarthy & Gruber
420 Main Street
1620 Liberty Building
Buffalo, NY 14202

In re Application of	:	
FISHLER	:	
Application No.: 10/552,377	:	DECISION ON PETITION
PCT No.: PCT/IL04/00317	:	
Int. Filing Date: 08 April 2004	:	UNDER 37 CFR 1.181
Priority Date: 14 April 2003	:	
Attorney Docket No.: 0-05-165	:	
For: SOLID BIOCIDE FORMULATIONS	:	

This decision is in response to applicant's petition under 37 CFR 1.181 to withdraw the holding of abandonment filed 15 August 2006 in the United States Patent and Trademark Office (USPTO). No petition fee is required.

BACKGROUND

On 08 April 2004, applicant filed international application PCT/IL04/00317, which claimed a priority date of 14 April 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 21 October 2004. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 14 October 2005.

On 07 October 2005, applicant filed a transmittal letter for entry into the national stage in the United States.

On 08 August 2006, applicant was mailed a "Notification of Abandonment" (Form PCT/DO/EO/09) indicating that the present application was abandoned as to the United States of America for failure to failure to provide payment of the full U.S. Basic National fee prior to the expiration of thirty months from the priority date.

On 15 August 2006, applicant filed the petition considered herein.

DISCUSSION

Applicant has presently provided a legible copy of the receipt postcard which shows a USPTO date stamp, "JC06 Rec'd PCT/PTO 07 OCT 2005" and clearly identifies in part: "Check: $690." The return postcard has not been annotated in any way to indicate that the check was not

received. The evidence is sufficient to establish that a check in the amount of $690.00 was received in the USPTO on 07 October 2005. Applicant's transmittal letter has been stamped to indicate that the check was not received. Thus, it appears that the check was misplaced somewhere within the office causing the Form PCT/DO/EO/909 to be mailed. Applicant has present provided payment of the full U.S. Basic National fee. As such, it is proper to **GRANT** applicant's petition at this time.

In addition, applicant has provided an executed declaration from the inventor. The filed declaration complies with 37 CFR 1.497 (a)-(b). In addition, a review of the fee record for this application shows payment of the appropriate surcharge.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The "Notification of Abandonment" (Form PCT/DO/EO/909) mailed 08 August 2006 is hereby **VACATED**.

The application has an international filing date of 08 April 2004 under 35 U.S.C. 363 and will be given a date of **15 August 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision, namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495" (Form PCT/DO/EO/903) indicating a 371 date as detailed above.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/12/10

TO SPE OF : ART UNIT 2431

SUBJECT : Request for Certificate of Correction for Appl. No.: 10552384 Patent No.: 7668312

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

William Korzuch
SPE

2431
Art Unit

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

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 06/03/2010

Applicant	: Richard Ross	: DECISION ON REQUEST FOR
Patent Number	: 7625998	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/552,388	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **451** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

17 AUG 2006

CAROL WILSON
BP AMERICA INC.
MAIL CODE 5 EAST
4101 WINFIELD ROAD
WARRENVILLE IL 60555

In re Application of	:	
WARFIELD et al.	:	
Application No.: 10/552,389	:	DECISION
PCT No.: PCT/US2004/011525	:	
Int. Filing Date: 15 April 2004	:	
Priority Date: 16 April 2003	:	
Attorney's Docket No.: SL1226	:	
For: INSTALLING A SOLAR PANEL ON A ROOF	:	

This decision is in response to applicant's submission filed 26 June 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 15 April 2004, applicants filed international application PCT/US2004/011525, which designated the U.S. and claimed a priority date of 16 April 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 04 November 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 17 October 2005 (16 October 2005 being a Sunday).

On 07 October 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 20 June 2006, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) were required. This NOTIFICATION set a two month extendable period for reply.

On 26 June 2006, applicant filed the instant submission which was accompanied by, inter alia, a copy of Form PCT/IB/371 and a copy of a declaration under PCT Rule 4.17(iv).

DISCUSSION

The NOTIFICATION OF MISSING REQUIREMENTS mailed 20 June 2006 indicated

that a declaration of inventorship was required. However, as set forth in applicants' submission filed 26 June 2006, a declaration of inventorship under PCT Rule 4.17 was filed in the international application within the time limit under PCT Rule 26ter.1. This declaration is proper. Accordingly, the NOTIFICATION OF MISSING REQUIREMENTS mailed 20 June 2006 is hereby VACATED.

CONCLUSION

For the reasons set forth above, the NOTIFICATION OF MISSING REQUIREMENTS mailed 20 June 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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Kai Sutter	: DECISION ON REQUEST FOR
Patent Number	: 7607336	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/552,395	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/18/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **738** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

MCCORMICK, PAULDING & HUBER LLP
CITY PLACE II
185 ASYLUM STREET
HARTFORD CT 06103

MAILED

APR 2 2 2009

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,464,544	:	
Issue Date: December 16, 2008	:	
Application No. 10/552,404	:	
Filed: October 7, 2005	:	
Attorney Docket No. 4724-0028WOUS	:	

This is a decision on the petition filed March 12, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

Pursuant to patentee's authorization, deposit account no. 13-0235 will be charged the $130.00 processing fee. The $100.00 Certificate of Correction fee was charged on January 21, 2009.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Shirene Willis Brantley
Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

---

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

COPY MAILED

DEC 15 2009

OFFICE OF PETITIONS

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Patent No. 7,467,823
Issued: December 23, 2008
Application No. 10/552,405
Filing or 371(c) Date: April 27, 2006
Dkt. No.: 026032-4965

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed February 20, 2009. Patentees request correction of the patent term adjustment from zero days to 23 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 treated under 37 CFR 1.705(d) as an application for patent term adjustment.

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. 7,467,823 on December 23, 2008. The patent issued with a patent term adjustment of zero days. The instant application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(d). Patentee argues 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 23 days (eight days pursuant to 35 USC 154(b)(1)(A) *plus* 76 days pursuant to 35 USC 154(b)(1)(B) *less* 61 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 December 23, 2008, the application was pending three years and 76 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 eight days pursuant to 37 CFR 1.702(a)(1) is correct. At issue is whether patentees should accrue 76 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as eight days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of eight days of examination delay under 37 CFR 1.702(a)(1) overlaps with the period of 76 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).

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.

---

[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.

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, October 8, 2005, and ending on the date that the patent issued, December 23, 2008.

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), eight days of examination delay accrued prior to issuance of patent. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), the application was pending three years and 76 days prior to the issuance of the patent on December 23, 2008.

The eight days of patent term adjustment under 37 CFR 1.702(a)(1) overlaps with the 76 days of delay in issuance of the patent under 37 CFR 1.702(b). Entry of both the 76 days and the eight days is neither permitted nor warranted given that 76 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office should have considered the 76 days of Office delay under the three-year pendency provision in conjunction with the eight days of examination delay and entered an overall adjustment of 76 days of patent term adjustment for Office delay, the actual number of days that issuance of the patent was delayed. The adjustment of 76 days is properly reduced 21 days for applicant delay, yielding a patent term adjustment of 15 days.

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 15 days.

Any request for reconsideration of this decision must be submitted within ONE MONTH of the mail date indicated herein. The time period for seeking reconsideration is not subject to extension under 37 CFR 1.136.

Receipt is hereby acknowledged of the required patent term adjustment application fee of $200.00. See, 37 CFR 1.18(e).

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	:	7,467,823 B2
DATED	:	December 23, 2008
INVENTOR(S)	:	Hartwich

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 0 days

Delete the phrase "by 0 days" and insert – by 15 days--

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

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

Mail Date: 04/21/2010

Applicant	: Dirk Hartwich	: DECISION ON REQUEST FOR
Patent Number	: 7467823	: RECALCULATION of PATENT
Issue Date	: 12/23/2008	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/552,405	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/27/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **88** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

1 4 MAY 2007

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 FIFTH AVENUE
16TH FLOOR
NEW YORK, NY 10001-7708

In re Application of MIKI, Yuji et al. Application No.: 10/552,414 PCT No.: PCT/JP04/00864 Int. Filing Date: 29 January 2004 Priority Date: 11 April 2003 Attorney's Docket No.: 05632/LH For: Method Of Continuous Steel Casting	DECISION ON SUBMISSION UNDER 37 CFR 1.42

This communication is issued in response to applicants' submission on 13 July 2006 of a declaration executed on behalf of deceased co-inventor Shuji Takeuchi by his legal representative. The submission has been treated as a submission under 37 CFR 1.42.

BACKGROUND

On 29 January 2004, applicant filed international application PCT/JP04/00864, claiming a priority date of 11 April 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 11 October 2005.

On 07 October 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 21 June 2006, 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) and the surcharge for late filing of the oath or declaration were required.

On 13 July 2006, to satisfy the requirements of 37 CFR 371(c)(4), applicants filed a declaration of the inventors and the $130 surcharge for late filing of the oath or declaration. The declaration was signed by co-inventors, Yuji Miki and Akira Yamauchi and, Yuko Takeuchi as legal representative for deceased co-inventor Shuji Takeuchi.

DISCUSSION

When an inventor has deceased, 37 CFR 1.42 permits the legal representative (executor, administrator, etc.) of the deceased inventor to execute the necessary oath or declaration and, apply for and obtain a patent.

37 CFR 1.497(b)(2) states:

> If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that (1) the person is a legal representative and the (2) citizenship, (3) residence and (4) mailing address of the legal representative.

A review of the declaration filed 13 July 2006 shows that Yuko Takeuchi has executed the declaration as legal representative for deceased co-inventor Shuji Takeuchi and has provided the statement required under item (1).

With regard to items (2)-(4), the residence, mailing address and citizenship of the legal representative has been provided. Items (2)-(4) have been satisfied. Also provided is the citizenship of deceased co-inventor Shuji Takeuchi.

The declaration filed on 13 July 2006 is found to satisfy 37 CFR 1.497(a)-(b) and as such is acceptable under 37 CFR 1.42.

CONCLUSION

Applicant's declaration filed 13 July 2006 under 37 CFR 1.42 is **GRANTED**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

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

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

BERKELEY LAW AND TECHNOLOGY GROUP
1700 N.W. 167TH PLACE, SUITE 240
BEAVERTON OR 97006

MAILED
JUL 21 2009
OFFICE OF PETITIONS

In re Application of	:	
Vinod Chintamani Malshe et al	:	
Application No. 10/552,422	:	DECISION ON PETITION
Filed: October 7, 2005	:	
Attorney Docket No. 044-P001	:	

This is a decision on the petition, filed May 6, 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 **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the Notice of Non-Compliant Amendment (Notice) mailed August 26, 2008, which set a shortened statutory period of ONE MONTH or THIRTY DAYS from the mailing date of the Notice to reply. A Notice of Abandonment was mailed on March 17, 2009.

Petitioner asserts that the Notice mailed August 26, 2008 was not received.

A review of the written record indicates that the Notice mailed August 26, 2008 was returned to the U.S.P.T.O as undelivered on September 3, 2008. The Notice of Abandonment mailed March 17, 2009 was also returned on March 24, 2009.

Petitioner states that "On April 7, 2007, the physical and mailing addresses of the Attorneys of Record was changed to 17933 NW Evergreen Parkway, Suite 250, Beaverton, Oregon, 97006 ..."

Petitioner contends that the first time that Applicants' Attorneys were made aware of the Notice was a phone call from Examiner Caralynne Helm on March 2, 2009.

On March 3, 2009, a Change of Address was submitted. However, the change of address appears to be improper. The Attorney and Registration number is not of record in the instant application.

The Notice of Abandonment mailed on March 17, 2009, states that "the last correspondence from the Office was returned as undeliverable due to address change not being filed appropriately in application. Applicant's representative was telephoned and notified of issue."

Petitioner could have called the Office to inquire of the status of the change of address, especially, since applicant was made aware of the returned correspondence on March 2, 2009. **Even though applicant was made aware of the improper change of address submitted on March 3, 2009, the Office is not in receipt of a proper change of address or Power of Attorney /change of address being submitted.**

Office records only indicate receipt of a change of address on March 3, 2009, after the mailing of the Notice on August 26, 2008. However, petitioner made it clear that the physical and mailing address of the Attorneys of Record was changed on April 7, 2007. In view of the above, the evidence submitted is not convincing to substantiate the granting of a petition to withdraw the holding of abandonment in the above application.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1,620.00 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

cc:

BERKELEY LAW AND TECHNOLOGY GROUP, LLP
17933 NW EVERGREEN PARKWAY, SUITE 250
BEAVERTON OR 97006

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

BERKELEY LAW AND TECHNOLOGY GROUP
1700 N.W. 167TH PLACE, SUITE 240
BEAVERTON OR 97006

MAILED

OCT 07 2009

OFFICE OF PETITIONS

In re Application of	:	
Vinod Chintamani Malshe et al	:	
Application No. 10/552,422	:	DECISION ON PETITION
Filed: October 7, 2005	:	
Attorney Docket No. 044-P001	:	

This is a decision on the renewed petition, filed September 21, 2009, under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the Notice of Non-Compliant Amendment (Notice) mailed August 26, 2008, which set a shortened statutory period of ONE MONTH or THIRTY DAYS from the mailing date of the Notice to reply. A Notice of Abandonment was mailed on March 17, 2009.

Petitioner asserts that the Notice mailed August 26, 2008 was not received.

BACKGROUND

A review of the written record indicates that the Notice mailed August 26, 2008 was returned to the U.S.P.T.O as undelivered on September 3, 2008. The Notice of Abandonment mailed March 17, 2009 was also returned on March 24, 2009.

Petitioner states that "On April 7, 2007, the physical and mailing addresses of the Attorneys of Record was changed to 17933 NW Evergreen Parkway, Suite 250, Beaverton, Oregon, 97006 ..."

Petitioner contends that the first time that Applicants' Attorneys were made aware of the Notice was a phone call from Examiner Caralynne Helm on March 2, 2009.

On March 3, 2009, a Change of Address was submitted. However, the change of address appears to be improper. The Attorney and Registration number is not of record in the instant application.

The Notice of Abandonment mailed on March 17, 2009, states that "the last correspondence from the Office was returned as undeliverable due to address change not being filed appropriately in application. Applicant's representative was telephoned and notified of issue."

THE PRESENT PETITION

Petitioner files the present petition and asserts that the Attorneys of Record, changed their mailing address of record with the USPTO via an Electronic Filing on May 15, 2007, and that the physical office location change was on April 7, 2007. Petitioner submitted as evidence, a copy of Exhibit B, an email received from Else Mebrahtu of the Patent Electronic Business Center of the USPTO to show that the address for the attorneys of record was changed on May 15, 2007.

The correspondence address history in this application illustrates, from December 12, 2005 through March 5, 2009, that this application did not have a customer number associated with it. The email from Elsa Mebrahtu included with the petition pertains to a Data Change associated with the customer number 43831. While that data change (an address change in this instance) was effected via PRIVATE PAIR, that change did not apply to the instant application as the instant application was, at that time at least, not associated with the customer number 43831. As a result, the Notice of non-compliant amendment dated (August 26, 2008) was mailed properly to the address of the record at that time. Therefore, the petition to withdraw the holding of abandonment is dismissed.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1,620.00 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was

discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

As stated in the decision mailed July 21, 2009, the change of address submitted on March 3, 2009, appears to be improper. The Attorney and Registration number is not of record in the instant application.

Petitioner should be aware that customer number 43831 has not yet been properly associated with the above-identified application.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

cc:

BERKELEY LAW AND TECHNOLOGY GROUP, LLP
17933 NW EVERGREEN PARKWAY, SUITE 250
BEAVERTON OR 97006

Creasy, Karen

From: Krishnamurthy, Ramesh
Sent: Monday, October 05, 2009 4:45 PM
To: Creasy, Karen
Subject: FW: Hope this data helps.

Attachments: Picture (Metafile)

Karen:

As the screen shot of the correspondence adress history in this application (10/554,422) illustrates, from 12/12/2005 - 03/05/2009, this application did not have a custormer number associated with it. The email from Elsa included with the petition pertains to a Data Change associated with the customer number 43831. While that data change (an address change in this instance) was effected via PRIVATE PAIR, that change did not apply to the instant application as the instant application was, at that time at least, not associated with the customer number 43831. As a result, the Notice of non-compliant amendment dated (August 26, 2008) was mailed properly to the address of the record at that time.

--Ramesh

From: Stewart, James (Trawick)
Sent: Monday, October 05, 2009 4:23 PM
To: Krishnamurthy, Ramesh
Subject: Hope this data helps.

Ramesh,

Below is the list of data changes that were processed for that application, it seems odd to have so many data changes on 3/09/09. The request are made in OPAP or the GAU. Why these changes were make are still a mystery the decimation is not available in the Image File Wrapper.

PMG151C APC Application Correspondence Address History - 10552422

File Edit Window Help

Begin Date	End Date	Change Reason Code	Customer No	Address
03/09/2009				BERKELEY LAW AND TECHNOLOGY G
03/09/2009	03/09/2009		43831	BERKELEY LAW & TECHNOLOGY GRO
03/09/2009	03/09/2009		43831	FAX503-439-6558
03/09/2009	03/09/2009		43831	TEL503-439-6500
03/05/2009	03/09/2009			BERKELEY LAW, AND TECHNOLOGY
03/05/2009	03/05/2009		43831	BERKELEY LAW & TECHNOLOGY GRO
03/05/2009	03/05/2009		43831	FAX503-439-6558
03/05/2009	03/05/2009		43831	TEL503-439-6500
12/12/2005	03/05/2009			BERKELEY LAW AND TECHNOLOGY G

mspear 10/05/2009

James Stewart
Management Services Team Lead
Patents Electronic Business Center
Team Trawick
703.682.1320 - Phone
571.273.9453 - Fax

PAIR CHANGE REQUEST REPORT 09-03-2009::11:38:42

Customer Name: Michael John Willardson **Customer Number :** 43831

Name of Individual Submitting Request: Michael John Willardson
Registration Number: 50856

Date Submitted : 05-15-2007::15:02:48 **Date Printed** : 09-03-2009::11:38:42

Date Responded : 05-15-2007::15:02:48

Previous address is as follows :

Firm or Individual Name Line 1	: BERKELEY LAW & TECHNOLOGY GROUP, LLP
Firm or Individual Name Line 2	: -
Address Line 1	: 1700 NW 167TH PLACE
Address Line 2	: SUITE 240
City	: BEAVERTON
State	: OR
Zip	: 97006
Country	: UNITED STATES
Telephone	: 503-439-6500
Email Address	: -
Fax	: 503-439-6558

Changed address is as follows :

Firm or Individual Name Line 1	: BERKELEY LAW & TECHNOLOGY GROUP, LLP
Firm or Individual Name Line 2	: -
Address Line 1	: 17933 NW Evergreen Parkway, Suite 250
Address Line 2	: -
City	: BEAVERTON
State	: OR
Zip	: 97006
Country	: UNITED STATES
Telephone	: 503-439-6500
Email Address	: -
Fax	: 503-439-6558

Practitioner registration number(s) to be deleted:
54431 Scout, Justin

Practitioner registration number(s) to be added:
-

User Comments:
null

Point of Contact Information:

Point of Contact Name	: Julianne Flynn
Point of Contact Telephone	: 503-439-6500
Point of Contact E-Mail	: jflynn@bltg-ip.com

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

Vinod Chintamani Malshe et al.

Application No.: 10/552,422

Filed: October 7, 2005

Confirmation No.: 6676

For: BIODEGRADABLE ALIPHATIC POLYESTERS AND PHARMACEUTICAL COMPOSITIONS AND APPLICATIONS THEREOF

Art Unit: 1615

Examiner: Caralynne E. Helm

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being submitted via Electronic Filing System or facsimile (571-273-8300) or USPS to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:

9.21.09
Date of Transmission

Kristi Schroeder
Name of Person Transmitting Correspondence

Kristi Schroeder 9.21.09
Signature *Date*

MAIL STOP PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR RECONSIDERATION:
PETITION UNDER 37 CFR § 1.181 (a) TO WITHDRAW HOLDING OF ABANDONMENT

Dear Sir:

On August 26, 2008, the USPTO mailed a Notice of Non-Compliant Amendment to the Attorneys of Record in the matter cited above. However, Applicant's representative never received the Notice of Non-Compliant Amendment. Subsequently, a Notice of Abandonment was mailed on March 17, 2009, citing that Applicants had not timely replied to the Notice mailed on August 26, 2008. Applicants petitioned to withdraw the holding of abandonment because Applicants never received at the address of record the Notice mailed on August 26, 2008. That

petition was dismissed in a decision mailed on July 21, 2009. (See Exhibit A: Petition Dismissal) This is a timely filed request for reconsideration with respect to that decision.

Applicants are calling upon the requirements of MPEP section 711.03 (c) I A with regard to consideration in this matter. That section states: "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." MPEP section 711.01(c) I A. Applicant is requesting that this relief specifically be granted here.

Howard Skaist, undersigned and an attorney with Applicant's representative called the Petitions Examiner in this case, Karen Creasy, on August 27th, 2009 in an attempt to determine the scope of evidence necessary to successfully have the holding of abandonment withdrawn. Applicant's representative explained to the Petitions Examiner that the address for the Attorneys of Record in this matter had been changed in 2007 via an Electronic Filing. The Petitions Examiner agreed during the call that such evidence would be compelling in establishing that the steps taken here were reasonable and that this evidence, coupled with evidence that the Notice had not been received, which had already been established in the written record, would go far in terms of obtaining a withdraw of a holding of abandonment.

Applicant's representative therefore points to Exhibit B, which was received from Else Mebrahtu of the Patent Electronic Business Center of the USPTO. This document establishes that the address for the Attorneys of Record was changed on May 15, 2007. Therefore, Applicant's representative fully expected to receive USPTO correspondence as this new address.

Now, therefore, Applicant's representative would like to further clarify the following in support of this petition:

1. On May 15, 2007, Applicant's representative, Attorneys of Record, changed their mailing address of record with the USPTO via an Electronic Filing. (see Exhibit B: email

from Patent Electronic Business Center of USPTO) Attorneys of Record in this matter had changed their physical office location on April 7, 2007, as stated in the prior petition.

2. On September 3, 2008, the USPTO received as undelivered a Notice of Non-Compliant Amendment that had been mailed on August 26, 2008 (see Exhibit D: Printout of Notice returned to USPTO, retrieved from Private PAIR record for this matter)
3. On March 2, 2009, Examiner Caraolynne Helm called the offices of Applicant's representative to determine the status of the present application (see Exhibit C: Affidavit of Tamara Daw).

Here, as set forth above, the Notice of Non-Compliant Amendment mailed on August 26, 2008 was returned to the USPTO as undelivered, as shown by the record on Private PAIR for the present application. Applicant's representative received no communication from the USPTO at its current offices as to the existence of this Notice of Non-Compliant Amendment until March 2, 2009 (after expiration of the six-month statutory period to respond), when Examiner Helm called the offices of Applicant's representative. Applicants, therefore, never received the August 26 Notice of Non-Compliant Amendment in time to respond. Accordingly, Applicants again respectfully request withdrawal of the holding of abandonment of the present application.

Applicants respectfully point out that throughout prosecution of the present application, Applicants have been responsive and diligent in moving the application to allowance. It was only after Applicants did not receive, and were not aware of, a Notice from the USPTO mailed to the old address of Applicant's representative that Applicants failed to respond. Per the requirements of MPEP section 711.03(c) I A, these facts provide a sufficient basis for a withdraw of a holding of abandonment.

That section of the MPEP requires the following (portions from MPEP in italics below):

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.

I, Howard Skaist, Reg. No. 36,008, hereby state for the record that the offices of Berkeley Law & Technology Group, LLP, Attorneys of Record, employ the Prolaw® docketing system, available from Elite®, a Thomson Reuters business, which is used by multiple corporations and law firms to perform the docketing of patent matters. Its acceptance in the marketplace and its use by many entities beyond the Attorneys of Record in this matter demonstrates that it is a sufficiently reliable docketing system. A further factor here is that the Notice in this case was one of Non-compliance, which is not capable of being docketed until after being received by First Class Mail. The matter involved is US Patent Application Serial No. 10/552,422, attorney docket number 044.P001, the mailing date of the Notice at issue was August 26, 2008 and it was due on September 26, 2008.

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.

The Office action at issue was never received at the offices of the Attorneys of Record. In addition to the evidence submitted as Exhibit D, a search was made of the offices of the Attorneys of Record and all docketing personnel were questioned. Based on these facts, Applicant's representative believes that the Notice was not lost, but, rather, was never received. A copy of the docket for this matter is included as Exhibit E.

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.

Exhibit E contains a copy of the entire docket in this matter.

In the dismissal of the prior petition, the Petitions Examiner stated: "the evidence submitted is not convincing to substantiate the grants of a petition to withdraw the holding of abandonment in the above application." Applicants submit that this has now been cured and sufficient evidence has now been submitted.

Likewise, the Petitions Examiner stated in the dismissal of the prior petition that the Attorneys of Record could have called the USPTO to inquire of the status of the change of address. Applicant's representative would like to make clear that many calls were made to the USPTO in order to clarify this situation after March 2, 2008; however, the fact of those calls was not specifically mentioned in the previous petition. Therefore, Applicant's representative has been extremely diligent in trying to clear up this matter. Furthermore, while the physical address of the attorneys of record was changed, their phone number was not changed. Therefore, an earlier call to the Attorneys of Record from the Examiner would have resulted in a timely response to the Notice. However, by the time the Examiner handling the Office action had called, the statutory period of six months to respond was already passed. Therefore, even if Applicant's representative had responded on March 2, 2008, once made aware of the Notice by the phone call from Examiner Helm, that still would not have been sufficient to avoid a holding abandonment without the USPTO resetting the period for response, as is being requested here.

In summary, Applicant's representative changed its address of record with the USPTO on May 15, 2007; however, because the Notice went to the wrong address and was returned, Applicant's representative never received it. In addition, as an extra step, Applicant's representative also subsequently changed their address of record in this specific matter as Private PAIR indicates. Therefore, again, Applicant's representative has been extremely

diligent in trying to clear this issue. MPEP section 711.03(c) suggests that in circumstances such as these, the holding of abandonment should be withdrawn and the period for response reset. Furthermore, a reply to the Notice also accompanies this request for reconsideration. Favorable action in this regard is respectfully solicited. Any fees or extensions of time believed to be due in connection with this petition are enclosed herein; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account 50-3130.

Respectfully submitted,
Attorney for Applicant

Dated: /09/21/09/

/Howard A. Skaist/

Howard A. Skaist
Reg. No. 36,008

Customer Number: 43831
Berkeley Law & Technology Group, LLP
17933 NW Evergreen Parkway, Suite 250
Beaverton, OR 97006
503.439.6500 (phone)
503.439.6558 (fax)

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

BERKELEY LAW & TECHNOLOGY GROUP, LLP
17933 NW EVERGREEN PARKWAY, SUITE 250
BEAVERTON, OR 97006

COPY MAILED

DEC 23 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Vinod Chintamani Malshe et al :
Application No. 10/552,422 :
Filed: October 7, 2005 :
Attorney Docket No. 044-P001 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 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 Office action mailed August 26, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). Accordingly, the above-identified application became abandoned on September 27, 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 1615 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Browdy and Neimark, P.L.L.C.
624 Ninth Street, NW
Suite 300
Washington, DC 20001-5303

COPY MAILED

FEB 28 2008

OFFICE OF PETITIONS

In re Application of	:	
John J. Kopchick et al.	:	
Application No. 10/552,443	:	DECISION ON PETITION
Filed: August 16, 2006	:	TO WITHDRAW
Attorney Docket No. KOPCHICK6.1A	:	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 30, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Iver P. Cooper 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: **John J. Kopchick**
4 Orchard Lane
Athens, OH 45701

cc: **Robert Malott**
Ohio University
Technology Transfer Office
340 West State Street-Unit 14
Athens, OH 45701

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
10/552,443	08/16/2006	John J. Kopchick	KOPCHICK6.1A

CONFIRMATION NO. 7248

POWER OF ATTORNEY NOTICE

1444
BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303

OC000000028565465

Date Mailed: 02/29/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/30/2007.

- 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.

/tswilliams/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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

26815
RANBAXY INC
600 College Road East
Suite 2100
Princeton, NJ 08540

12 DEC 2006

In re Application of
SALMAN *et al*
U.S. Application No.: 10/552,455
PCT No.: PCT/IB2004/000012
Int. Filing Date: 07 January 2004
Priority Date: 11 April 2003
Attorney Docket No.: RLL-256.3CIPUS
For: AZABICYCLO DERIVATIVES AS MUSCARINIC RECEPTOR ANTAGONISTS

DECISION

This decision is in response to the communication filed 15 November 2006 in the United States Designated/Elected Office (DO/EO/US) which are treated under 37 CFR 1.181. No fee is required.

BACKGROUND

On 07 October 2005, applicants filed papers to enter the national stage of PCT/IB2004/000012. The transmittal letter (Form PTO-1390) indicated in box number nine that an oath or declaration of the inventors was provided. However, the declaration filed was not signed by any of the inventors.

On 11 September 2006, 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) indicating that all requirements of 35 U.S.C. 371 were completed on 07 October 2006.

On 15 November 2006, applicants filed the subject communication.

DISCUSSION

In the response filed 15 November 2006, applicants claim that a declaration in compliance with 37 CFR 1.497(a) and (b) has not yet been provided.

A review of the application verifies that the declaration filed on 07 October 2005 was unexecuted.

Thus, the Form PCT/DO/EO/903 should not have been mailed.

10/552,455

CONCLUSION

Applicants' petition under 37 CFR 1.181(a) is **GRANTED**.

The Form PCT/DO/EO/903 mailed 11 September 2006 was sent in error and is hereby **VACATED**.

This application is being forwarded to the DO/EO/US 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

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

30 AUG 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

In re Application of	:	DECISION
KATAYAMA et al.	:	
Application No.: 10/552,509	:	
PCT No.: PCT/JP04/05130	:	
Int. Filing Date: 09 April 2004	:	
Priority Date: 10 April 2003	:	
Attorney Docket No.: 2005_1546A	:	
For: BIOLOGICAL INFORMATION	:	
MONITORING SYSTEM	:	

This decision is in response to applicant's submission filed 20 June 2006.

BACKGROUND

On 09 April 2004, applicant filed international application PCT/JP04/05130, which designated the United States and claimed a priority date of 10 April 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 21 October 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 11 October 2005 (10 October 2005 being a Federal holiday).

On 05 October 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, an assertion of small entity status, a declaration of inventors and a copy of a "NOTIFICATION OF CHANGE OF PERSON" apparently filed with the World Intellectual Property Organization (WIPO).

On 12 May 2006, a Notification was mailed indicating, *inter alia*, that the declaration filed 05 October 2005 does not list the inventorship set forth in the international application and that a Form PCT/IB/306 (NOTIFICATION OF THE RECORDING OF A CHANGE) from the International Bureau indicating that three inventors have been deleted does not appear in the file.

On 20 June 2006, applicant filed the instant submission which includes a copy of a Form PCT/IB/306 (NOTIFICATION OF THE RECORDING OF A CHANGE) from the International

Bureau indicating that three inventors have been deleted

DISCUSSION

In view of the Form PCT/IB/306 submitted by applicant, the declaration filed 05 October 2005 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.

Daniel Stemmer
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KLARQUIST SPARKMAN, LLP
121 S.W. SALMON STREET
SUITE #1600
PORTLAND, OR 97204-2988

Mail Date: 04/20/2010

Applicant	: Ira Pastan	: DECISION ON REQUEST FOR
Patent Number	: 7572887	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/552,515	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/06/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

0 9 JUN 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

Ciba Specialty Chemicals Corporation
Patent Department
540 White Plains Road
P.O. Box 2005
Tarrytown, NY 10591-9005

RECEIVED
Andrea DeCecchis
JUN 12 2008
Docket Coordinator
Patent Department

In re Application of
Ray Davenport et al
Application No.: 10/552,531
PCT No.: PCT/EP2004/050443
Int. Filing Date: 05 April 2004
Priority Date: 14 April 2003
Attorney Docket No.: PC/3-22342/A/PCT
For: PROCESS FOR RENDERING SLUDGES INERT

DECISION ON

PETITION UNDER

37 CFR 1.181

This decision is in response to the "COMMUNICATION" received 28 September 2007, which is being treated as a petition under 37 CFR 1.181 requesting the transfer of certain papers from application 10/552,530 to application 10/552,531 because the USPTO stamped postcard had the wrong application number on it.

BACKGROUND

On 11 October 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. The application papers were assigned serial number No.: 10/552,531.

The USPTO, however, stamped the return postcard with the Application Serial Number No.: 10/552,530. Applicants used this serial number to file application papers until August 30, 2007.

On 28 September 2007, applicants filed this petition requesting that the papers incorrectly filed in application 10/552,530, which were meant for application 10/552,531 be transferred accordingly.

DISCUSSION

A review of the file reveals that certain papers that were intended for application 10/552,531 were mistakenly filed in application 10/552,530 because the USPTO inadvertently stamped the return postcard with the wrong application serial number.

PC/3-22342/A/PCT

Copy Sent to Basle
6/18/08
am

UNITED STATES PATENT and TRADEMARK OFFICE

2 4 SEP 2008

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Ciba Specialty Chemicals Corporation
Patent Department
540 White Plains Road
P.O. Box 2005
Tarrytown, NY 10591-9005

In re Application of	:	
Ray Davenport et al	:	DECISION ON
Application No.: 10/552,531	:	
PCT No.: PCT/EP2004/050443	:	
Int. Filing Date: 05 April 2004	:	PETITION UNDER
Priority Date: 14 April 2003	:	
Attorney Docket No.: PC/3-22342/A/PCT	:	
For: PROCESS FOR RENDERING SLUDGES	:	37 CFR 1.181
INERT	:	

This decision is in response to the "COMMUNICATION" received 22 July 2008, which is being treated as a petition under 37 CFR 1.181 requesting that the 371(c)(1), (c)(2), and (c)(4) date of the above application be corrected to 13 July 2006.

BACKGROUND

In a decision from this Office on 9 June 2008, stated certain application papers were mistakenly filed in the wrong application, and this was corrected by having the papers transferred to the instant application No.: 10/552,531.

On 22 July 2008, applicants submitted the present petition, stating that the application 35 USC 371 date is 13 July 2006, and not 27 June 2006 as stated in the NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495 (PCT/DO/EO/905).

DISCUSSION

A review of the file indicates that the executed declaration was received on **13 July 2006** at the time of filing the application, which is the also the date that applicants satisfied the requirement under 35 U.S.C. 371(c)(4). Accordingly, this is the date, **13 July 2006**, that 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements were satisfied.

DECISION

The petition under 37 CFR 1.181 is **GRANTED.**

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 17 August 2007 is **VACATED** with the mailing of this decision.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **13 July 2006.**.

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

PLEVY, HOWARD & DARCY, P.C.
P.O. BOX 226
Fort Washington PA 19034

2 8 SEP 2007

In re Application of	:	
Bonnot et al.	:	
Application No.: 10/552,546	:	
PCT No.: PCT/FR04/50160	:	
Int. Filing Date: 14 April 2004	:	DECISION
Priority Date: 17 April 2003	:	
Attorney Docket No.: BEAUMONT-26	:	
For: Carbon Nanotube Growth Method	:	

This is in response to the petition under 37 CFR 1.181 filed on 13 August 2007.

BACKGROUND

This international application was filed on 14 April 2004, claimed an earliest priority date of 17 April 2003, and designated the United States. The International Bureau transmitted a copy of the published international application to the USPTO on 04 November 2004. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 17 October 2005. On 12 October 2005, applicants filed *inter alia* the basic national fee.

On 11 August 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(h).

On 03 August 2007, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicant, 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 11 August 2006.

DISCUSSION

Petitioner requests withdrawal of the holding of abandonment because a suitable response allegedly was filed on 24 August 2006. Review of the electronic application file reveals that a declaration which complies with 37 CFR 1.497(a) and (b) and which was filed on 24 August 2006 is present in the file. Further review of Office records (including the copy of the response accompanying the petition) shows that the response in question was directed to application no. 10/552,545 instead of the instant application number. Consequently, counsel's check was applied to application no. 10/552,545 rather than the instant case. To correct this defect, a petition (and fee) under 37 CFR 1.182 is required.

CONCLUSION

The petition is **DISMISSED**, without prejudice.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time 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 7 JAN 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

Howard IP Law Group
P.O. Box 226
Fort Washington PA 19034

In re Application of	:	
Bonnot et al.	:	
Application No.: 10/552,546	:	
PCT No.: PCT/FR04/50160	:	
Int. Filing Date: 14 April 2004	:	DECISION
Priority Date: 17 April 2003	:	
Attorney Docket No.: BEAUMONT-26	:	
For: Carbon Nanotube Growth Method	:	

This is in response to the petition under 37 CFR 1.182 filed on 28 November 2007.

DISCUSSION

In a Decision mailed on 28 September 2007, the petition filed on 13 August 2007 was dismissed with prejudice, with the following explanation:

> Petitioner requests withdrawal of the holding of abandonment because a suitable response allegedly was filed on 24 August 2006. Review of the electronic application file reveals that a declaration which complies with 37 CFR 1.497(a) and (b) and which was filed on 24 August 2006 is present in the file. Further review of Office records (including the copy of the response accompanying the petition) shows that the response in question was directed to application no. 10/552,545 instead of the instant application number. Consequently, counsel's check was applied to application no. 10/552,545 rather than the instant case. To correct this defect, a petition (and fee) under 37 CFR 1.182 is required.

To clarify, the response filed on 24 August 2006 was misdirected because the wrong application number, 10/552,545, was placed on the transmittal letter accompanying the response. Though the response was misdirected in this manner, the USPTO was able to match the declaration with the correct application because it displayed the correct application number; however, the fee payment did not bear any indication of the correct application number, and so it was not credited to this case. In view of the instant petition under 37 CFR 1.182, the fee (surcharge) payment filed on 24 August 2006 is being applied to this application rather than 10/552,545. In addition, the holding of abandonment is hereby **WITHDRAWN**, and the Notification of Abandonment mailed on 03 August 2007 is hereby **VACATED**.

DECISION

The petition is **GRANTED**.

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 **24 August 2006**.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

2 6 JAN 2010

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH PA 15219

In re Application of: SCHIMMER, et al. U.S. Application No.: 10/552,547 Int'l Application No: PCT/NL2004/000234 Int'l Filing Date: 08 April 2004 Priority Date: 15 April 2003 Atty Docket No.: 3135-053022 For: LOCALIZATION SYSTEM AND METHOD FOR LOCALIZING OBJECTS OR ANIMALS USING SUCH A LOCALIZATION SYSTEM	DECISION ON REQUEST UNDER 37 CFR 1.28(a)

The request under 37 CFR 1.28 (a) originally filed 10 January 2006, and again presently on 11 January 2010, in the above-captioned application is hereby **GRANTED** as follows:

An examination of the application file finds applicant's original request contained therein.

Applicant has provided the required statement under 37 CFR 1.27 (c) from an individual authorized to act on the behalf of applicant pursuant to 37 CFR1.33(b). The statement makes clear that the initial assertion of large entity status was made in error. Applicant has presently itemized the fees at issue and provided a timely request for refund. As requested, $515.00 will be refunded to deposit account 23-0650.

It is noted that a recordation of patent grant was mailed on 19 January 2010.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3294

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

THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

Mail Date: 04/21/2010

Applicant	: Martijn Schimmer	: DECISION ON REQUEST FOR
Patent Number	: 7649466	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/552,547	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/20/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **42** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

Mail Date: 04/21/2010

Applicant	: Martijn Schimmer	: DECISION ON REQUEST FOR
Patent Number	: 7649467	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/552,549	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 07/20/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **77** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Number: 7,274,979
Issued: September 25, 2007
Name of Patentee: Norihiro Fujioka
Title of Invention: VEHICLE ANTI-THEFT DEVICE

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT FOR PTO MISTAKE (37 C.F.R. § 1.322(a))

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

"Approved GAJ"

Attention: Certificate of Correction Branch

1. Attached is Form PTO/SB/44.

2. Correction of the Official Letters Patent is respectfully requested in view of the following text which appears correctly in the application file:

   On the Cover Page, at (56), References Cited, Foreign Patent Documents, JP 3086831 "4/1991" should read -- 4/2002 -- as indicated in the Information Disclosure Statement filed May 11, 2007.

   On the Cover Page, at (56), References Cited, Foreign Patent Documents, JP 03-120256 "5/1991" should read -- 12/1991-- as indicated in the Information Disclosure Statement filed May 11, 2007.

   On the Cover Page, at (56), References Cited, Foreign Patent Documents, insert reference -- EP 0879743 11/1998 -- as indicated in the Information Disclosure Statement filed May 11, 2007.

3. Please send the Certificate to:

   Name: Lawrence E. Ashery
   P.O. Box 980
   Valley Forge, PA 19482
   (610) 407-0700

Name of Assignee: Matsushita Electric Industrial Co., Ltd.

Assignment Recorded on: July 20, 2006

Reel: 017965

Frame: 0324

Respectfully submitted,

Lawrence E. Ashery, Reg. No. 34,515
Attorney for Applicants

LEA/dmw

Enclosure: Form PTO/SB/44

Dated: January 18, 2008

P.O. Box 980
Valley Forge, PA 19482
(610) 407-0700

213468_1.DOC

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(Use as many sheets as necessary)

SHEET 1 of 2

Complete if Known	
Application Number	10/552,564
Filing Date	October 11, 2005
First Named Inventor	Noriho Fujioka
Art Unit	3661
Examiner Name	Gertrude Arthur Jeanglaud
Attorney Docket No.	ARGM-118US

U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No.[1]	Document Number: Number - Kind Code[2] (if known)	Publication Date (MM-DD-YYYY)	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		US-			
		US-			
		US-			
		US-			
		US-			
		US-			
		US-			
		US-			
		US-			
		US-			
		US-			
		US-			
		US-			

COPY

FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No.[1]	Foreign Patent Document: Country Code[3] - Number[4] - Kind Code[5] (if known)	Publication Date (MM-DD-YYYY)	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T[6]
		JP 10-315915 (with English Abstract)	12-02-1998	TOKAI RIKA CO LTD.		☐
		JP 2001-200666 (with English Abstract)	07-27-2001	TOYOTA MOTOR CORP		☐
		JP 11-051177 (with English Abstract) (with counterpart EP 0 879 743)	02-23-1999	EATON CORP.		☐
		EP 0 879 743 (with counterpart JP 11-051177)	11-25-1998	EATON CORPORATION		☐
		JP 3-120256	12-10-1991	TOKAI RIKA CO LTD.		☐
		JP 3086831	04-10-2002	SETSU MUTO		☐
		JP 10-244853 (w/English Abstract)	09-14-1998	TOKAI RIKA CO LTD.		☐
		JP 10-167012 (w/English Abstract)	06-23-1998	AUTECH JAPAN, INC.		☐
		JP 2000-118357 (w/English Abstract)	04-25-2000	SUZUKI SHOJI:KK		☐
		JP 64-16434	01-26-1989	NISSAN MOTOR CO. LTD.		☐

Examiner Signature		Date Considered	

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to Applicant.

[1]Applicant's unique citation designation number (optional).
[2]See Kind Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04.
[3]Enter Office that issued the document, by the two-letter code (WIPO Standard St.3).
[4]For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document.
[5]Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible.
[6]Applicant is to place a check mark here if English language translation is attached.

The collection of information is required by 37 CFR 1.97 and 1.98. 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 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

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: 7,274,979

APPLICATION NO.: 10/552,564

ISSUE DATE: SEPTEMBER 25, 2007

INVENTOR(S): NORIHIRO FUJIOKA

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Cover Page

At (56), References Cited, Foreign Patent Documents, JP 3086831 "4/1991" should read -- 4/2002-- .

At (56), References Cited, Foreign Patent Documents, JP 03-120256 "5/1991" should read -- 12/1991-- .

At (56), References Cited, Foreign Patent Documents, insert reference -- EP 0879743 11/1998 -- .

Mailing Address of Sender:

RatnerPrestia
P.O. Box 980
Valley Forge, PA 19482
(610) 407-0700

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 completing the form, call 1-800-PTO-9199 and select option 2.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090824

DATE : September 3, 2009

TO SPE OF : ART UNIT 3661

SUBJECT : Request for Certificate of Correction on Patent No.: 7,274,979

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: /Thomas G. Black/ **Art Unit** 3661

23 JUN 2006

United States Patent and Trademark Office

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WENDEROTH, LIND & PONACK L.L.P.
2033 K. STREET, NW
SUITE 800
WASHINGTON DC 20006

In re Application of	:	
Yamamichi et al.	:	
Application No. 10/552,586	:	
PCT No.: PCT/JP04/05528	:	
Int. Filing Date: 14 April 2004	:	COMMUNICATION
Priority Date: 24 April 2003	:	
Atty. Docket No.: 2005_1537A	:	
For: Parameter Generation Apparatus,	:	
Encryption System, Decryption	:	
System, Encryption Apparatus,...	:	

This is in response to the declaration of the inventors filed on 12 October 2005, which is being treated under 37 CFR 1.42.

BACKGROUND

This international application was filed on 14 April 2004, claimed an earliest priority date of 24 April 2003, and designated the U.S. The International Bureau communicated a copy of the published international application to the USPTO on 04 November 2004. The 30 month time period for paying the basic national fee in the United States expired at midnight on 24 October 2005. Applicants filed, *inter alia*, the basic national fee on 12 October 2005.

DISCUSSION

Review of the declaration of the inventors filed on 12 October 2005 reveals that joint inventor Masato YAMAMICHI is indicated to be "deceased," and that Masami Yamamichi, Satomi Yamamichi and Keiko Yamamichi have all signed the declaration as "Heir and Legal Representative of Masato YAMAMICHI." 37 CFR 1.42 provides in part that

> In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Meanwhile, 37 CFR 1.497(b)(2), as amended effective 08 September 2000, provides that

> If the person making the oath or declaration is not the inventor (§§ 1.42, 1.43 or 1.47), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.

Further examination of the declaration reveals that it provides citizenship, residence and postal address information for the deceased inventor and for each of the legal representatives who have signed (specifically, Masami Yamamichi, Satomi Yamamichi and Keiko Yamamichi). The declaration is in compliance with the requirements of 37 CFR 1.497(a) and (b).

CONCLUSION

The declaration is **ACCEPTED** under 37 CFR 1.42.

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 **12 October 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

26 APR 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

In re Application of	:	
SHIKINA, Noriyuki et al.	:	
U.S. Application No.: 10/552,590	:	
PCT No.: PCT/JP04/18433	:	
Int. Filing Date: 03 December 2004	:	DECISION
Priority Date: 05 December 2003	:	
Attorney Docket No.: 00684.103077	:	
For: DISPLAY APPARATUS WITH INPUT	:	
PEN FOR WEARABLE PC	:	

This is a decision on applicant's "Request to Consolidate Applications and Request to Withdraw Previously Filed Petition" filed in the United States Patent and Trademark Office on 17 April 2006.

BACKGROUND

On 03 December 2004, applicant filed international application PCT/JP04/18433, claiming a priority date of 05 December 2003. The international application was transmitted to the Office by the International Bureau on 16 June 2005. Accordingly, the thirty-month period for paying the basic national fee in the United States expires at midnight on 05 June 2006.

On 12 October 2005, applicant filed a transmittal letter for entry into the national phase in the United States, accompanied by an application data sheet, an information disclosure statement, the basic national fee and a specification titled "Electrophoretic Dispersion Liquid and Electrophoretic Display Device".

On 19 October 2005, applicant filed a second transmittal letter for entry into the national phase in the United States, accompanied by an application data sheet, an information disclosure statement, the basic national fee and a specification titled "Display Apparatus".

On 04 November 2005, applicant filed Petition For Express Abandonment to Avoid Publication Under 37 CFR 1.138(c), accompanied by the required fee.

On 17 November 2005, applicant sent a second copy of the 04 November 2005 petition by facsimile.

On 17 April 2006, applicant submitted "Request to Consolidate Applications and Request to Withdraw Previously-Filed Petition For Express Abandonment," and a postcard receipt indicating that the petition was originally filed with the Office on 24 March 2006.

On 18 April 2006, applicant filed a second request to consolidate the applications and to use the specification from the second filing.

DISCUSSION

Applicants submitted two sets of papers to enter the national stage for international application number PCT/JP04/18433. The end result for an international application designating the United States of America is a single U.S. national stage application. Therefore, the submission of two sets of national stage papers to enter the United States was improper.

For this reason, both of the filings have been consolidated into a single national stage application for PCT/JP04/18433, under the serial number 10/552,590. Application Number 10/553,625 has been cancelled. All the papers from 10/553,625 have been transferred to the file of application number 10/552,590. The additional fees for the second national filing will be refunded to deposit account no. 06-1205, as authorized.

Applicant's petition for express abandonment will not be acted upon. It was signed by an attorney who had not provided a power of attorney executed by all applicants or by the assignee. The fee for the petition under 37 CFR 1.182 will be charged to deposit account no. 06-1205, as authorized.

CONCLUSION

Applicant's petition under 37 CFR 1.182 to consolidate the applications and to disregard the petition for express abandonment is **GRANTED**.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further national stage processing. Application number 10/553,625 has been cancelled. Applicant should use application number 10/552,590 in all future communications with the Patent and Trademark Office regarding the U.S. National stage of international application PCT/JP04/18433.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/552,606	**3/24/06**	**TOMOHARU NAKANO, ET AL.**	**052463**

Title: **POLISHING LIQUID FOR CMP PROCESS AND POLISHING METHOD**

Art Unit	Paper Number

Correspondence Address:
SHUJI YOSHIZAKI
WESTERMAN, HATTORI, DANIELS & ADRIAN LLP.
1250 CONNECTICUT AVE., STE 700
WASHINGTON, D.C. 20036

Licensee under 35 U.S.C. 184 is hereby granted to file in any foreign country a patent application and any amendments thereto corresponding to the subject matter of this U.S. application identified above and/or any material accompanying the petition. This license is conditioned upon modification of any applicable secrecy order and is subject to revocation without notice.

License Number: 536,830

Grant Date: 10-Aug-06

This license is granted retroactively to the date(s) and the country(s) indicated on the attached decision.

Approved:

for Commissioner of Patents and Trademar

This license empowers the filing, the causation and the authorization of the filing of a foreign application or applications on the subject matter identified above, subsequent forwarding of all duplicate and formal papers and the prosecution of such application or applications.

This license does not empower the filing of any applications, amendments, supplements or continuances originating in this country which disclose inventions, modifications, or variations not disclosed in the subject matter identified above.

This license is to be retained by the licensee and may be used at anytime on or after the date thereof. This license is not retroactive unless specifically indicated.

The grant of this license does not in any way lesson the responsibility of the 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 respecct to certain countries, of other agencies, particularly the Office of Foreign Assets Control, Department of the Treasury; Office of Munitions Control, Department of State (with respect to Arms, Munitions and Implements of War); the Bureau of Trade Regulation, Office of Export Adminsttration, Department of Commerce; and the Department of Energy.

LICENSE FOR FOREIGN FILING

[Title 35, United States Code (1952) Sections 184, 185, 186]

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Petitioner:	NAKANO, et al.	:DECISION ON REQUEST
Petition No.:	10/552,606	:UNDER 37 CFR 5.25
Petition Filing Date:	24 March 2006	
Docket No.:	052463	

Title: POLISHING LIQUID FOR CMP PROCESS AND POLISHING METHOD

This is a decision on the petition for retroactive foreign filing license.

It has been determined that a retroactive license for foreign filing under 35 U.S.C. 184 be granted with respect to the filing(s) listed below. The petition complies with 37 C.F.R. 5.25 in that there is an adequate showing that the subject matter in question was not under secrecy order, that the license was diligently sought, and that the material was filed abroad without the required license under 37 C.F.R 5.11 through error and without deceptive intent.

Foreign Filing Location	**Date**
Japan	07 May 2004
Taiwan	07 May 2004
Malaysia	07 May 2004

Yvonne R. Abbott, Esq.
Patent Examiner
Licensing & Review
(571) 272-6896

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

COPY MAILED

FEB 12 2008

OFFICE OF PETITIONS

In re Application of	:	
HODGINS, Malcolm B. et al.	:	
Application No. 10/552,607	:	DECISION ON PETITION
Filed: February 20, 2007	:	TO WITHDRAW
Attorney Docket No. **MEWB-015/01US 306588-2014**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 13, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, application was transferred to the law firm, do not meet any the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MICHAEL TUSCAN**
777 6TH STREET, NW
SUITE 1100
WASHINGTON, DC 20001

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

COPY MAILED

APR 10 2008

OFFICE OF PETITIONS

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

In re Application of

HODGINS, Malcolm B. et al.
Application No. 10/552,607
Filed: February 20, 2007
Attorney Docket No. **MEWB-015/01US 306588-2014**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 03, 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 Robert Smyth on behalf of all attorneys of record who are associated with customer No. 09629. All attorneys/agents associated with the Customer Number 09629 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **MALCOLM BRIDEN HODGINS**
SECTION SQUAMOUS CELL BIOLOGY AND DERMATOLOGY
DIVISION OF CANCER SCIENCES & MOLECULAR PATHOLOGY
ROBERTSON BUILDING, UNIVERSITY OF GLASGOW,
GLASGOW CENTRAL SCOTLAND G12 8 QQ

cc: **COOLEY GODWARD KRONISH LLP**
777 6TH STREET, NW
WASHINGTON, DC 20001

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 04/21/2010

Applicant	: Steven A. Barth	: DECISION ON REQUEST FOR
Patent Number	: 7596850	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/552,627	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **970** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

PATREA L. PABST
PABST PATENT GROUP LLP
400 COLONY SQUARE, SUITE 1200
1201 PEACHTREE STREET
ATLANTA GA 30361

COPY MAILED

AUG 1 5 2007

OFFICE OF PETITIONS

In re Application of	:	
LENDLEIN, et al.	:	
Application No. 10/552,654	:	DECISION ON PETITION
Filed: March 28, 2006	:	TO WITHDRAW
Attorney Docket No. **MNE 109**	:	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 16, 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 Patrea Pabst 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: **ANDREAS LENDLEIN**
SUNDGAUERSTRASSE 142
BERLIN, GERMANY 14167

cc: **CELINE CROWSON, ESQ.**
HOGAN & HARTSON LLP
55 THIRTEENTH STREET
WASHINGTON, DC 20004

08 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

06449
ROTHWELL, FIGG, ERNST & MANBECK
1425 K Street, N.W.
Washington, DC 20005

In re Application of	:	
GRABHER, Werner	:	
U.S. Application No.: 10/552,661	:	
PCT No.: PCT/EP04/02596	:	
Int. Filing Date: 12 March 2004	:	**DECISION**
Priority Date: 18 March 2003	:	
Docket No.: 3224-157	:	
For: CAN COMPRISING A FOIL SEAL	:	

This is a decision on the papers filed 14 June 2006.

BACKGROUND

On 11 October 2005, applicant submitted papers to enter the national stage of PCT/EP04/02596. Applicant purportedly included a petition to revive, however, the petition is not located in the file.

On 07 June 2006, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) because applicant failed to provide the full U.S. Basic National Fee by 30 months pursuant to 37 CFR 1.495(b)(2).

On 14 June 2006, applicant filed papers to show that a petition to revive was originally filed 11 October 2005 and not acted upon.

DISCUSSION

Petition Originally Filed 11 October 2005

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicants provided a copy of the date-stamped postcard receipt for the documents submitted 11 October 2005. The attorney docket number, title and inventor were listed on the postcard receipt. The postcard receipt records that a "Petition for Revival of Unintentionally Aband Appn" was received in the USPTO. The

postcard receipt is stamped "JC04 Rec'd PCT/PTO 11 OCT 2005" across its face. Applicant included a copy of the petition with the subject petition.

As such, applicant has provided *prima facie* evidence that a petition to revive under 37 CFR 1.137(b) was originally received by the USPTO on 11 October 2005.

Therefore, the Notification of Abandonment (Form PCT/DO/EO/909) mailed 07 June 2006 is **VACATED**.

Petition to Revive Under 37 CFR 1.137(b)

Applicant's petition to revive under 37 CFR 1.137(b) filed with the national stage papers on 11 October 2005 is hereby **GRANTED** as follows:

The basic national fee, search fee, examination fee, and the petition fee were paid on 11 October 2005. Applicant made the required statement pursuant to 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration was not included with any of the papers submitted.

This application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee are required.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

MAILED

MAY 25 2010

OFFICE OF PETITIONS

In re Application of	:	
Zimmerman, Stefan	:	
Application No. 10/552,683	:	DECISION ON PETITION
Filed: June 21, 2006	:	
Attorney Docket No. Q90798	:	

This is a decision on the petition, filed February 15, 2010, 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 due to non-receipt of the Office action..

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed May 12, 2009, which set a three (3) month shortened statutory period for reply. A reply was due on or before August 12, 2009. A Notice of Abandonment was mailed on December 10, 2009.

Petitioner asserts that the Office action dated May 12, 2009 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 1795 for re-mailing the Office action of May 12, 2009. The period for reply will run from the mailing date of the Office action.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

Mail Date: 04/21/2010

Applicant	: Jose Miguel Mulet Salort	: DECISION ON REQUEST FOR
Patent Number	: 7612177	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/552,686	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **635** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

07 JUL 2006

IPLA P.A.
3580 WILSHIRE BLVD.
17TH FLOOR
LOS ANGELES, CA 90010

In re Application of	:	
KOO, Hong-Sik	:	
Application No.: 10/552,690	:	DECISION
PCT No.: PCT/KR04/00386	:	
Int. Filing Date: 25 February 2004	:	ON PETITION UNDER
Priority Date: 25 February 2003	:	
Docket No.: 2017-33	:	37 CFR 1.137(b)
For: BIOMETRIC INFORMATION	:	
RECOGNITION CREDIT CARD SYSTEM	:	
AND CREDIT CARD SCANNER	:	

Applicants' "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed in the above-captioned application on 11 October 2005 is **GRANTED**.

Applicant indicates that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional, as required by 37 CFR 1.137(b)(3). The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as the application was filed on or after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

Applicant has supplied a declaration in compliance with 37 CFR 1.497(a)-(b). The surcharge for late furnishing of the search fee, examination fee or oath or declaration will be charged to deposit account no. 50-3566, 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 11 October 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

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

Michael E Zall
Two Yorkshire Drive
Suffern, NY 10901

Mail Date: 04/21/2010

Applicant	: Tetsuro Kurashina	: DECISION ON REQUEST FOR
Patent Number	: 7613588	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/552,692	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/07/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **385** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

#3

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Wilson Sonsini Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304-1050

05 JAN 2006

In re Application of	:	
Magda et al.	:	
Application No.: 10/552,696	:	DECISION
PCT No.: PCT/US04/10481	:	
Int. Filing Date: 05 April 2004	:	ON
Priority Date: 04 April 2003	:	
Attorney Docket No.: 25922-710.831	:	PETITION
For: Sapphyrins And Uses Thereof	:	

The petition to revive under 37 CFR 1.137(b) filed 12 December 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant states that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." This statement is being accepted in satisfaction of 37 CFR 1.137(b)(3).

A review of the application file reveals that counsel has authorized the required fees to be charged to Deposit Account No. 23-2415. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the payment of the surcharge under 37 CFR 1.492(h) and the submission of an oath or declaration compliant with 37 CFR 1.497(a) and (b).

Boris Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DEC 0 9 2009

Drinker, Biddle & Reath
1500K Street, N.W.
Suite 1100
Washington, DC 20005-1209

In re Application of	:	
Vesa Uitto	:	DECISION ON PETITION
Application No. 10/552,699	:	TO ACCEPT A LATE
Filed: October 7, 2005	:	FILED IDS
For: DRILL HOLE MEASURING DEVICE AND ROCK DRILLING UNIT		

This is in response to applicant's communication filed in the United States Patent and Trademark Office (USPTO) on October 16, 2009 to accept a late filed Information Disclosure Statement (IDS). The communication is being treated as a petition under 37 CFR 1.181.

The petition is **GRANTED to the extent indicated below**.

A review of the file finds no indication of any documents filed March 14, 2006. Applicant has submitted a copy of the IDS cover sheet and a Form PTO-1449. Also included is a post card receipt identifying the IDS and showing a date stamp of March 14, 2006.

The above evidence is sufficient to accord the March 14, 2006 date to the resubmitted IDS. However, it is noted that the references listed on the IDS apparently have not been resubmitted, and it will be up to the examiner to determine if the submission complies with 37 CFR 1.98.

The case will be forwarded to the examiner of record for treatment of the IDS submitted October 16, 2009.

Telephone inquiries relative to this decision should be directed to Special Programs Examiner Steven Meyers at (571) 272-6611.

Fred Schmidt, Director
Patent Technology Center 3600
(571) 272-5150

SM: 12/6/09

SM

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN VA 22102

COPY MAILED

AUG 0 7 2007

OFFICE OF PETITIONS

In re Application of

CHYLA, Thomas et al.
Application No. 10/552,708
Filed: October 07, 2005
Attorney Docket No. **449122084400**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 28, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Deborah S. Gladstein on behalf of all attorneys of record who are associated with customer No. 25227. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor.

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.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **THOMAS CHYLA**
GATOWER STR. 299
BERLIN, 14089
GERMANY

cc: **LERNER GREENBERG STEMER LLP**
P O BOX 2480
HOLLYWOOD, FL 33022-2480

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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
10/552,708	10/07/2005	Thomas Chyla	449122084400

CONFIRMATION NO. 6809

OC000000025210768

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 R. Eidson

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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

COMPUTER PATENT ANNUITIES INC.
901 N. WASHINGTON STREET
SUITE 305
ALEXANDRIA, VA 22314

Mail Date: 04/21/2010

Applicant	: Mark Verall	: DECISION ON REQUEST FOR
Patent Number	: 7582227	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/552,711	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **976** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

MODIANO & ASSOCIATE
VIA MERAVIGLI I6
MILAN 20123 IT ITALY

MAILED

FEB 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Federico NALESSO	:	
Application No. 10/552,730	:	DECISION ON PETITION
Filed: October 11, 2005	:	
Attorney Docket No. **40909/AJ/ps**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 27, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 25, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 26, 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. Accordingly, the response to the non-final Office action of March 25, 2009 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 1797 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

01 NOV 2006

Keiko Tanaka Kubovcik
Kubovcik & Kubovcik
The Farragut Building
Suite 710
900 17th Street, N.W.
Washington, D.C. 20006

In re Application of	:	
RANTALA, et al.	:	
Application No.: 10/552,737	:	DECISION ON PETITION
PCT No.: PCT/FI04/00224	:	
Int. Filing Date: 13 April 2004	:	UNDER 37 CFR 1.497(d)
Priority Date: 11 April 2003	:	
Atty. Docket No.: LAIN-077	:	
For: LOW-K DIELECTRIC MATERIAL	:	

This decision is in response to applicant's "SUBMISSION OF STATEMENT UNDER 37 C.F.R. §1.497 (d)(1)" filed 26 September 2006 in the United States Patent and Trademark Office (USPTO). The petition is being treated as a request under 37 CFR 1.497(d). As authorized, the $130.00 petition fee will be charged to deposit account 11-1833.

BACKGROUND

On 13 April 2004 , applicant filed international application PCT/FI04/00224, which claimed priority of an earlier application filed 11 April 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 21 October 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 11 October 2005.

On 11 October 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a preliminary amendment and an information disclosure statement.

On 28 July 2006, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 26 September 2006, applicant responded with the present petition accompanied by an executed declaration and payment of the appropriate surcharge.

DISCUSSION

37 CFR 1.497(d) [formally, 37 CFR 1.48] states in part: "If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application....applicant must submit:

(1) a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part;

(2) the fee set forth in 37 CFR 1.17(h); and

(3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b); and

(4) any new oath or declaration required by paragraph (f) of this section.

Applicant has satisfied items (1), (2) and (4). Specifically, the inventors being added have signed a statement indicating that their omission from the international application was without deceptive intent. Applicant has authorized the charging of the petition fee to deposit account number 11-1183 and provided a compliant declaration of the actual inventors.

Regarding item (3), applicant has not included a statement from the assignee consenting to the addition of the inventors named in the petition.

In light of the above, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons above, applicant's request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file any request for reconsideration. Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.497(d)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

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

05 DEC 2006

Keiko Tanaka Kubovcik
Kubovcik & Kubovcik
The Farragut Building
Suite 710
900 17th Street, N.W.
Washington, D.C. 20006

In re Application of	:	
RANTALA, et al.	:	DECISION ON RENEWED
Application No.: 10/552,737	:	
PCT No.: PCT/FI04/00224	:	PETITION UNDER
Int. Filing Date: 13 April 2004	:	
Priority Date: 11 April 2003	:	37 CFR 1.497(d)
Atty. Docket No.: LAIN-077	:	
For: LOW-K DIELECTRIC MATERIAL	:	

This decision is in response to applicant's renewed petition under 37 CFR 1.497(d) filed 15 November 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 01 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 15 November 2006, applicant responded with the present renewed petition.

DISCUSSION

As detailed in the decision mailed 01 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(h); and

(3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b); and

(4) any new oath or declaration required by paragraph (f) of this section.

Applicant previously satisfied items (1), (2) and (4). Applicant has presently satisfied the remaining item in the form of a signed statement of consent from the assignee in compliance with 37 CFR 3.73(b).

CONCLUSION

For the reasons discussed above, the renewed request under 37 CFR 1.497(d) is **GRANTED**.

A review of the application papers reveals that applicant has now completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application has an international application filing date of 13 April 2004 and will be given a date of **26 September 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

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

BLANK ROME LLP
ONE LOGAN SQUARE
PHILADELPHIA, PA 19103

Mail Date: 04/21/2010

Applicant	: Dennis M. King	: DECISION ON REQUEST FOR
Patent Number	: 7640802	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/552,745	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/31/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **607** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

02 OCT 2006

EGBERT LAW OFFICES
412 MAIN STREET, 7TH FLOOR
HOUSTON TX 77002

In re Application of	:	DECISION ON
LECOMTE et al	:	
PCT No.: PCT/FR04/050157	:	
Application No.: 10/552,751	:	
Int. Filing Date: 13 April 2004	:	PETITION UNDER
Priority Date: 11 April 2003	:	
Attorney's Docket No.: 1429-169	:	
For: MOBILE DEVICE FOR... APPLIANCE	:	37 CFR 1.47(a)

This is in response to the "PETITION TO PROCEED UNDER 35 U.S.C. §116 AND 37 C.R.F. §1.47(a)" filed on 07 August 2006. The $200.00 petition fee has been paid by check.

BACKGROUND

On 13 April 2004, applicants filed international application PCT/FR04/050157, which claimed priority to an earlier application filed 11 April 2003. The thirty (30) month time period for paying the basic national fee in the United States of America expired at midnight on 11 October 2005.

On 11 October 2005, applicants filed a Transmittal Letter for entry into the national stage in the United States of America. Filed with the Transmittal Letter was, inter alia, the requisite basic national fee. No executed oath or declaration from the inventors accompanied the Transmittal Letter. A copy of the intentional application was transmitted on 30 June 2005 to the USPTO from the International Bureau.

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 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a), and (b), identifying the application by International application number and international filing date" must be submitted within two months from its mailing date or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 07 August 2006, petitioner filed the present petition accompanied, inter alia, an executed Declaration without the signature of one of the two inventors, i.e., without the signature of Michel LECOMTE.

DISCUSSION

Petitioner's petition under 37 CFR 1.47(b) is improper because this petition is for the circumstance when all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort. In this situation two of the four inventors signed the declaration. Accordingly, the petition has been treated under 37 CFR 1.47(a).

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

> (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § **1.17(h)**, and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with § **1.63**.

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Furthermore, section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.) **Proof of Unavailability or Refusal**, the relevant sections states, in part:

> **REFUSAL TO JOIN:**
>
> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the **37 CFR 1.47** applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See **MPEP § 106**. It is reasonable to require that the inventor be presented with the application papers before a petition under **37 CFR 1.47** is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956).

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the **37 CFR 1.47** applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Petitioner has satisfied items (1) and (3) – (4) of 37 CFR 1.47(a). However, item (2) has not been satisfied.

Regarding item 2, Mr. Egbert alleges in that numerous attempts were made to obtain the signature of Mr. LECOMTE as evidenced by the four certified letters mailed to him in August and September. However, a review of the translated letters do not sufficiently demonstrated that a copy of the application papers were presented to the nonsigning inventor, Mr. LECOMTE. It is unclear what documents were forwarded to Mr. LECOMTE because there is no specific statement referring to a copy of the application papers (specification, including claims, drawings, and oath or declaration) as required under MPEP. 409.03(d) being sent to him for review and signature.

In addition, it is unclear if Mr. Egbert has first hand knowledge of the mailings to the nonsigning inventor, if he doesn't then petitioner needs to submit statements, with specific facts on the actions referred to the mailing of the documents to the nonsigning inventor by persons who have first-hand knowledge of such facts.

The current record does not sufficiently establish Michael LECOMTE refusal to join in the patent application because no evidentiary documents have been submitted to show that a *bona fide* attempt was made to deliver the complete application to him and that he refused to sign the required papers.

Consequently, the petition has not met 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) 272-0459

2 3 MAR 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

EGBERT LAW OFFICES
412 MAIN STREET, 7TH FLOOR
HOUSTON TX 77002

In re Application of	:	DECISION ON RENEWED
LECOMTE et al	:	
PCT No.: PCT/FR04/050157	:	
Application No.: 10/552,751	:	
Int. Filing Date: 13 April 2004	:	PETITION UNDER
Priority Date: 11 April 2003	:	
Attorney's Docket No.: 1429-169	:	
For: MOBILE DEVICE FOR... APPLIANCE	:	37 CFR 1.47(a)

This decision is in response to applicants' "RENEWED PETITION TO PROCED UNDER 35 USC 116 AND UNDER 37 CFR 1.47(a)" submitted on 14 December 2006 in response to a decision by this Office dated 02 October 2006.

BACKGROUND

The decision by this Office dated 02 October 2006 indicated that requirement (2) had not been satisfied.

On 14 December 2006, petitioner filed this renewed petition accompanied, inter alia, an executed declaration by inventor Michael LECOMTE.

DISCUSSION

The renewed petition states subsequent to the date of the Decision, Michael LECOMTE, executed a declaration. The declaration is now signed by all the inventors.

Accordingly, the declaration submitted on 14 December 2006 complies with 37 CFR 1.497(a) and (b).

CONCLUSION

The petition under 37 CFR 1.47(a) is **MOOT**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing consistent with this decision. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **14 December 2006.**

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

06 JUN 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COLEMAN SUDOL SAPONE, P.C.
714 COLORADO AVENUE
BRIDGE PORT CT 06605-1601

In re Application of: GIBBS, Richard, A., et al. U.S. Application No.: 10/552,754 PCT No.: PCT/US2004/009506 International Filing Date: 26 March 2004 Priority Date: 26 March 2003 Attorney's Docket No.: HDC P27-051US For: COMPOUNDS AND METHODS FOR USE IN TREATING NEOPLASIA AND CANCER BASED UPON INHIBITORS OF ISOPRENYLCYSTEINE METHYLTRANSFERASE	DECISION ON PETITION FOR REVIVAL OF ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

The petition for revival under 37 CFR 1.137(b) filed 11 October 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirements of 37 CFR 1.137(b)(3).

Applicants have now submitted the basic national fee, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the national stage in the United States of America.

The application is being returned to the National Stage Processing Division of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Missing Requirements (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497, and the surcharge for filing the declaration later than thirty months after the priority date.

Richard M. Ross
Attorney Advisor
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NXP, B.V.
NXP INTELLECTUAL PROPERTY & LICENSING
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE CA 95131

MAILED
AUG 11 2009
OFFICE OF PETITIONS

In re Application of	:	
Om Prakash Gangwal	:	
Application No. 10/552,778	:	RESPONSE TO PETITION
Filed: October 12, 2005	:	
Attorney Docket No. NL03 0381	:	

This is a response to the petition, filed June 30, 2009, which is treated as a petition under 37 CFR 1.59(b) to expunge information from the above identified application.

The petition is **granted**.

On June 26, 2009, an amendment was filed under 37 CFR 1.116. The amendment was intended for U.S. Application No. 11/212,870 but was matched with the above identified application. Petitioner now requests that this amendment be removed from the file of the above identified application and transferred to U.S. Application No. 11/212,870.

Upon a showing satisfactory to the Director, information, other than that forming part of the original disclosure, may be expunged from an application. Since the Office can determine the correct application file for which the erroneously filed papers were intended from the other identifying information on the papers, the papers will be removed and transferred as requested.

In a paper file, the unintentionally submitted exhibits could, but not necessarily would, have been physically removed from the file wrapper and returned to applicant; in the IFW realm the corresponding action(s) is to close the document and also remove such from the listing of "Public[ly available] Documents." It is agreed that it would be appropriate in this instance to close the amendment filed June 26, 2009 in the above identified application, and also remove such from the listing of publicly available documents for this Image File Wrapper (IFW). Also, the amendment filed June 26, 2009 has been transferred to U.S. Application No. 11/212,870.

As a condition of this favorable treatment petitioner is required to maintain the material in question during the enforceable life of any patent arising from this application, or any patent claiming benefit of this application.

Telephone inquiries concerning this communication should be directed to the undersigned at (571) 272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

29 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

PATTERSON & SHERIDAN LLP
SEDNA PATENT SERVICES, LLC
595 Shrewsbury Avenue
Suite 100
Shrewsbury, NJ 07702

In re Application of:	:	
ODDO, Anthony, Scott, et al.	:	DECISION ON PETITION UNDER
U.S. Application No.: 10/552,784	:	37 CFR 1.47(a)
PCT No.: PCT/US2004/010311	:	
International Filing Date: 02 April 2004	:	
Priority Date: 03 April 2003	:	
Attorney's Docket No.: SEDN/PRED115	:	
For: CONTENT NOTIFICATION AND DELIVERY	:	

This decision is issued in response to applicants' Petition Under 37 CFR 1.47(a), filed 09 June 2006. Deposit Account No. 20-0782 will be charged the required petition fee.

BACKGROUND

On 02 April 2004, applicants filed international application PCT/US2004/010311. The international application claimed a priority date of 03 April 2003, and it designated the United States. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 03 October 2005.

On 29 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.

On 11 May 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirement (Form PCT/DO/EO/905) indicating that an executed declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date was required.

On 09 June 2006, applicants filed a response to the Notification Of Missing Requirements. The submission includes the required surcharge payment, declarations executed by two of the five inventors, and the petition under 37 CFR 1.47(a) considered herein. The petition seeks acceptance of the application without the signatures of the three remaining inventors (Thomas L. RENGER, Devin F. HOSEA, and Nathanial J. THURSTON), whom applicants assert have refused to execute the application or cannot be located after diligent effort.

DISCUSSION

A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the nonsigning inventor; (3) an oath or declaration executed by the other inventors on behalf of themselves and the nonsigning inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

Applicants here have authorized a charge to Deposit Account No. 20-0782 for the required petition fee. Item (1) is therefore satisfied.

With regard to item (2), the petition lists three different addresses as the "last known address" for inventor Nathanial THURSTON, two different addresses as the "last known address" for inventor Devin F. HOSEA, and one address for inventor Thomas J. RENGER. Based on the above, the petition satisfies item (2) with respect to Mr. RENGER. However, an express statement as to which of the multiple addresses listed is the last known home address for the other two non-signing inventors is required (see MPEP section 605.03). Based on the above, item (2) is not satisfied with respect to inventors THURSTON and HOSEA.

Regarding item (3), section 409.03(a) of the MPEP states that:

> An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, applicants have filed a declaration executed by the two cooperating inventors and containing unsigned signature blocks for the three non-signing inventors. This declaration may be accepted as having been executed by the signing inventors on their own behalf and on behalf of the non-signing inventors. Item (3) is therefore satisfied.

Regarding item (4), applicants state that the non-signing inventors refuse to execute the application or cannot be located after diligent effort. With respect to the inability to locate an inventor, MPEP section 409.03(d) states the following:

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The 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.

In the alternative, where it is asserted that the inventor refuses to sign the application, MPEP section 409.03(d) states that "[a] copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney." The MPEP also states the following:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Here, applicants have provided a declaration from Yvette Thornton, with supporting documents, providing a firsthand account of the efforts made to obtain the signatures of the three non-signing inventors.[1] These materials provide an adequate showing that inventor Thomas J. RENGER has been located, has been provided with a request for signature accompanied by a copy of the complete application, and that the inventor has failed to provide the requested signature (the inventor has requested payment for reviewing the application materials). These materials provide an acceptable showing that inventor Thomas J. RENGER has refused to execute the application.

The materials regarding the other two non-signing inventors, however, require further clarification. With respect to inventor Nathanial J. THURSTON, Ms. Thornton states that internet searches were conducted to identify addresses and telephone numbers for this inventor; however, the specific results of such searches are not provided. In addition, the petition lists

[1] Applicants have also included materials regarding the inventor's obligations to assign the application. However, such materials are not relevant to the issue of whether the inventors have refused to execute the application or cannot be located after diligent effort.

three "last known addresses" for this inventor, without stating how such addresses were identified. Also, petitioner has not explained why documents were apparently only mailed to two of the three listed addresses (the petition includes copies of envelopes directed to Mr. THURSTON at two of the addresses, both of which were undeliverable). A firsthand statement of precisely what searches were conducted to locate this inventor, what was obtained from each such search, and the diligent efforts made by applicants to contact the inventor in light of the results of these searches is necessary before it can be concluded that this inventor cannot be located after diligent effort (available documentary support should also be provided, including copies of internet search results, etc.).

With respect to inventor Devin F. HOSEA, it appears from Ms. Thornton's statement and the attached materials states that at least one mailing directed to this inventor was signed for by the inventor (the 20 October 2005 certified mailing), and that a subsequent mailing to this address which included the complete application papers was refused. However, Ms. Thornton has not included copies of the letters included in these mailings, so it is not clear whether a refusal to execute the present application can be inferred in the present circumstances. A firsthand statement as to what was included in the mailing received by this inventor, and what was included in the subsequent mailing refused by the inventor, is required (with available documentary support, i.e., copies of the cover letters included, and a description of the enclosures) before it can be concluded that this inventor has refused to execute the application.[2]

Based on the above, item (4) is satisfied with respect to inventor RENGER; however, item (4) is not satisfied on the present record with respect to inventors THURSTON and HOSEA.

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 with respect to non-signing inventors THURSTON and HOSEA, as discussed above.

Failure to file a proper response will result in abandonment of the application. Extensions of time are available under 37 CFR 1.136(a).

---

[2] Ms. Thornton has included with her statement copies of emails addressed to Mr. HOSEA; however, applicants have not provided a firsthand statement regarding how this email address was identified and verified. Accordingly, it cannot be determined from the present record whether these emails should be treated as having been properly directed to this inventor.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

10/04/2006 GBASHEIR 00000003 200782 10552784
Sale Ref: 00000003 DA#: 200782 10552784
01 FC:1463 200.00 DA

2 8 MAR 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

PATTERSON & SHERIDAN LLP
SEDNA PATENT SERVICES, LLC
595 Shrewsbury Avenue
Suite 100
Shrewsbury, NJ 07702

In re Application of:	DECISION ON PETITION UNDER 37 CFR 1.47(a)
ODDO, et al.	
U.S. Application No.: 10/552,784	
PCT No.: PCT/US2004/010311	
International Filing Date: 02 April 2004	
Priority Date: 03 April 2003	
Attorney's Docket No.: SEDN/PRED115	
For: CONTENT NOTIFICATION AND DELIVERY	

This decision is issued in response to applicants' Renewed Petition Under 37 CFR 1.47(a), filed 22 January 2007.

BACKGROUND

On 02 April 2004, applicants filed international application PCT/US2004/010311. The international application claimed a priority date of 03 April 2003, and it designated the United States. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 03 October 2005.

On 29 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.

On 11 May 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirement (Form PCT/DO/EO/905) indicating that an executed declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date was required.

On 09 June 2006, applicants filed a response to the Notification Of Missing Requirements. The submission included the required surcharge payment, declarations executed by two of the five inventors, and the petition under 37 CFR 1.47(a). In a decision dated 29 September 2006, applicants' petition under 37 CFR 1.47(a) was dismissed without prejudice.

On 22 January 2007, applicants filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17; (2) a statement of the last known address of the nonsigning inventor; (3) an oath or declaration executed by the other inventors on behalf of themselves and the nonsigning inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

A review of the papers filed 22 January 2007 reveals that petitioner has paid the requisite petition fee, provided sufficient proof that the non-signing inventor (Thomas L. RENGER, Devin F. HOSEA, and Nathanial J. THURSTON) refused to execute the application or cannot be located after diligent effort, stated the last known address of the non-signing inventor (Thomas L. RENGER, Devin F. HOSEA, and Nathanial J. THURSTON), 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-inventors Thomas L. RENGER, Devin F. HOSEA, and Nathanial J. THURSTON.

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 the last known addresses set forth in the petition, and notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the 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 09 June 2006.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

2 8 MAR 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

Devin Hosea
Managing Director
Ritchie Capital Management, LLC
747 Third Avenue, 39th Floor
New York, New York 10017

In re Application of:
ODDO, et al.
U.S. Application No.: 10/552,784
PCT No.: PCT/US2004/010311
International Filing Date: 02 April 2004
Priority Date: 03 April 2003
Attorney's Docket No.: SEDN/PRED115
For: CONTENT NOTIFICATION AND DELIVERY

Dear Devin Hosea:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

Counsel of Record:
PATTERSON & SHERIDAN LLP
SEDNA PATENT SERVICES, LLC
595 Shrewsbury Avenue
Suite 100
Shrewsbury, NJ 07702

2 8 MAR 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

Nathaniel J. Thurston
Vidskipti Thorstein ehf
Aegisgata 7
101 Reykjavik
Iceland

In re Application of:
ODDO, et al.
U.S. Application No.: 10/552,784
PCT No.: PCT/US2004/010311
International Filing Date: 02 April 2004
Priority Date: 03 April 2003
Attorney's Docket No.: SEDN/PRED115
For: CONTENT NOTIFICATION AND DELIVERY

Dear Nathaniel J. Thurston:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

Counsel of Record:
PATTERSON & SHERIDAN LLP
SEDNA PATENT SERVICES, LLC
595 Shrewsbury Avenue
Suite 100
Shrewsbury, NJ 07702

2 8 MAR 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

Thomas L. Renger
5555 Melrose Avenue, HART 302
Hollywood, California 90038

In re Application of:
ODDO, et al.
U.S. Application No.: 10/552,784
PCT No.: PCT/US2004/010311
International Filing Date: 02 April 2004
Priority Date: 03 April 2003
Attorney's Docket No.: SEDN/PRED115
For: CONTENT NOTIFICATION AND DELIVERY

Dear Thomas L. Renger :

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

Counsel of Record:
PATTERSON & SHERIDAN LLP
SEDNA PATENT SERVICES, LLC
595 Shrewsbury Avenue
Suite 100
Shrewsbury, NJ 07702

17 OCT 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

HAYNES AND BOONE, LLP
901 MAIN STREET
SUITE 3100
DALLAS, TX 75202

In re Application of BRISCO et al	:	
U.S. Application No.: 10/552,790	:	
PCT Application No.: PCT/US2004/010712	:	
Int. Filing Date: 06 April 2004	:	
Priority Date Claimed: 08 April 2003	:	DECISION
Attorney Docket No.: 25791.272.06	:	
For: APPARATUS FOR RADIALLY EXPANDING AND PLASTICALLY DEFORMING A TUBULAR MEMBER	:	

This is in response to applicant's "Petition under 37 C.F.R. § 1.182" filed 28 August 2007.

BACKGROUND

On 06 April 2004, applicant filed international application PCT/US2004/010712, which claimed priority of an earlier United States application filed 08 April 2003. The thirty-month period for paying the basic national fee in the United States expired on 11 October 2005 (08 October 2005 was a Saturday preceding a Monday holiday) .

On 11 October 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 26 May 2006, applicant's deposit account was debited for excess claim fees.

On 28 August 2007, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

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/US2004/010712 reveals that the application contained 537 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 11 October 2005 did not include a proper preliminary amendment. However, it is apparent from the papers filed 11 October 2005 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 32 claims, rather than the 537 claims contained in the international application. Furthermore, the transmittal letter (Form PTO-1390) contained a payment calculation based on the presence of 32 claims as opposed to 537 claims. A proper preliminary amendment was filed with the present petition, reducing the total number of claims to 32. 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 537 claims, less the claim fees based on the remaining 32 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 $37,750.00 has been paid for excess claim fees. The application currently contains 32 independent claims. Thus, a fee of $600.00 for 12 claims in excess of 20 is required, and a fee of $5,800.00 for 29 independent claims in excess of 3 is required. A total of $31,350.00 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

Adjustment Date: 10/17/2007 SWASHEIR
05/26/2006 KWILLIAM 00000005 081394 10552790
03 FC:1615 25150.00 CR

Adjustment Date: 10/17/2007 SWASHEIR
05/26/2006 KWILLIAM 00000005 081394 10552790
04 FC:1614 6200.00 CR

10/17/2007 SWASHEIR 00000007 081394 10552790
Sale Ref: W0000007 DA#: 081394 10552790
01 FC:1462 400.00 DA

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

COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

Mail Date: 04/21/2010

Applicant	: Georg Springmann	: DECISION ON REQUEST FOR
Patent Number	: 7611169	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/552,791	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/13/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **766** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
PO BOX 3001
BRIARCLIFF MANOR NY 10510

COPY MAILED

MAR 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Agnihotri, et al.	:	
Application No. 10/552,829	:	DECISION ON PETITION
Filed: October 13, 2005	:	
Attorney Docket No. US030086	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed March 17, 2009.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely pay the issue fee in response to the Notice of Allowance, mailed November 5, 2008. This Notice set a statutory period for reply of three (3) months for issue fee transmittal. The Office mailed a Notice of Abandonment on March 3, 2009, stating that no issue fee had been received.

However, a review of the application file reveals the presence of a Notice of Withdrawal from Issue under 37 CFR 1.313, mailed on January 5, 2009. This Notice stated the application was being forwarded to the Examiner for action. Accordingly, it is obvious that the Notice of Abandonment was mailed in error.

In view thereof, **the holding of abandonment is withdrawn.**

The matter is being forwarded to Group Art Unit 2624 for consideration for further consideration by the Examiner, in view of the Notice of Withdrawal from Issue mailed January 5, 2009.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

12 DEC 2006

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
7th Floor
12400 Wilshire Blvd.
Los Angeles, CA 90025

In re Application of
TRETOUT, Jean-Pierre
U.S. Application No.: 10/552,845
PCT No.: PCT/FR2004/00888
Int. Filing Date: 09 April 2004
Priority Date: 09 April 2003
Attorney Docket No.: 15675P584
For: DEVICE AND METHOD FOR EVALUATION OF THE SHADE OF AN OBJECT BY SPECTROMETRY

DECISION ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)

Applicant's petition to revive under 37 CFR 1.137(b) filed on 17 July 2006 is hereby **GRANTED** as follows:

The basic national fee and the petition fee for a small entity have been paid. Applicant makes the required statement pursuant to 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A declaration in compliance with 37 CFR 1.497(a) and (b) and an English translation of the application was also provided on 17 July 2006.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MYERS & KAPLAN
INTELLECTUAL PROPERTY LAW, L.L.C.
CUMBERLAND CENTER II
3100 CUMBERLAND BLVD, SUITE 1400
ATLANTA, GA 30339

COPY MAILED

MAR 0 4 2008

OFFICE OF PETITIONS

In re Application of	:	
DAVIS, Jonathan et al.	:	
Application No. 10/552,846	:	DECISION ON PETITION
Filed: October 12, 2005	:	TO WITHDRAW
Attorney Docket No. **21770-RA2**	:	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 28, 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 Joel D. Myers on behalf on behalf of all attorneys of record who are associated with customer No. 30184. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Jonathan Davis at the address indicated below.

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **MR. JONATHAN DAVIS**
P.O. BOX 681051
MARIETTA, GA 30068-0018

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

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 05/17/2010

Applicant	: Jack Taunton	: DECISION ON REQUEST FOR
Patent Number	: 7687506	: RECALCULATION of PATENT
Issue Date	: 03/30/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/552,847	: OF WYETH
Filed	: 08/09/2006	:
		:

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.

09 JUN 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Ladas & Parry
224 South Michigan Avenue
Chicago, Illinois 60604

In re Application of JANG, Kyuo Application No.: 10/552,872 PCT No.: PCT/KR04/00191 Int. Filing Date: 03 February 2004 Priority Date: 28 March 2003 Attorney Docket No.: CU-4452 WWP For: P2P SERVICE METHOD	:	DECISION ON PETITION

The petition to revive under 37 CFR 1.137(b) filed 12 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 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

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

Dickinson Wright, PLLC
1875 Eye Street, NW
Suite1200
Washington, DC 20006

MAILED

JUN 28 2010

OFFICE OF PETITIONS

In re Application of	:	
SEUGDONG LEE ET AL.	:	
Application No. 10/552,882	:	DECISION ON PETITION
Filed: October 13, 2005	:	TO WITHDRAW
Attorney Docket No. **2004P06246 (NSN)**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed May 31, 2010.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to attorneys/agents associated with Customer Number 87133 has been revoked by the applicants of the patent application on May 27, 2010. Accordingly, the request to withdraw under 37 CFR § 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 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD FL 33022-2480

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES, CA 90013-1024

COPY MAILED

JUN 0 5 2008

OFFICE OF PETITIONS

In re Application of	:	
DORN, Jurgen.	:	
Application No. 10/552,886	:	DECISION ON PETITION
Filed: November 18, 2005	:	TO WITHDRAW
Attorney Docket No. **480052000700**	:	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 23, 2008.

The request is not approved because it is **Moot**.

A review of the file record indicates that the power of attorney to RUTAN & TUCKER, LLP. has been revoked by the Assignee of the patent application on May 16, 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 Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **RUTAN & TUCKER, LLP.**
611 ANTON BLVD
SUITE 1400
COSTA MESA CA 92626

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

15 SEP 2006

Douglas P. Mueller
Hamre, Schumann, Mueller & Larson, P.C.
P.O. Box 2902-0902
Minneapolis, MN 55402

In re Application of	:	
PATELL	:	
Application No.: 10/552,887	:	
PCT No.: PCT/IB02/05253	:	DECISION ON PETITION
Int. Filing Date: 09 December 2002	:	
Priority Date: 09 December 2002	:	UNDER 37 CFR 1.137(b)
Atty. Docket No.: 20049.1USWO	:	
For: RICE CONFERRING RESISTANCE TO	:	
ENVIRONMENTAL STRESS BY TARGETING	:	
MnSOD TO THE CHLOROPLAST	:	

The petition to revive under 37 CFR 1.137(b) filed 12 October 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the abandonment and the entire delay from 9 June 2005, until the filing of this petition and the U.S. National Stage application 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 review of the filed papers 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 09 December 2002 under 35 U.S.C. 363 and will be given a date of **12 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
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MORGAN, LEWIS & BOCKIUS LLP (SF)
One Market, Spear Street Tower, Suite 2800
San Francisco CA 94105

MAILED

NOV 05 2009

OFFICE OF PETITIONS

In re Application of	:	
DeFrees et al.	:	
Application No. **10/552896**	:	NOTICE
Filed: **06/08/2006**	:	
Attorney Docket No. **101961-5051-US01**	:	

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 applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3231.

DIWood

Douglas I. Wood
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

Iandiorio & Teska
260 Bear Hill Road
Waltham, MA 02154

COPY MAILED
AUG 25 2008

In re Application of Selsdon :
Application No. 10/552,907 : Decision on Petition
Filing Date: January 30, 2008 :
Attorney Docket No. GJ-268J :

This is a decision on the petition under 37 CFR 1.181 filed June 9, 2008, requesting the Office transfer papers filed January 30, 2008, in Application No. 10/522,907, to Application No. 10/552,907.

The petition is **granted.**

A non-final Office action was mailed October 29, 2007.

A reply was filed January 30, 2008. The reply was timely because it included a certificate of mailing date of January 28, 2008. Unfortunately, due to a typographical error, the reply papers listed the application number as "10/522,907."

Petitioner requests the January 30, 2008, be transferred to the instant application and requests the reply be considered as timely filed.

At the discretion of the Office, a paper listing an incorrect application number may be considered timely and proper. The Office will accept papers as timely filed if the following criteria are met:

(1) The papers contained sufficient information for the Office to recognize they included an incorrect application number.
(2) The papers contained sufficient information for the Office to determine the correct application number.

As for item (1) above, a review of the amendment and the file for the incorrect application immediately indicates the amendment was intended for another application.

As for item (2) above, the papers correctly identified the inventor, the filing date, the attorney docket number, the examiner, and the group art unit handling the matter.

Since the requirements above have been met, the papers filed January 30, 2008, have been transferred to the correct application. In addition, the papers will treated as a timely reply to the non-final Office action mailed October 29, 2007.

Since the Office treated the petition as a petition under 37 CFR 1.181, the Office has not charged a petition fee to petitioner's deposit account.

Technology Center Art Unit 1797 will be informed of the instant decision and the papers filed January 30, 2008, will be considered by the examiner in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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	: Joel Gaillard	: DECISION ON REQUEST FOR
Patent Number	: 7628333	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/552,912	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/27/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **955** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

22 DEC 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.g

Fish & Richardson PC
PO Box 1022
Minneapolis, MN 55440-1022

In re Application of:	:	
CLAWSON, Gary, A., et al.	:	DECISION ON PETITION
U.S. Application No.: 10/552,914	:	UNDER 37 CFR 1.137(b)
Int'l Filing Date: 23 February 2004	:	
Priority Date: 21 February 2003	:	
Attorney's Docket No.: 14017-009US1	:	
For: RNA INTERFERENCE COMPOSITION	:	
AND METHODS	:	

The petition to revive 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 filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirement of 37 CFR 1.137(b)(3).

Applicants have now submitted the basic national fee, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the United States of America.

The 03 February 2005 submission included an executed declaration in compliance with 37 CFR 1.497. Deposit Account No. 06-1050 will be charged the $130 surcharge for filing the declaration later than thirty months after the priority date.

This application is being returned to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 13 October 2005.

Richard M. Ross
PCT Petitions Attorney
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

22 AUG 2006

FLYNN THIEL BOUTELL & TANIS, P.C.
2026 RAMBLING ROAD
KALAMAZOO MI 49008-1631

In re Application of	:	
OKAMOTO et al.	:	
Application No.: 10/552,939	:	DECISION ON
PCT No.: PCT/JP2004/005760	:	
Int. Filing Date: 22 April 2004	:	PETITION UNDER
Priority Date: 24 April 2003	:	
Attorney Docket No.: 3400.P1424US	:	37 CFR 1.181
For: SEPARATING AGENT FOR	:	
ENANTIOMERIC ISOMERS	:	

This decision is in response to applicants' "PETITION UNDER 37 CFR 1.181" filed 17 October 2005.

BACKGROUND

On 22 April 2004, applicant filed international application PCT/JP2004/005760 which designated the U.S. and claimed a priority date of 24 April 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 04 November 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 24 October 2005.

On 11 October 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the Basic National Fee, a declaration of inventors, and a purported English translation of the international application.

On 17 October 2005, applicant filed the instant "PETITION UNDER 37 CFR 1.181" requesting that the accompanying English translation be substituted for the purportedly defective English translation filed 11 October 2005 and that the accompanying "Amendment Before First Office Action" be entered.

DISCUSSION

Upon review of the application file and the published international application, it is apparent that the translation of claim 9 in the English translation filed 11 October 2005 was incorrect. The English translation filed 17 October 2005 is correct.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

The English translation of the international application filed 17 October 2005 will be used rather than the translation filed 11 October 2005. Additionally, the amendment to the claims filed 17 October 2005 will be entered rather than the amendment filed 11 October 2005.

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 no earlier than **17 October 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

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.
10/552,942	11/01/2006	Rudolph Buhrmann	02655.0040	6895

22852 7590 04/15/2008
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

EXAMINER
DURAND, PAUL R

ART UNIT	PAPER NUMBER
3721	

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.

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

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Application of:
Buhrmann, Rudolph et al
Serial No. 10/552,942
Filed: Oct. 14, 2005
Docket: 02655.0040
Title: APPARATUS FOR IMPARTING RELATIVE MOVEMENT BETWEEN AN OSCILLATING MEMBER AND A RAIL

DECISION ON PETITION UNDER 37 CFR § 1.181

This is a decision on the petition to withdraw the holding of abandonment filed on Apr. 7, 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. 19, 2007 which set forth a three-month period for reply. Notice of abandonment was mailed on Mar. 31, 2008.

Petitioner asserts that a timely response to the Non-Final Rejection was received on Mar. 18, 2008. The petitioner has supplied a copy of the amendment as well as a copy of an acknowledgement post-card receipt indicating a receipt date of Mar. 18, 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. 18, 2008.

As the petitioner has provided convincing evidence that a timely reply to the Non-Final Office action was received on Mar. 18, 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. 31, 2008 is in error and is hereby vacated. The holding of abandonment is withdrawn. This application is being forwarded to the examiner in Art Unit 3711 for appropriate action.

Frederick R. Schmidt, Director
Technology Center 3700

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date : 8/13/2008
Patent No. : 7,402,915 B2
Inventor(s) : Hutchinson et al.
Issue Date : July 22, 2008
Title : **PEDAL GENERATOR**
Doc./File No. : **08364.0085**

Re: Certificate of Correction

Consideration has been given your request for a certificate of correction, for the above-identified patent under the provisions of Rule 1.322 and 1.323.

Respecting the alleged error(s) in your request, in item (75) inventors, Inventors' addresses are printed in accordance with the Declaration, and in accordance with the present style for printing. Since, *only* the city *or* another political unit (if no city is indicated) and the country, are printed in the printed patent. The Inventors citizenship is presently not a style for printing of a certificate of correction on the title page. Therefore, no correction is in order here.

In view of the foregoing, your request in this matter is denied.

Future consideration should be filed and directed to Decisions & Certificates of Correction Branch.

Ernest C. White, *LIE* (703) 308-9390 x122
Mary F. Diggs, *Supervisor* (703) 308-9390 x125
Decisions & Certificates of Correction Branch

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

ecw

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

COPY MAILED

MAR 1 3 2009

OFFICE OF PETITIONS

Rutan & Tucker, LLP
611 Anton Blvd.
Suite 1400
Costa Mesa, CA 92626

In re Application of	:	
Dusan Miljkovic, et al.	:	
Application No. 10/552,945	:	DECISION ON PETITION
Filed: October 13, 2005	:	TO WITHDRAW
Attorney Docket No. 100700.0024US1	:	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 5, 2008.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Rutan & Tucker, LLP has been revoked by the assignee of the patent application on February 19, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **FISH & ASSOCIATES, PC**
Robert D. Fish
2603 Main Street
Suite 1000
Irvine, CA 92614-6232

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

CARSTENS & CAHOON, LLP
P.O. BOX 802334
DALLAS, TX 75380

COPY MAILED

NOV 30 2006

OFFICE OF PETITIONS

In re Application of	:	
Gary Davidson et al	:	
Application No. 10/552,954	:	DECISION ON PETITION
Filed: October 14, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. AAIRB.0102US	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 20, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from Inventor Gary Davidson stating that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to 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 2617 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Tommy Mullane	: DECISION ON REQUEST FOR
Patent Number	: 7649917	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/552,967	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/01/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **468** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403

MAILED

JAN 30 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Manfred Roether et al :
Application No. 10/552,972 :
Filed: November 16, 2005 :
Attorney Docket No. P/2107-284

This is a decision on the petition, filed January 28, 2009 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 7, 2009 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3651 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).

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 JUN 2007

JAGTIANI + GUTTAG
10363-A DEMOCRACY LANE
FAIRFAX, VA 22030

In re Application of	:	
DÖLL, Walter et al.	:	
Application No.: 10/552,974	:	
PCT No.: PCT/AU04/00464	:	
Int. Filing Date: 08 April 2004	:	DECISION
Priority Date: 11 April 2003	:	
Attorney's Docket No.: COCH-0162-US1	:	
For: Power Management System	:	

This communication is issued in response to applicants' "Response To Notification of Abandonment" submitted on 20 February 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 05 February 2007, be withdrawn. No petition fee is due.

BACKGROUND

On 08 April 2004, applicants filed international application PCT/AU04/00464, claiming a priority date of 11 April 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 11 October 2005.

On 11 October 2005, applicants 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 07 June 2006, 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) and the surcharge for late filing of the oath or declaration were required.

On 28 June 2006 applicants purportedly filed a response to the Notification of Missing Requirements including, *inter alia*, an executed declaration and the surcharge for late filing of the declaration. Although the U.S. Patent and Trademark Office records indicate that the $130 surcharge for late filing of the declaration was received on 28 June 2006, the Office does not have any record of the executed declaration.

On 05 February 2007, the Office mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that because applicants have failed to respond to the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 07 June 2006, the instant application has been abandoned.

On 20 February 2007, applicants filed a response to the Notification of Abandonment including, copies of all papers that were purportedly filed with the Office on 28 June 2006. Specifically, applicants filed a copy of the stamped filing receipt card showing a receipt date of 28 June 2006, an executed declaration and, a supplemental application data sheet correcting the misspelled name of inventor Walter DOELL to Walter DÖLL.

DISCUSSION

The copy of the stamped filing receipt card showing a receipt date of 28 June 2006 is sufficient evidence that applicants have filed a proper response to the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed on 07 June 2006. Specifically, an executed declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the declaration were submitted within the set time period.

MPEP §605.04(b) states that:

> When a typographical or transliteration error in the spelling of an inventor's name is discovered during pendency of an application, a petition is not required, nor is a new oath or declaration under 37 CFR 1.63 needed. However, applicants are strongly encouraged to use an application data sheet such that any patent to issue will reflect the correct spelling of the inventor's name. Without an application data sheet with the corrected spelling, any patent to issue is less likely to reflect the correct spelling since the spelling of the inventor's name is taken from the oath or declaration, or any subsequently filed application data sheet.

Here, applicants filed a supplemental application data sheet on 28 June 2006 correcting the misspelled name of inventor Walter DOELL to Walter DÖLL. Therefore, the executed declaration initially filed on 28 June 2006, and later resubmitted on 20 February 2007 is in compliance with 37 CFR 1.497(a)-(b).

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 05 February 2007 is hereby withdrawn.

CONCLUSION

For the reasons stated above, the petition under 37 C.F.R. 1.181 is **GRANTED**.

The application will be given a date of 28 June 2006 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 05 February 2007 is hereby **WITHDRAWN**.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing.

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

26 APR 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

#3

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

In re Application of	:	
MATSUDA, Yojiro	:	
U.S. Application No.: 10/552,976	:	
PCT No.: PCT/JP05/01439	:	
Int. Filing Date: 26 January 2005	:	DECISION
Priority Date: 27 January 2004	:	
Attorney Docket No.: 00684.102867	:	
For: ELECTROPHORETIC DISPLAY ...	:	
DRIVING METHOD THEREOF	:	

This is a decision on applicant's "Request to Consolidate Applications and Accept Translation," filed in the United States Patent and Trademark Office on 18 April 2006.

BACKGROUND

On 26 January 2005, applicant filed international application PCT/JP05/01439, claiming a priority date of 27 January 2004. The international application was transmitted to the Office by the International Bureau on 04 August 2005. Accordingly, the thirty-month period for paying the basic national fee in the United States expires at midnight on 27 July 2006.

On 12 October 2005, applicant filed a transmittal letter for entry into the national phase in the United States, accompanied by an application data sheet, an information disclosure statement, the basic national fee and a specification titled "Electrophoretic Dispersion Liquid and Electrophoretic Display Device".

On 19 October 2005, applicant filed a second transmittal letter for entry into the national phase in the United States, accompanied by an application data sheet, an information disclosure statement, the basic national fee and a specification titled "Electrophoretic Display Apparatus and Driving Method Thereof".

On 04 November 2005, applicant filed Petition For Express Abandonment to Avoid Publication Under 37 CFR 1.138(c), accompanied by the required fee.

On 17 November 2005, applicant sent a second copy of the 04 November 2005 petition by facsimile.

On 18 April 2006, applicant filed a request to consolidate the applications and to use the specification from the second filing.

DISCUSSION

Applicants submitted two sets of papers to enter the national stage for international application number PCT/JP05/01439. The end result for an international application designating the United States of America is a single U.S. national stage application. Therefore, the submission of two sets of national stage papers to enter the United States was improper.

For this reason, both of the filings have been consolidated into a single national stage application for PCT/JP05/01439, under the serial number 10/552,976. Application Number 10/553,954 has been cancelled. All the papers from 10/553,954 have been transferred to the file of application number 10/552,976. The additional fees for the second national filing will be refunded to deposit account no. 06-1205, as authorized.

Applicant's petition for express abandonment will not be acted upon. It was signed by an attorney who had not provided a power of attorney executed by all applicants or by the assignee. The fee for the petition under 37 CFR 1.182 will be charged to deposit account no. 06-1205, as authorized.

CONCLUSION

Applicant's petition under 37 CFR 1.182 to consolidate the applications and to disregard the petition for express abandonment is **GRANTED**.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further national stage processing. Application number 10/553,954 has been cancelled. Applicant should use application number 10/552,976 in all future communications with the Patent and Trademark Office regarding the U.S. National stage of international application PCT/JP05/01439.

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

MAILED

MAR 18 2010

OFFICE OF PETITIONS

PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15TH STREET, NW
WASHINGTON, DC 20005

In re Application of	:	
Yoshiaki Sato	:	
Application No. 10/552,991	:	ON PETITION
Filed: October 13, 2005	:	
Attorney Docket No. SUZ0022-US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 14, 2009, to revive the above-identified application.

The petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Aslan Baghdadi appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that petitioner is authorized to represent the particular party on whose behalf he acts.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed May 26, 2009, which set a shortened statutory period for reply of three (3) months. In view of the 3-month extension of time under the provisions of 37 CFR 1.136(a), the application became abandoned on November 27, 2009. This decision precedes the mailing of a Notice of Abandonment. On December 14, 2009, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $405 and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay[1].

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

This application is being referred to Technology Center AU 3734 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA, VA 22314

Mail Date: 04/21/2010

Applicant	: Peter Allan Anderson	: DECISION ON REQUEST FOR
Patent Number	: 7601314	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/553,032	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/12/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **758** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

2 5 APR 2008

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

In re Application of YOSHINAGA et al	:	
U.S. Application No.: 10/553,038	:	
PCT Application No.: PCT/JP2004/018685	:	DECISION
Int. Filing Date: 08 December 2004	:	
Priority Date Claimed: 08 December 2003	:	
Attorney Docket No.: 00684.102862	:	
For: DISPLAY APPARATUS	:	

This is in response to applicant's "Petition Under 37 C.F.R. §1.181 or Conditionally Under 37 C.F.R. §1.137(a) and M.P.E.P. §711.03(c) to Withdraw Holding of Abandonment" filed 14 March 2008.

BACKGROUND

On 08 December 2004, applicant filed international application PCT/JP2004/018685, which claimed priority of an earlier Japan application filed 08 December 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 16 June 2005. The thirty-month period for paying the basic national fee in the United States expired on 08 June 2006.

On 11 October 2005, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 31 August 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905)[1], which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 22 January 2008, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated the application is abandoned for failure to timely respond to the Notification of Missing Requirements.

[1] Copy attached.

On 14 March 2008, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The petition states that the Notification of Missing Requirements was never received.

MPEP 711.03(c), Section I. A., "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action" states in relevant part,

> 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.

In the present case, the petition includes a statement from the practitioner describing the docketing system of the practitioner's firm and establishing that the system is sufficiently reliable. Furthermore, the petition includes a statement from the practitioner that the correspondence was not received and that a search of the practitioner's file records revealed that the correspondence was not received. In addition, the petition includes a copy of the master docket record for the practitioner's firm, listing all replies docketed for the due date for reply to the correspondence in question. Such docket record does not indicate that any response to a Notification of Missing Requirements was due on 31 October 2006 for the present application.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 22 January 2008 is hereby VACATED.

A proper response to the Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file a proper response will result in ABANDONMENT of the application. Extensions of time are available under 37 CFR 1.136(a).

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

ATTACHMENT: Copy of Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905)

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

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/553,038	Hideki Yoshinaga	00684.102862

INTERNATIONAL APPLICATION NO.	
PCT/JP04/18685	
I.A. FILING DATE	PRIORITY DATE
12/08/2004	12/08/2003

5514
FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

CONFIRMATION NO. 6783
371 FORMALITIES LETTER
OC000000020264078

Date Mailed: 08/31/2006

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Copy of the International Application filed on 10/11/2005
- Copy of the International Search Report filed on 10/11/2005
- Copy of IPE Report filed on 11/17/2005
- Information Disclosure Statements filed on 11/17/2005
- U.S. Basic National Fees filed on 10/11/2005
- Priority Documents filed on 10/11/2005

The applicant needs to satisfy supplemental fees problems indicated below.

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.

- To avoid abandonment, a surcharge (for late submission of filing fee, search fee, examination fee or oath or declaration) as set forth in 37 CFR 1.492(h) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.

SUMMARY OF FEES DUE:

Total additional fees required for this application is **$130** for a Large Entity:

- **$130** Surcharge.

ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice **MUST** be returned with the response.*

KAREN M WILLIAMS

Telephone: (703) 308-9140 EXT 213

PART 2 - OFFICE COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/553,038	PCT/JP04/18685	00684.102862

FORM PCT/DO/EO/905 (371 Formalities Notice)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 7,577,500 B2
Serial No. : 10/553,043
Inventor(s) : Nihei et al.
Issued : August 18, 2009
Title : **WHEEL INFORMATION-ACQUIRING SYSTEM AND WHEEL INSTALLATION POSITION INFORMATION-SETTING DEVICE**
Docket No. : **ION1.001APC**

Re: Request for Reconsideration

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	571-273-8300 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Ernest C. White, *LIE*
For Mary F. Diggs (703) 756-1580
Decisions & Certificates
of Correction Branch
(703) **756-1590**

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

ecw

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

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: Hideki Nihei	: DECISION ON REQUEST FOR
Patent Number	: 7577500	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/553,043	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/27/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **783** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

09 JUN 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

BUCHANAN INGERSOLL PC
(INCLUDING BURNS, DOANE, SWECKER & MATHIS)
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

In re Application of GAMBUT-GAREL et al	:	
U.S. Application No.: 10/553,058	:	
PCT Application No.: PCT/FR04/00709	:	
Int. Filing Date: 23 March 2004	:	DECISION
Priority Date Claimed: 03 April 2003	:	
Attorney Docket No.: 022702-136	:	
For: CROSSLINKABLE COMPOSITION FOR A BATTERY ELECTROLYTE	:	

This is in response to applicant's "Petition to Revive Unintentionally Abandoned Applications" filed 12 October 2005.

BACKGROUND

On 23 March 2004, applicant filed international application PCT/FR04/00709, which claimed priority of an earlier France application filed 03 April 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 21 October 2004. The thirty-month period for paying the basic national fee in the United States expired on 03 October 2005.

International application PCT/FR04/00709 became abandoned as to the United States for failure to timely pay the basic national fee.

On 12 October 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), the petition states, "The entire delay in filing the attached Filing Under 35 U.S.C. § 371 from the due date for filing the attached Filing Under 35 U.S.C. § 371 until the filing of this Petition was unintentional." This statement is interpreted as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a properly executed oath or declaration in compliance with 37 CFR 1.497 must be filed.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

DATE 2 5 JUN 2008 APPLICATION NUMBER 10/553,058

DOC CODE PETITE-OEPI DOC DATE 2 5 JUN 2008

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

2 5 JUN 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

BUCHANAN INGERSOLL PC
(INCLUDING BURNS, DOANE, SWECKER & MATHIS)
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

In re Application of GAMBUT-GAREL et al	:	
U.S. Application No.: 10/553,058	:	
PCT Application No.: PCT/FR04/00709	:	
Int. Filing Date: 23 March 2004	:	DECISION
Priority Date Claimed: 03 April 2003	:	
Attorney Docket No.: 022702-136	:	
For: CROSSLINKABLE COMPOSITION FOR A	:	
BATTERY ELECTROLYTE	:	

This is in response to applicant's "Petition to Withdraw Holding of Abandonment" filed 16 May 2008, which is being treated under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 23 March 2004, applicant filed international application PCT/FR04/00709, which claimed priority of an earlier France application filed 03 April 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 21 October 2004. The thirty-month period for paying the basic national fee in the United States expired on 03 October 2005.

International application PCT/FR04/00709 became abandoned as to the United States for failure to timely pay the basic national fee.

On 12 October 2005, applicant filed a petition under 37 CFR 1.137(b).

On 09 June 2006, this Office mailed a decision granting the 12 October 2005 petition.

On 08 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).

On 06 April 2007, applicant purportedly filed a response to the Notification of Missing Requirements.

On 19 February 2008, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the present application is abandoned for failure to timely respond to the Notification of Missing Requirements.

On 16 May 2008, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The evidence of record is sufficient to establish that the response to the Notification of Missing Requirements was originally filed on 06 April 2007. Specifically, the copy of the return postcard, which includes the response to the Notification of Missing Requirements in its itemized contents and which bears a USPTO date stamp of 06 April 2007, serves as prima facie evidence that the response to the Notification of Missing Requirements was received by the USPTO on 06 April 2007.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 23 March 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 06 April 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

12 JUN 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of	:	
MATYKO et al.	:	
Application No.: 10/553,059	:	DECISION ON
PCT No.: PCT/IL2004/000229	:	
Int. Filing Date: 09 March 2004	:	PETITION UNDER
Priority Date: 19 March 2003	:	
Attorney Docket No.: 4529-5	:	37 CFR 1.137(b)
For: ENHANCED EXTENDABLE MULTIPOINT	:	
LOCK	:	

This decision is in response to applicant's submission filed 12 October 2005.

BACKGROUND

On 09 March 2004, applicant filed international application PCT/IL2004/000229 which designated the U.S. and claimed a priority date of 19 March 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) 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.

On 12 October 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 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 12 October 2005.

As to item (2), applicant submitted the petition fee on 12 October 2005.

As to item (3), petitioner's statement that the application was unintentionally abandoned has been construed as meaning that the "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional." If this interpretation is incorrect, applicant must *immediately* notify the Office of PCT Legal Administration of such fact.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) 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

09 JUN 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Buchanan Ingersoll PC
Including attorneys form Burn, Doane, Swecker, & Mathis
P.O. Box 1404
Alexandria, Virginia 22313-1404

In re Application of BARRANDON et al. Application No.: 10/553,062 PCT No.: PCT/FR04/00708 Int. Filing Date: 23 March 2004 Priority Date: 03 April 2003 Attorney Docket No.: 022702-135 For: CROSSLINKABLE COMPOSITION FOR A BATTERY ELECTROLYTE	:	DECISION ON PETITION

The petition to revive under 37 CFR 1.137(b) filed 12 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 reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that applicant has submitted the basic national fee and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office (US/DO/EO) for continued processing including the issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration along with the $130 surcharge for filing the oath or declaration after the thirty-month period is required.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date: 05/06/10

Patent No. : 7687465 B2
Ser. No. : 10/553,078
Inventor(s) : STRATEN, PER THOR
Issued : 03/30/10
Title : **THERAPEUTIC CANCER VACCINE**
Docket No. : **0088562-001US0**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 756-1574 or (703) 305-8309

DAVIS WRIGHT TREMAINE LLP - San Francisco
505 MONTGOMERY STREET
SUITE 800
SAN FRANCISCO CA 94111

LMN

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Davis Wright Tremaine LLP - San Francisco
505 Montgomery Street
Suite 800
San Francisco, CA 94111

MAILED

JUL 06 2010

OFFICE OF PETITIONS

ON PETITION

In re Application of
Per Thor Straten, et. al.
Application No. 10/553,078
Filed: June 23, 2006
Attorney Docket No. 0088562-001US0

This is a decision on the request under 37 CFR 3.81(b)[1], filed May 19, 2010, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

It is noted that the request under 37 CFR 3.81(b) is signed by Stephanie X. Wang. However, the registration number listed on the present request is that of another name (Xuefang Wang). Therefore, the present request cannot be accepted at this time.

In view of the above, the petition is **dismissed**.

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.

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

21 NOV 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CAMERON INTERNATIONAL CORPORATION
P.O. BOX 1212
HOUSTON, TX 77251-1212

In re Application of	:	
PARKINSON, David	:	
Application No.: 10/553,080	:	DECISION ON
PCT No.: PCT/GB04/01351	:	
Int. Filing Date: 31 March 2004	:	PETITION UNDER
Priority Date: 10 April 2003	:	
Attorney Docket No.: DPS-030807 PET-1013US	:	37 CFR 1.47(b)
For: FILTRATION APPARATUS	:	

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 05 September 2006.

BACKGROUND

On 31 March 2004, applicant filed international application PCT/GB04/01351, claiming a priority date of 26 July 2002. A copy of the international application was transmitted to the Office on 21 October 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 11 October 2005 (10 October 2005 was a holiday).

On 11 October 2005, applicant filed a submission for entry into the national stage in the United States which was accompanied by the basic national fee.

On 07 June 2006, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 05 September 2006, applicant submitted a petition under 37 CFR 1.47(b) accompanied by the fee for a one month extension of time.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(g), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Items (1), (3) and (6) have been met. (1) The balance of the $200 petition fee will be charged to the deposit account no. 13-0100, as authorized. (3) Applicant states the last known mailing address of Mr. David Parkinson as Arodene, Walton-in-Gordano; Clevedon, North Somerset BS21 7AR; United Kingdom. (6) Applicant has demonstrated that irreparable harm will result if the application is not permitted to proceed.

Item (2) has not been satisfied. Applicant claims that Mr. Parkinson has refused to execute the declaration, but have not provided proof that Mr. Parkinson was presented with a complete copy of the application papers and has refused to sign. Mr. Ziar does not indicate that the application was included with the papers forwarded to the inventor. Copies of documentary evidence indicating that the inventor received a complete copy of the application papers should be included. Further, applicant may have created some confusion as to what is required of the inventor. MPEP 409.03(d). Only a signed declaration of the inventor is required for applicant to enter the national phase. Applicant sent Mr. Parkinson an assignment to KCC, to sign. Mr. Parkinson appears unaware of the sale of assets to KCC or uncomfortable signing an assignment to a company for whom he did not work. He is not clearly refusing to sign a declaration of inventorship.

Item (4) has not been satisfied. The declaration is defective in several respects. First, the §1001 clause is incomplete and its presence with the inventor biographical data makes it unclear what is being executed. Merely stating what follows "I, Manish B. Vyas, hereby declare ..." is not sufficient. The 37 CFR 1.47(b) applicant is required to state everything that the inventor would have to state. Additionally, the declaration seems to indicate that the property interest is vested in Vyas personally rather than in the assignee for whom Vyas is empowered to act. Finally, as Vyas is empowered to act by KCC Group, who is apparently the assignee, it is unclear why Vyas is indicated as representing Cameron International Corporation.

Item (5) has not been met. The legal memorandum relies on an employment agreement executed by Mr. Parkinson, but that employment agreement has not been included with this submission. Further, the submission lacks a statement of someone with firsthand knowledge that this invention was made by Mr. Parkinson, while employed by DPS. Mr. Parkinson comes close, but he does not specifically indicate that "Filtration Apparatus" was made while employed by DPS.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)". No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3455
Facsimile: 571-273-0459

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

08 JUN 2007

CAMERON INTERNATIONAL CORPORATION
P.O. BOX 1212
HOUSTON, TX 77251-1212

In re Application of	:	
PARKINSON, David	:	
Application No.: 10/553,080	:	DECISION ON
PCT No.: PCT/GB04/01351	:	
Int. Filing Date: 31 March 2004	:	PETITION UNDER
Priority Date: 10 April 2003	:	
Attorney Docket No.: DPS-030807 PET-1013US	:	37 CFR 1.47(b)
For: FILTRATION APPARATUS	:	

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 23 February 2007.

BACKGROUND

On 21 November 2006, the Office mailed Decision On Petition Under 37 CFR 1.47(b), dismissing applicant's petition without prejudice.

On 23 February 2007, applicant submitted this renewed petition, accompanied by the fee for a one month extension of time.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(g), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Items (1), (3) and (6) were previously satisfied. Applicant states the last known mailing address of Mr. David Parkinson as Arodene, Walton-in-Gordano; Clevedon, North Somerset BS21 7AR; United Kingdom.

Items (2) and (4) have now been satisfied. Applicant has provided sufficient evidence that Mr. Parkinson was presented with a complete copy of the application papers and has not returned a signed oath or declaration. The declaration complies with 37CFR 1.497(a)-(b) and 37 CFR 1.47.

Item (5) has not been met. Previously, applicants provided a legal memorandum that relied on an employment agreement executed by Mr. Parkinson, but did not provide that employment agreement. Applicants have still not provided that employment agreement.

Additionally, applicants claim that they are relying on the "Statement of Inventorship and of right to grant of a patent" filed with the British Patent Office. Applicant claims this is a certified statement of

inventorship and should be sufficient. First, that statement is for the British priority application, not the international application. Additionally, it is not clear what research was put into making this statement, to what certification applicant refers, who signed the statement and it is not clear that the person who signed the statement had firsthand knowledge of the facts recited therein. Further ownership by virtue of employment is a legal conclusion. Applicant has been asked to establish this through a legal memorandum with the necessary supporting documentation. The statement does not satisfy the United States Patent and Trademark Office's requirements for proof of sufficient proprietary interest.

Finally applicants were previously informed that the submission lacks a statement of someone with firsthand knowledge that this invention was made by Mr. Parkinson, while employed by DPS. The statement by Paul Webb is not sufficient. Items (4) and (5) from the statement do not demonstrate Mr. Webb's firsthand knowledge that Mr. Parkinson made the invention within the scope of his employment.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)". No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3455
Facsimile: 571-273-0459

0 5 OCT 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

CAMERON INTERNATIONAL CORPORATION
P.O. BOX 1212
HOUSTON, TX 77251-1212

In re Application of	:	
PARKINSON, David	:	
Application No.: 10/553,080	:	DECISION ON
PCT No.: PCT/GB04/01351	:	
Int. Filing Date: 31 March 2004	:	PETITION UNDER
Priority Date: 10 April 2003	:	
Attorney Docket No.: DPS-030807 PET-1013US	:	37 CFR 1.47(b)
For: FILTRATION APPARATUS	:	

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 07 August 2007.

BACKGROUND

On 08 June 2007, the Office mailed Decision On Petition Under 37 CFR 1.47(b), dismissing applicant's petition without prejudice.

On 07 August 2007, applicant submitted this renewed petition.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(g), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Items (1), (2), (3), (4) and (6) were previously satisfied. Applicant states the last known mailing address of Mr. David Parkinson as Arodene, Walton-in-Gordano; Clevedon, North Somerset BS21 7AR; United Kingdom.

Item (5) has not been met. Applicant now indicates that there is no written employment agreement for Mr. Parkinson, but point to emails indicating that he worked for DPS, the certification on the British Patent application and the legal memorandum that indicates that Mr. Parkinson's position was one such that anything that he invented while in that position would vest with the company.

However, the assignments on which applicants rely for the rest of the chain of title have not been recorded with the Office. In the absence of the recordation and required statement, they cannot be relied upon. 37 CFR (b)(1)(ii).

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)". No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3455
Facsimile: 571-273-0459

0 8 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

CAMERON INTERNATIONAL CORPORATION
P.O. BOX 1212
HOUSTON, TX 77251-1212

In re Application of	:	
PARKINSON, David	:	
Application No.: 10/553,080	:	DECISION ON
PCT No.: PCT/GB04/01351	:	
Int. Filing Date: 31 March 2004	:	PETITION UNDER
Priority Date: 10 April 2003	:	
Attorney Docket No.: DPS-030807 PET-1013US	:	37 CFR 1.47(b)
For: FILTRATION APPARATUS	:	

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 05 December 2007.

BACKGROUND

On 05 October 2007, the Office mailed Decision On Petition Under 37 CFR 1.47(b), dismissing applicant's petition without prejudice.

On 05 December 2007, applicant submitted this renewed petition.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(g), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Items (1), (2), (3), (4) and (6) were previously satisfied. Applicant states the last known mailing address of Mr. David Parkinson as Arodene, Walton-in-Gordano; Clevedon, North Somerset BS21 7AR; United Kingdom.

Item (5) has now been met. The assignments that establish the chain of title for this invention have been recorded.

CONCLUSION

For the above reasons, applicant's petition under 37 CFR 1.47(b) is **GRANTED**.

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of Patent Application Processing to continue national stage processing of the application, including accordation of a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of **23 February 2007**.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3455
Facsimile: 571-273-0459

0 8 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

Mr. David Parkinson
Arodene, Walton Down
Walton-in-Gordano; Clevedon,
North Somerset BS21 7AR
United Kingdom

In re Application of
PARKINSON, David
Application No.: 10/553,080
PCT No.: PCT/GB04/01351
Int. Filing Date: 31 March 2004
Priority Date: 10 April 2003
Attorney Docket No.: DPS-030807 PET-1013US
For: FILTRATION APPARATUS

Dear Mr. Parkinson

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 118. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. The counsel for the applicant is listed below. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

CAMERON INTERNATIONAL CORPORATION
P.O. BOX 1212
HOUSTON, TX 77251-1212

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

BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

Mail Date: 04/20/2010

Applicant	: John P. Biondo	: DECISION ON REQUEST FOR
Patent Number	: 7641623	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/553,086	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1121** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

02 OCT 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

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

In re Application of	:	DECISION ON
George Margetts et al	:	
PCT No.: PCT/GB2004/001663	:	
Application No.: 10/553,111	:	
Int. Filing Date: 16 April 2004	:	PAPERS FILED
Priority Date: 16 April 2003	:	
Attorney's Docket No.: 10103-030-999	:	
For: USE OF STERIOD DERIVATIVES...	:	
PROLIFERATIVE DISORDERS	:	UNDER 37 CFR 1.42

This is a decision on the "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 USC §371" filed 13 June 2006, which has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 12 October 2005, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). Applicants, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because an executed oath or declaration was not provided at such time.

On 30 May 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by International application number and international filing date" must be submitted within two (2) months from date of mailing of this notice or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application. In addition, a surcharge for providing the oath or declaration later than the appropriate 30 months from the priority date will be required under 37 CFR 1.492(h).

In response to the Notification mailed on 30 May 2006, applicants filed on13 June 2006 a declaration signed by John Wilbraham Lester as legal representatives of the co-joint inventor now deceased George Margetts.

DISCUSSION

A review of the application file reveals that the declaration does not comply with 37 C.F.R. §1.497(b)(2).

Because the co-joint inventor George Margetts is deceased John Wilbraham Lester and has been appointed as the legal representatives for the deceased inventor, 37 C.F.R. §1.497(b)(2) indicates that "[i]f the person making the oath or the declaration or any supplemental or 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 (the inventor's citizenship and so on). 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." (see MPEP § 409.01)

In this instance the information provided above the signature of the legal representative is that of the deceased co-joint inventor, but the declaration does not provide the necessary information for the legal representative. Thus, the citizenship, residence and mailing address of the legal representative need to be provided in the declaration as required under 37 C.F.R. §1.497(b)(2).

Consequently, applicants have not satisfied the requirements under 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **not accepted**.

Applicant is required to provide an oath or declaration in compliance with 37 CFR 1.497(a)-(b) within TWO (2) MONTHS from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42." Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Administration Office
Tel: (571) 272-3276
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

23 FEB 2007

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

In re Application of	:	DECISION ON
George Margetts et al	:	
PCT No.: PCT/GB2004/001663	:	
Application No.: 10/553,111	:	
Int. Filing Date: 16 April 2004	:	PAPERS FILED
Priority Date: 16 April 2003	:	
Attorney's Docket No.: 10103-030-999	:	
For: USE OF STERIOD DERIVATIVES...	:	
PROLIFERATIVE DISORDERS	:	UNDER 37 CFR 1.42

This is a decision on the "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 USC §371" filed 06 November 2006, which has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

In a decision from this Office on 02 October 2006, the request filed on 13 June 2006 was dismissed. The decision indicated that the residence and mailing address of the legal representative and the deceased inventor had not been provided as required under 37 CFR 1.63.

On 02 October2005, applicants filed the current response, stating that the enclosed Declaration complies with the requirements of 37 CFR 1.497(b)(2) that John Lester is the legal representative of the deceased inventor George Margetts.

DISCUSSION

A review of the application file still reveals that the declaration does not comply with 37 C.F.R. §1.497(b)(2).

Because the co-joint inventor George Margetts is deceased John Wilbraham Lester and has been appointed as the legal representatives for the deceased inventor, 37 C.F.R. §1.497(b)(2) indicates that "[i]f the person making the oath or the declaration or any supplemental or 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 (the inventor's citizenship and so on). 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." (see MPEP § 409.01)

In this instance if the information provided as stated by Mr. Bruner is of the legal representative, then the declaration does not provide the necessary information for the deceased inventor, George Margetts. Thus, the citizenship, residence and mailing address of the deceased inventor and the citizenship(must), residence and mailing address(should) of the legal representative be provided in the declaration as required under 37 C.F.R. §1.497(b)(2).

Consequently, applicants have not satisfied the requirements under 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **not accepted**.

Applicant is required to provide an oath or declaration in compliance with 37 CFR 1.497(a)-(b) within TWO (2) MONTHS from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Second Renewed Submission Under 37 CFR 1.42." Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Administration Office
Tel: (571) 272-3276
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

2 2 OCT 2008

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO IL 60606

In re Application of LEXOW et al.	:
Application No.: 10/553,113	:
PCT No.: PCT/GB04/01673	: DECISION ON
Int. Filing: 16 April 2004	:
Priority Date: 16 April 2003	: PETITION
Attorney Docket No.: 30986/41551	:
For: METHOD FOR CHARACTERISING POLY-NUCLEOTIDES	:UNDER 37 CFR 1.47(a)
	:

This is a decision on applicant's Petition Under 37 CFR 1.47(a) and 35 U.S.C. 116 filed in the United States Patent and Trademark Office on 22 April 2008. Applicant's request for a one month extension of time is granted.

BACKGROUND

On 22 January 2008, 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 22 April 2008, applicant filed a response to the 905 along with a petition under 37 CFR 1.47(a) and a declaration, executed by the 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, Erlend Ragnhildstveit alleging that Mr. Ragnhildstveit refuses to sign the application.

DISCUSSION

A petition under 37 CFR §1.47(a) must be accompanied by (1) the fee under 37 CFR §1.17(h), (2) factual proof that the non-signing joint inventor(s) refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the non-

signing inventor(s), and (4) an oath or declaration by each available joint inventor on his or her own behalf and on behalf of the non-signing joint inventor(s).

Applicant has satisfied Item (1) with the requisite petition fee and Item (3) with the last known address of inventor Ragnhildstveit.

With respect to Item (2), Petitioner states that a copy of the subject application, a declaration and an assignment were mailed to the nonsigning inventor on 13 December 2006. A copy of the cover letter was included. However, the letter states only that a "copy of the Specification and Assignment and Declaration & Power of Attorney" was included. Nonetheless, the statement by Mr. Lexow is taken to show that a complete copy of the subject application (specification, claims and drawings) were forwarded to the nonsigning inventor. If this is not the case, petitioners must promptly notify this office. Mr. Lexow also claims that he has not received a response from Mr. Ragnhildstveit to his request. This conduct is sufficient to show a refusal to cooperate pursuant to section 409.03(d) of the MPEP and meets Item (2).

With regard to Item (4) above, the 37 CFR 1.47(a) applicant submitted a declaration signed by one o f the two co-inventors on behalf of himself and the nonsigning joint inventor. The declaration, submitted on 22 April 2008, is executed by the joint inventor, provides the residence, address and citizenship of the inventors and meets the requirements of 37 CFR 1.497(a) and (b).

Petitioner has satisfied the requirements of 37 CFR 1.47(a). Accordingly, it is appropriate to accord the national stage application status under 37 CFR §1.47(a) at this time.

CONCLUSION

For the above reasons, the petition under 37 CFR §1.47(a) is **GRANTED**.

The U.S. Designated/Elected Office has accepted the application as a 37 CFR 1.47(a) application using the declarations filed 22 April 2008. The application has an international filing date of 16 April 2004 under 35 U.S.C. 363, and a date of 22 April 2008 under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his respective last known address of record. Also, a notice of the filing of this application will be published in the Official Gazette.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration
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

22 OCT 2008

Erlend Ragnhildstveit
Jonsokveien 5
1182 Olso,
NORWAY

In re Application of LEXOW et al.	:
Application No.: 10/553,113	:
PCT No.: PCT/GB04/01673	: DECISION ON
Int. Filing: 16 April 2004	:
Priority Date: 16 April 2003	: PETITION
Attorney Docket No.: 30986/41551	:
For: METHOD FOR CHARACTERISING POLY-NUCLEOTIDES	:UNDER 37 CFR 1.47(a)

Dear Mr. Ragnhildstveit:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. § 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Telephone: (571) 272-3286

MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO IL 60606

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

Brooks, Kushman, P.C.
1000 Town Center
Twenty-Second Floor
Southfield, MI 48075

COPY MAILED

AUG 27 2008

OFFICE OF PETITIONS

In re Application of	:	
Raymond Hesline	:	
Application No. 10/553,132	:	DECISION ON PETITION
Filed: October 14, 2005	:	TO WITHDRAW
Attorney Docket No. HESLO101PUSA	:	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 2, 2008.

The request is **moot because a revocation of power of attorney has been previously filed**.

A review of the file record indicates that the power of attorney to John E. Nemazi and all attorneys/agents associated with customer number 22045 has been revoked by the applicant of the patent application on May 16, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Heslin Pty. Ltd.
1/23 Monterey Road
Bilgola, New South Wales, 2107
Australia

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

Heslin Pty Ltd
1/23 Monterey Road
Bilgola, New South Wales 2107 AU
AUSTRALIA

MAILED

JAN 12 2010

OFFICE OF PETITIONS

In re Application of
HESLINE, RAYMOND
Application No. 10/553,132
Filed: 10/14/2005
Attorney Docket No. HESL0101PUSA

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.182, filed July 24, 2009, requesting withdrawal of a terminal disclaimer.

Applicant requests that the Office withdraw the terminal disclaimer of May 26, 2009, because it was mistakenly filed in the above-identified application.

As the examiner has concurred, the requested relief can be favorably considered. Accordingly, the petition is **granted**.

This matter is being referred to Technology Center Art Unit 2872.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

02 NOV 2006

Patrick J. Halloran
3141 Muirfield Road
Center Valley, PA 18034

In re Application of	:	
BERINSTEIN, et al.	:	
U.S. Application No.: 10/553,137	:	DECISION ON PETITION
PCT No.: PCT/IB04/01701	:	
Int. Filing Date: 15 April 2004	:	UNDER 37 CFR 1.137(b)
Priority Date: 15 April 2003	:	
Attorney Docket No.: API-03-03-PCT-US	:	
For: TUMOR ANTIGENS BFA5 FOR PREVENTION	:	
AND/OR TREATMENT OF CANCER	:	

The petition to revive under 37 CFR 1.137(b) filed 20 October 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's 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

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

BUTZEL LONG
IP DOCKETING DEPT
350 SOUTH MAIN STREET
SUITE 300
ANN ARBOR MI 48104

MAILED

MAR 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Hansen	:	
Application No. 10/553,143	:	DECISION
Filed: 14 October, 2005	:	
Attorney Docket No. 133630-0003	:	

This is a decision on the petition, filed on 21 November, 2008 (and supplemented and/or resubmitted on 17 December, 2008), for revival of an application abandoned due to unavoidable delay under 37 C.F.R. §1.137(a); the petition was supplemented further on 30 January, 2009, to be considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application, with an additional supplement filed of record thereafter.

The petition under 37 C.F.R. §1.181 is **GRANTED**; in light of the supplemental showing, the petition under 37 C.F.R. §1.137(a) is **DISMISSED**.

As to Allegation of
Unavoidable Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(a) are the petition and fee therefor, a reply, a proper showing of unavoidable delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181. Petitioners must,

inter alia, provide statements and documentary support as set forth in the Commentary at MPEP §711.03(c)(I).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 12 December, 2007, with reply due absent extension of time on or before 12 March, 2008.

The application went abandoned after midnight 12 March, 2008.

The Office mailed the Notice of Abandonment on 30 June, 2008.

Thereafter:

- On 21 November, 2008, Petitioner filed a petition (with fee) pursuant to 37 C.F.R. §1.137(a) averring unavoidable delay but also suggesting non-receipt (properly considered under 37 C.F.R. §1.181), and but did not submit the required reply in the form of an amendment;

- On 17 December, 2008, Petitioner submitted a supplement again pursuant to 37 C.F.R. §1.137(a), again suggesting non-receipt, but did not submit the required reply;

- On 30 January, 2009, Petitioner filed a request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, and made therein a statement of non-receipt and of search and non-discovery with a partial description of Petitioner's docketing system—but did not move stepwise through the guidance set forth in the Commentary at MPEP §711.03(c)(I).

Nonetheless, a search of Office records by Office technical personnel revealed that:

- The 12 December, 2007, Notice of the non-final Office action was to be transmitted to Petitioner electronically on that date, <u>but was not</u>; and

- The 12 December, 2007, non-final Office action <u>was not uploaded</u> into the Image File Wrapper (IFW) until on or about 19 November, 2008, almost a year after the Office action and months after the 30 June, 2008, Notice of Abandonment.

For reference: Petitioner's attentions are directed to the guidance set forth in the Commentary at MPEP §711.03(c)(I)—and with particularity to the requirements therein of <u>statements</u> of <u>non-receipt at the address of record</u>, <u>search and non-discovery</u>, with a <u>description of docketing</u>

system and a statement of its reliability, and support for those the statements with copies of the docket record/file jacket cover and due date calendar/docket. Moreover, Petitioner is reminded that the requirements of the regulations at under 37 C.F.R. §1.181 impose upon Petitioner a duty to seek relief there under within two (2) months of the act complained of.

Out of an abundance of caution, Applicants always are reminded that those registered to practice and all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[2],[3]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Applicant's duty of candor and good faith and accepting a statement made by Applicant. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 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).

[3] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

> 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.[4]

Allegations as to the Request to
Withdraw the Holding of Abandonment

The record evidences a satisfactory presentation, when taken as a whole, of the showing requirements under the Rule consistent with the guidance set forth in the Commentary at MPEP §711.03(c)(I).

As to Allegations of
Unavoidable Delay

The requirements pursuant to 37 C.F.R. §1.137(a) are petition, fee, proper reply and showing of unavoidable delay. It appears that the petition pursuant to 37 C.F.R. §1.137(a) is moot.

CONCLUSION

Accordingly, The petition as considered under 37 C.F.R. §1.181 is **granted**, and the 30 June, 2008, Notice of Abandonment is **vacated**. The petition under 37 C.F.R. §1.137(a) is **dismissed as moot** and the petition fee is refunded via to Deposit Account 12-2136. Should Petitioner later find that the fee has not been refunded, Petitioner should make request of the Office of Finance and provide with the request a copy of this decision.

The instant application is released to the Technology Center/AU 3733 for further processing as necessary in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

---

[4] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[5] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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.
10/553,143	10/13/2006	Doris Hjorth Hansen	133630-0003	2276

50659 7590 12/12/2007
Thomas Moga
Butzel Long
STONERIDGE WEST
41000 WOODWARD AVENUE
BLOOMFIELD HILLS, MI 48304

EXAMINER
SIGLER, JAY R

ART UNIT	PAPER NUMBER
4111	

NOTIFICATION DATE	DELIVERY MODE
12/12/2007	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):

ball@butzel.com
patent@butzel.com
burns@butzel.com

Office Action Summary	Application No.	Applicant(s)	
	10/553,143	HANSEN, DORIS HJORTH	
	Examiner	Art Unit	
	JAY R. SIGLER	4111	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 October 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-7* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4 and 7* is/are rejected.

7)☒ Claim(s) *5 and 6* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *14 October 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *14 October 2005*.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Suture band having a locking mechanism with wedging means.

Claim Objections

2. Claims 5 and 6 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims 5 and 6 have not been further treated on the merits.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Golds (U.S. Patent 5,356,417).

a. Concerning claim 1, Golds teaches **a suture band device** (10) **comprising an elongated flexible band** (12) **having first and second ends, a needle** (46) **attached to the first end of the band, a buckle** (14) **attached proximate the second end of the band for receiving and locking the band**

(see Abstract), **characterized in that the buckle comprises a locking mechanism** (16 and 18) **which enables the band to be locked at any point along its length** (col. 5, ll. 57-63; embodied by the strap tightened to desired tension and Fig. 1-4) **and in that the locking mechanism comprises a wedging means** (18).

b. Concerning claim 2, the locking mechanism substantially prevents retrograde movement of the band through the buckle (col. 5, ll. 67-68; embodied by teeth 28 preventing slippage of the strap in the housing).

c. Concerning claim 7, Golds teaches a method of approximating bone tissue comprising encircling said tissue with a suture band device as defined in paragraph 4(a) above, threading a buckle of the suture banding device with a band of the suture banding device, and constricting the device around the bone tissue (col. 5, ll. 43-68)

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Golds (U.S. Patent 5,356,417) as applied to claim 1 or 2 above, and further in view of Chopp, Jr. et al. (U.S. Patent 4,399.592).

d. Concerning claim 3, Golds teaches the claimed invention including a locking mechanism with a wedging means, but does not teach the wedging means having a substantially spherical or cylindrical body. Chopp, Jr. et al. teaches a device used to encircle and hold objects together, that includes a band 26 and a locking mechanism 24 with a wedging means 28 that is substantially spherical for lockingly engaging the strap (see Abstract). The claim would have been obvious because the substitution of one known element, namely the locking mechanism of Golds, for another, the locking mechanism of Chopp, Jr. et al., would have yielded predictable results to one of ordinary skill in the art at the time of the invention. The predictable results being to lockingly engage the strap.

e. Concerning claim 4, the wedging means of Chopp, Jr. et al. includes a roughened surface (col. 3, ll. 15-17).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAY R. SIGLER whose telephone number is (571)270-3647. The examiner can normally be reached on Monday through Thursday from 8 AM to 4 PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sam Yao can be reached on (571) 272-1224. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JRS

/Sam Chuan C. Yao/
Supervisory Patent Examiner, Art Unit 4111

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

COPY MAILED

SEP 14 2009

OFFICE OF PETITIONS

BUTZEL LONG
IP DOCKETING DEPT
350 SOUTH MAIN STREET
SUITE 300
ANN ARBOR MI 48104

In re Application of	:	
HANSEN, Doris H.	:	
Application No. 108553,143	:	DECISION ON PETITION
Filed: October 13, 2006	:	TO WITHDRAW
Attorney Docket No. **133630-0003**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 28, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Beverly M. Bunting on behalf of all attorneys of record who are associated with customer No. 50659. All attorneys/agents associated with the Customer Number 50659 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the inventor Doris H. Hansen at the address indicated below.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **DORIS H. HANSEN**
CASALE NASSIO SOPRA 15
1-10010 CHIAVERANO, ITALY
DENMARK

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.
10/553,206	12/13/2005	Kjell Sandaker	5060-0102PUS1	1263

2292 7590 03/19/2010
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER
CANTELMO, GREGG

ART UNIT	PAPER NUMBER
1795	

NOTIFICATION DATE	DELIVERY MODE
03/19/2010	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):

mailroom@bskb.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

wk

Mailed :
In re Application of
Sandaker
Serial No. 10/553,206
Filed: December 13, 2005
For: BUFFER/CONVERTER/DUMPING SYSTEM
BETWEEN FUEL CELLS AND PROCESS

MAR 19 2010

DECISION ON
PETITION

This is a decision on the PETITION FILED UNDER 37 CFR 1.144 to review the restriction requirement set forth on August 10, 2009 and made final by the Examiner on July 2, 2009. Applicant made a contingent petition request in Applicants response to the Examiner's Office Action on November 2, 2009. It is noted that the application is a national stage application and lack of unity of invention rules control.

When making a lack of unity of invention requirement, the examiner must (1) list the different groups of claims and (2) explain why each group lacks unity with each other group (i.e., why there is no single general inventive concept) specifically describing the unique special technical feature in each group.

The Examiner determined that Group I (claims 1-6) were drawn to a fuel cell system and that Group II, claim 7 was drawn to a method of use of a fuel cell system. The inventions listed as Group I and II do not relate to a single general inventive concept under PCT rule 13.1 because the apparatus of Group I is not limited by the method steps of Group II and this the special technical method steps of Group II are not requisite of the Apparatus of Group I.

The Examine further made a species requirement for Group I. The species requirements were (1) election of the device being a stationary or mobile device; (2) election of a particular buffer of claims; (3) election of a particular system component combination; (4) election of a particular dumping device; (5) election of a particular converter and (6) election of particular subsystem/subsystems.

Applicant noted that not all of Applicants' grounds of traversal of the restriction/election of species requirement have not been made and that the Examiner's Office Action fails to address Applicant's arguments which traverse the election of species requirement. Applicant further asserts that this is a tacit withdrawal of the election of species requirement. Applicants further assert that the Office Action also improperly fails to

address Applicant's arguments that there is no undue administrative burden on the Examiner to examine all pending claims. Applicant also asserts that the Examiner has no authority to ignore the explicit requirement of 37 CFR 1.475 to examine on their merits claims directed to a process and an apparatus specially designed for carrying out the process.

§ 1.475 Unity of invention before the International Searching Authority, the International Preliminary Examining Authority and during the national stage.

(a) An international and 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 an 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.

(b) An international or 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.

(c) If an application contains claims to more or less than one of the combinations of categories of invention set forth in paragraph (b) of this section, unity of invention might not be present.

(d) If multiple products, processes of manufacture or uses are claimed, the first invention of the category first mentioned in the claims of the application and the first recited invention of each of the other categories related thereto will be considered as the main invention in the claims, see PCT Article 17(3)(a) and § 1.476(c).

(e) The determination whether a group of inventions is so linked as to form a single general inventive concept shall be made without regard to whether the inventions are claimed in separate claims or as alternatives within a single claim.

When the Office considers international applications under 35 U.S.C. 371, PCT Rule 13.1 and 13.2 will be followed when considering unity of invention of claims of different categories. PCT Rule 13.2 no longer specifies the combinations of categories of invention which are considered to have unity of invention. The categories of invention in former PCT Rule 13.2 have been replaced with a statement describing the method for determining whether the requirement of unity of invention is satisfied.

Unity of invention exists only when there is a technical relationship among the claimed inventions involving one or more special technical features. The term "special technical

features" is defined as meaning those technical features that define a contribution which each of the inventions considered as a whole, makes over the prior art. The determination is made based on the contents of the claims as interpreted in light of the description and drawings. Whether or not any particular technical feature makes a "contribution" over the prior art, and therefore constitutes a "special technical feature," should be considered with respect to novelty and inventive step.

The Examiner sets forth a position that there was a clear absence of a common special technical feature between the claimed apparatus and process. The apparatus of Group I is not limited by the method steps of Group II. Further, the record does not indicate a withdrawal of the election of species by the Examiner. The Examiner in setting forth the lack of unity did not have to show undue administrative burden.

DECISION

The petition is **Denied**.

/JACQUELINE STONE/

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Paul C. Lewis
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

12 JUN 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

In re Application of AOYAMA	:	
Application No.: 10/553,213	:	
PCT No.: PCT/JP04/03144	:	DECISION ON
Int. Filing: 10 March 2004	:	
Priority Date: 11 March 2003	:	PETITION UNDER
Attorney Docket No.: 125602	:	
For: FUEL CELL SYSTEM	:	37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 13 October 2005 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that "the delay causing the abandonment of the application was unintentional" has been interpreted as meaning that "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. If this is an incorrect interpretation in view of the rules, petitioner is required to promptly notify this office.

A review of the application file reveals that the basic national fee of $300 has been provided. The required petition fee of $1500 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 16 December 2005.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

15 AUG 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

20227
McDERMOTT WILL & EMERY LLP
600 13TH Street, N.W.
Washington, DC 20005-3096

In re Application of	:	
YABUNO *et al*	:	
U.S. Application No.: 10/553,215	:	
PCT No.: PCT/JP2004/003694	:	**DECISION ON**
Int. Filing Date: 18 March 2004	:	**PETITION FOR REVIVAL**
Priority Date: 13 May 2003	:	**UNDER 37 CFR 1.137(b)**
Attorney Docket No.: 071971-0382	:	
For: DIGITAL MODULATION APPARATUS	:	
AND DIGITAL MODULATION METHOD	:	

Applicants' petition to revive under 37 CFR 1.137(b) filed on 26 June 2006 is hereby **GRANTED** as follows:

The basic national fee and the petition fee have been paid. Applicants make the required statement pursuant to 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed declaration in compliance with 37 CFR 1.497(a) & (b) was submitted with the national stage papers on 13 October 2005.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 18 March 2004, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 26 June 2006.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

27 SEP 2005

10/553245
JC09 Rec'd PCT/PTO 17 OCT 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

PAUL J. WHITE, SENIOR COUNSEL
NATIONAL RENEWABLE ENERGY LABORATORY
1617 Cole Boulevard
Golden, CO 80401-3393

Received
OCT 03 2005
Legal Office

In re Application of:
LI, Xiaonan, et al.
Application No.: 10/954,134
Filing Date: None Assigned
Attorney Docket No.: NREL 01-43
For: METHOD FOR PRODUCING HIGH CARRIER CONCENTRATION P-TYPE TRASNPARENT CONDUCTING OXIDES

DECISION ON PETITION UNDER 37 CFR 1.182

This decision is issued in response to the "Petition To Convert A Filing Under 37 CFR 1.53(b) To 35 U.S.C. 371" filed March 28, 2005, treated herein under 37 CFR 1.182. Applicant has paid the required petition fee.

BACKGROUND

On April 02, 2002, applicants filed international application PCT/US02/11104 which claimed a priority date of August 17, 2001 and which designated the United States. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., February 17, 2004.

On September 22, 2004, applicants initiated the present U.S. application by filing a "Utility Patent Application Transmittal" (Form PTO/SB/05), accompanied by 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), a declaration, an Information Disclosure Statement (IDS), and an authorization to charge Deposit Account No. 14-0460 for required fees. The Form PTO/SB/05 Transmittal Letter used by applicant specifically states that it is for use "[o]nly for new nonprovisional application under 37 CFR 1.53(b)." However, the Form PTO-1390 Transmittal Letter identifies the submission as a national stage filed under 35 U.S.C. 371 of international application PCT/US02/11104.

On March 15, 2005, the USPTO mailed a "Notice Of Incomplete Nonprovisional Application Filed Under 37 CFR 1.53(b)" indicating that the submission had been treated as a filing under 35 U.S.C. 111(a) and 37 CFR 1.53(b). The Notice informed applicants that the submission had not been assigned a filing date because it did not include a specification or at least one claim. The Notice stated that the required materials had to be filed within two months of the mail date of the Notice and that the failure to submit these materials in a timely manner would result termination of proceedings on the application.

571-272-4300

On March 28, 2005, applicants filed the "Petition To Convert A Filing Under 37 CFR 1.53(b) To 35 U.S.C. 371" considered herein. The petition states that the inclusion of the Form PTO/SB/05 Transmittal Letter in the September 22, 2004 submission was an error. Applicants therefore request that the September 22, 2004 submission be treated as a national stage filing under 35 U.S.C 371.

DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). See 37 CFR 1.495(g):

> The documents and fees submitted ... must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371, otherwise the submission will be considered as being made under 35 U.S.C. 111.

In addition, section 1893.03(a) of the MPEP states the following:

> If there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a).

As noted above, applicant's September 22, 2004 filing included both a Form PTO/SB/05 Transmittal letter (for use "[o]nly for new nonprovisional application under 37 CFR 1.53(b)") and a Form PTO-1390 Transmittal Letter (for use only with national stage filings under 35 U.S.C. 371). The inclusion of these two transmittal letters constitutes "conflicting instructions" which, pursuant to the MPEP, requires that the application be treated under 35 U.S.C. 111(a). Accordingly, the original papers deposited on September 22, 2004 were correctly treated as a filing under 35 U.S.C. 111(a).

A review of the application file, and specifically the present petition, reveals that applicant has not provided any showing of sufficient cause (i.e., the loss of patent rights, the lack of an alternative remedy) that would justify the conversion of the present application, which has been properly processed as an application filed under 35 U.S.C. 111(a), to a national stage application filed under 35 U.S.C. 371. For example, as an alternative remedy, applicants may still file a proper national stage of PCT/US02/11104, accompanied by a petition for revival of the application under 37 CFR 1.137(b), and obtain the U.S. national stage application that was purportedly intended here.[1]

---

[1] It is noted that, pursuant to 35 U.S.C. 371(d) and 37 CFR 1.495(h), the international application became abandoned with respect to the United States on 17 February 2004 based on applicants' failure to pay the basic national fee within thirty months of the priority date. The date of abandonment is more than seven months prior to applicants' September 22, 2004 filing. Thus, even if the September 22, 2004 submission had been a proper filing under 35 U.S.C. 371, a petition for revival would have been necessary before the national stage application could be processed.

Based on the above, the application papers filed September 22, 2004 were properly processed under 35 U.S.C. 111(a), the international application had become abandoned with respect to the United States months before the September 22, 2004 submission, and applicants have failed to demonstrate sufficient cause which would justify a conversion. On this record, granting of a petition to convert the application to a filing under 35 U.S.C 371 is not appropriate.

CONCLUSION

The petition to convert the application to a filing under 35 U.S.C. 371 is **DISMISSED** without prejudice. The present application will continue to be treated as a filing under 35 U.S.C. 111(a) and 37 CFR 1.53(b).

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 1.182" and must include a showing of sufficient cause to justify the requested conversion, as discussed above.

Please direct further correspondence with respect to this petition 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.

The present application is being referred to the Office Of Initial Patent Examination for further processing in accordance with this decision.

Richard M. Ross
PCT Petitions Attorney
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

05 FEB 2008

Paul J White
NREL
1617 Cole Boulevard
Golden CO 80401

In re Application of: LI Xiaonan, et al. U.S. Application No.: 10/553,245 PCT No.: PCT/US02/11104 International Filing Date: 02 April 2002 Priority Date: 17 August 2001 Atty Docket No.: NREL 01-43 For: METHOD FOR PRODUCING HIGH CARRIER CONCENTRATION P-TYPE TRANSPARENT CONDUCTING OXIDES	DECISION ON PETITION

The petition for revival under 37 CFR 1.137(b) filed 17 October 2005 in the above-captioned application is hereby **GRANTED** as follows:

The present application became abandoned with respect to the United States at midnight on 17 February 2004 based on applicants' failure to enter the U.S. national stage and pay the basic national fee prior to the expiration of thirty months from the priority date.

The present petition for revival was accompanied by payment of the required petition fee and the "required reply" in the form of a request for entry into the U.S. national stage and payment of the basic national fee.[1] In addition, the present petition includes a statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," satisfying the requirements of 37 CFR 1.137(b)(3).

Based on the above, the requirements of 37 CFR 1.137(b) have been satisfied. Accordingly, the request to revive the international application with respect to the United States is appropriately granted.

It is noted that the international application was filed with an executed declaration under PCT Rule 4.17(iv).

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 24 January 2008, which did not take into account the filing of the present grantable petition for revival under 37 CFR 1.137(b), is hereby **VACATED**.

[1] It is noted that the basic national fee, search fee, and examination fee submitted with the petition were apparently refunded to applicant in June 2006. Accordingly, these fees will be re-charged to Deposit Account No. 14-0460.

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 October 2005.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,272	10/12/2005	Koji Okada	89227.0010	6639

26021 7590 03/03/2008
HOGAN & HARTSON L.L.P.
1999 AVENUE OF THE STARS
SUITE 1400
LOS ANGELES, CA 90067

EXAMINER
HAMILTON, CYNTHIA

ART UNIT	PAPER NUMBER
1795	

MAIL DATE	DELIVERY MODE
03/03/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

3-3-08

caf

In re Application of: Koji OKADA et al.
Application No. 10/553,272
Filed: October 12, 2005
For: PHOTOSENSITIVE RESIN COMPOSITION AND PHOTO-SENSITIVE DRY FILM RESIST WHICH ARE CAPABLE OF REALIZING WATER SYSTEM DEVELOPMENT, AND USAGE THEREOF

DECISION ON PETITION

This is a decision on the PETITION TO RESET A PERIOD FOR REPLY DUE TO LATE RECIEPT OF AN OFFICE ACTION filed on December 11, 2007.

On October 10, 2007, a non-final rejection was mailed to Applicant. A three month shortened statutory period was given to respond. Petitioner has indicated that the non-final rejection was not received until December 4, 2007. On December 11, 2007, the instant petition was filed to formally request that the time period set in the October 10, 2007 office action be reset.

DECISION

MPEP 710.06 sets for the criteria for granting the petition to restart the reply period as indicated below.

I. PETITIONS TO RESET A PERIOD FOR REPLY DUE TO LATE RECEIPT OF AN OFFICE ACTION

The Office will grant a petition to restart the previously set period for reply to an Office action to run from the date of receipt of the Office action at the correspondence address when the following criteria are met:

(A) the petition is filed within 2 weeks of the date of receipt of the Office action at the correspondence address;

(B) a substantial portion of the set reply period had elapsed on the date of receipt (e.g., at least 1 month of a 2- or 3-month reply period had elapsed); and

(C) the petition includes (1) evidence showing the date of receipt of the Office action at the correspondence address (e.g., a copy of the Office action having the date of receipt of the Office action at the correspondence address stamped thereon, a copy of the envelope (which contained the Office action) having the date of receipt of the Office action at the correspondence address stamped thereon, etc.), and (2) a statement setting forth the date of receipt of the Office action at the correspondence address and explaining how the evidence being presented establishes the date of receipt of the Office action at the

correspondence address.

The instant petition was filed within two weeks of the date of receipt of the Office action. More than one month of the reply period has elapsed. The petition includes evidence showing the date of receipt of the October 10, 2007 office action. The showing is sufficient. Accordingly, the petition for restarting the time period for reply is **GRANTED.**

The period for reply is reset to begin as of the date of receipt of the Office action, i.e. December 4, 2007.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

HOGAN & HARTSON L.L.P.
1999 AVENUE OF THE STARS
SUITE 1400
LOS ANGELES CA 90067

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

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

In re Application of:	:	
ASADA, TOSHIAKI et al	:	
Serial No.: ~~10/796,032~~ 10/553,279	:	Decision on Petition to
Filed: Oct. 14, 2005	:	Withdraw Holding of
Docket: 125284	:	Abandonment
Title: VARIABLE VALVE MECHANISM	:	
	:	

This is a decision on the petition filed Jul. 11, 2008 requesting the holding of abandonment be withdrawn. This petition is being considered pursuant to 37 CFR § 1.181. No fee is required.

The petition is Granted.

The application was held abandoned for failure to timely and properly reply to the Notice of Allowance mailed Mar. 31, 2008. The Office action set a three (3) month period for the applicant to pay the issue fee. No issue fee was paid. It is noted that the notice of abandonment has not been mailed for failure to pay the issue fee.

On Jul. 11, 2008, the current petition was filed. In support of the request, petitioner stated that the Notice of Allowance of Mar. 31, 2008 was never received at the correspondence address of record. The petition also included a copy of the printout of the case summary for its docketing department showing the non-receipt of the Notice of Allowance mailed on Mar. 31, 2008. Moreover, the Notice of Allowance was in fact returned by the USPTO on Apr. 2, 2008 as undeliverable without any explanation. The address on the Notice of Allowance appears to be correct as indicated in PALM.

As the petitioner has provided convincing evidence that the Notice of Allowance was not received. There is no abandonment in fact. Any inconvenience or delay caused to applicant is regretted. In view of the above, the holding of abandonment is withdrawn. A new Notice of Allowance will be re-mailed in due course.

Petition Granted.

Marc Jimenez for

Karen M. Young, Director
Technology Center 3700

0 9 JUN 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

TIM HEADLEY
GARDERE WYNNE SEWELL LLP
1000 LOUISIANA, SUITE 3400
HOUSTON, TX 77002

In re Application of GAO et al	:	
U.S. Application No.: 10/553,328	:	
PCT Application No.: PCT/US2004/011489	:	
Int. Filing Date: 14 April 2004	:	DECISION
Priority Date Claimed: 14 April 2003	:	
Attorney Docket No.: 123029-1057 (UHID 2003-031)	:	
For: NOVEL REAGENT COMPOUNDS AND METHODS OF MAKING AND USING THE SAME	:	

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 26 March 2008.

BACKGROUND

On 14 April 2004, applicant filed international application PCT/US2004/011489, which claimed priority of an earlier United States application filed 14 April 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 06 January 2005. The thirty-month period for paying the basic national fee in the United States expired on 14 October 2005.

On 14 October 2005, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 08 December 2006, the DO/EO/US mailed a Notification of Insufficient Fees (Form PCT/DO/EO/923).

International application PCT/US2004/011489 became abandoned as to the United States for failure to timely respond to the Notification of Insufficient Fees.

On 26 March 2008, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), 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.

Applicant is advised that it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure, Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

In addition, there is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary. The Office will not undertake dual correspondence.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 14 April 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 14 October 2005.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

CC: G. Kenneth Smith
1645 Briarwood Circle
Bethlehem, PA 18015

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

13 JUN 2007

22511
OSHA LIANG LLP
1221 McKinney Street
Suite 2800
Houston, TX 77010

In re Application of HERVE *et al* U.S. Application No.: 10/553,335 PCT No.: PCT/EP04/03912 Int. Filing Date: 14 April 2004 Priority Date: 16 April 2003 Attorney Docket No.: 17102/021001 For: HOUSING COMPRISING AN AIR FLOW CONDUIT PREVENTING ALL LIQUID ACCUMULATION	**DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT**

This decision is in response to the "Petition to Withdraw Holding of Abandonment Under 37 C.F.R. 1.181" filed 31 May 2007. No fee is required.

BACKGROUND

On 15 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/905) indicating that an English translation and a $130.00 processing fee were required. A two-month time limit in which to respond was set with extensions of time available under 37 CFR 1.136(a).

On 09 May 2007, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) for failing to respond to the Form PCT/DO/EO/905 mailed 15 June 2006 within the time period set therein.

On 31 May 2007, applicant filed the instant petition which was accompanied by, *inter alia*, a declaration of Deborah K. Doyle; a copy of counsel's law firm's docket journal from 15 June 2006 to 17 July 2006; an English translation; a copy of the computer docket record for the subject application; and authorization to charge any required fees to a Deposit Account.

DISCUSSION

The showing required to establish the failure to receive an Office communication consists of: (1) a statement from the practitioner declaring that the Office communication was not received by the practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office

communication was not received; and, (3) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioners' statement.

Applicant's statements in the petition have been interpreted as meeting the requirements of items (1) and (2) above. If this is not correct, applicant should immediately contact the Office.

Applicant also provided a declaration by Deborah K. Doyle who works in the law firm's docketing department. Ms. Doyle states that she checked all the law firms' docket records and concludes that the Form PCT/DO/EO/905 mailed 15 June 2006 was never received. Applicant submitted documentary evidence in the form of a copy of the law firm's handwritten daily mail log during the relevant period when the Form PCT/DO/EO/905 would have been received along with a copy of the computer docket record for the subject application. A review of the documentary evidence verifies that the Form PCT/DO/EO/905 was not received and docketed. This evidence is sufficient to satisfy item (3).

Applicant has met all of the requirements required to establish nonreceipt of an Office action.

CONCLUSION

For the reasons noted above, applicant's petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 09 May 2007 is hereby **VACATED**.

Applicant provided an English translation containing the correct number of claims. The $130.00 processing fee has been charged to Deposit Account No. 50-0591 as authorized.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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

WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

MAILED

MAY 18 2009

OFFICE OF PETITIONS

In re Application of	:	
Seiji SATOH, et al.	:	
Application No. 10/553,344	:	DECISION GRANTING PETITION
Filed: March 12, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **S1459.70171US00**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 13, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 21, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2628 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

BUCHANAN, INGERSOLL & ROONEY, PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

COPY MAILED

FEB 06 2008

OFFICE OF PETITIONS

Applicant: Benoit, et al.
Appl. No.: 10/553,348
International Filing Date: April 2, 2004
Title: "Method for managing an executable code downloaded in a reprogrammable on-board system"
Attorney Docket: 032326-312
Pub. No.: US 2007/0043957-A1
Pub. Date: April 20, 2007

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on February 22, 2007, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on the front page of the publication wherein "Method for managing an executable code downloaded in a reprogrammable on-board system" is misprinted as "Method for managing an executable code downloaded in a reprogrammable reprogrammable on-board system" in the title of the invention.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The error on the front page of the publication wherein "Method for managing an executable code downloaded in a reprogrammable on-board system" is misprinted as "Method for managing an executable code downloaded in a reprogrammable reprogrammable on-board system" in the title of the invention may be an Office error, but it is a not material Office error under 37 CFR 1.221.

[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 repeat off the word "reprogrammable" in the title does not affect the understanding of the application. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

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

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

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

Mail Date: 04/22/2010

Applicant	: Kenji Sakamoto	: DECISION ON REQUEST FOR
Patent Number	: 7636132	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/553,371	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/24/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **790** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,373	03/22/2007	Paul Tardi	532552000102	3684

25225 7590 01/07/2010
MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

EXAMINER
KISHORE, GOLLAMUDI S

ART UNIT	PAPER NUMBER
1612	

MAIL DATE	DELIVERY MODE
01/07/2010	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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

JAN 0 7 2010

In re Application of	:	
TARDI, PAUL	:	DECISION ON REQUEST TO
Application No. 10/553,373	:	PARTICIPATE IN PATENT
Filed: March 22, 2007	:	PROSECUTION HIGHWAY
Attorney Docket No. 532552000102	:	PILOT PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed November 23, 2009, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the EPO;
(2) 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 EPO application(s);
(3) Examination of the U.S. application has not begun;
(4) Applicant must submit a copy of all the office actions from each of the EPO application(s) containing the allowable/patentable claim(s) that are the basis for the request.
(5) Applicant must submit an IDS listing the documents cited by the EPO examiner in the EPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(6) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. It is noted that two EPO office actions were listed in the IDS filed on 5/27/2009 and the copies of the office actions have been provided. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Ram R. Shukla at 571-272-0735.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system at the http://www.uspto.gov/ebc/index.html.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Ram R. Shukla, Ph.D.
Supervisory Patent Examiner
TC 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,377	07/10/2006	Attila Haraszti	200401544-3	3675

7590 04/21/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
FUREMAN, JARED

ART UNIT	PAPER NUMBER
2876	

NOTIFICATION DATE	DELIVERY MODE
04/21/2008	ELECTRONIC

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☑ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Tomi Farmer

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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

25 JAN 2007

Jennifer M. Hayes
SUGHRUE-265550
2100 Pennsylvania Avenue, NW
Washington, DC 20037-3213

In re Application of	:	
TU, et al.	:	
U.S. Application No.: 10/553,397	:	
PCT No.: PCT/JP04/05264	:	COMMUNICATION
Int. Filing Date: 13 April 2004	:	
Priority Date: 16 April 2003	:	
Attorney Docket No.: Q90870	:	
For: METHOD FOR PRODUCING METAL OXIDE CATALYST	:	

This communication is in response to applicant's "Response to Notification of Missing Requirements" filed 26 October 2006.

BACKGROUND

On 13 April 2004, applicant filed international application PCT/JP04/05264 which claimed priority to an earlier application filed 16 April 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 28 October 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 October 2005.

On 17 October 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, a preliminary amendment and an executed, combined declaration and power of attorney of the inventors.

On 22 September 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 advised that the surname of the fourth listed inventor on the filed declaration did not correspond with the name on the published international application. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees

On 26 October 2006, applicant filed the present response including a statement as to the true name of the fourth listed inventor, Hiroshi Niizuma.

DISCUSSION

MPEP 605.04(b) explains that

> When a typographical or transliteration error in the spelling of an inventor's name is discovered during pendency of an application, a petition is not required, nor is a new oath or declaration under 37 CFR 1.63 needed. The U.S. Patent and Trademark Office should simply be notified of the error and reference to the notification paper will be made on the previously filed oath or declaration by the Office.

Applicant has presently provided a statement that a typographical error occurred in the published international application as to the surname of the fourth listed inventor. Applicant has confirmed that the correct last name of the inventor is that which is listed and executed on the filed declaration, "NIIZUMA." As shown above, applicant is correct that by providing this explanation, no further requirements are necessary. 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.

CONCLUSION

The application has an international filing date of 13 April 2004 under 35 U.S.C. 363 and will be given a date of **17 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
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

MAILED

FEB 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Manzone et al.	:	DECISION ON APPLICATION
Application No. 10/553,413	:	FOR
Filed: September 20, 2006	:	PATENT TERM ADJUSTMENT
Atty Docket No. 082652-243206	:	

This is a decision on the "Request for Recalculation of Patent Term Adjustment," filed February 17, 2009. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from seventy-seven (77) days to eighty-three (83) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **eighty-three (83)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 17, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 77 days. On February 17, 2008, applicants timely submitted the instant application for patent term adjustment[1]. Applicants maintain that because the Office action mailed on June 20, 2008 was re-mailed on June 26, 2008 and the period for response restarted, applicant's delay (in not

[1] PALM records indicate that the Issue Payment was also filed on February 17, 2009.

responding until June 26, 2008) was 31 days, not 37 days as used in the Office's initial PTA calculation.

The record shows that the patent issuing from this application is subject to a terminal disclaimer.

In this instance, applicants are correct that any delay should be calculated based on the date of the Restarted Response Period and not based on the date of the mailing of the original Office action. As their response was received three months and 31 days outside of the Letter Restarting Period for Response (the re-mailed Office action), applicant delay within the meaning of §1.704(b) was 31 days. The period of reduction of 37 days has been removed and the period of reduction of 31 days has been entered.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is 83 days.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of a 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 matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

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

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE WA 98104

MAILED

JUL 07 2010

OFFICE OF PETITIONS

In re Patent No. 7,619,321	:	DECISION ON REQUEST FOR
WOBBEN	:	RECONSIDERATION OF
Issue Date: November 17, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 10/553,429	:	NOTICE OF INTENT TO ISSUE
Filed: August 7, 2006	:	CERTIFICATE OF CORRECTION
Docket No. 970054.494USPC	:	

This is a decision on the petition filed on January 19, 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 six hundred fifty-nine (659) 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 **six hundred fifty-three (653) days**.

Patentee calculated the B delay incorrectly. The B delay period is 389 days, not 395 days as indicated by patentee. Patentee states:

> The filing date under 35 U.S.C. § 371 was October 18, 2005. Three years after this date was October 18, 2008; however, the patent issued on November 17, 2009. In

> accordance with 37 C.F.R. § 1.702(b), issuance of the patent has been delayed by the PTO by 395 days after the date that is three years after the date on which the application was filed under 35 U.S.C. § 371 *(see also* 37 C.F.R. § 1.703(b)).

Petition, 01/19/10, p. 2.

The Office notes that in an international application the B delay 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 37 CFR 1.702(b). A priority date of this application is April 24, 2003. As the requirements for early commencement were not met, the national stage commenced in this application on October 24, 2005. Thus, B delay is 389 days, counting the number of days beginning on October 25, 2008, and ending on November 17, 2009, the day the patent issued. See 35 U.S.C. 154(b) and 37 CFR 1.703(b).

Accordingly, the patent term adjustment is 653 days (295 days of A delay + 389 days of B delay - 31 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 37 CFR 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges the 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 **six hundred fifty-three (653) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT: 7,619,321 B2

DATED: Nov. 17, 2009 **DRAFT**

INVENTOR(S): WOBBEN

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 264 days.

Delete the phrase "by 264 days" and insert – by 653 days--

PALM INTRANET

Day : Tuesday
Date: 7/6/2010
Time: 20:24:11

PTA Calculations for Application: 10/553429			
Application Filing Date:	08/07/2006	PTO Delay (PTO):	295
Issue Date of Patent:	11/17/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	31
Post-Issue Petitions:	0	Total PTA (days):	653
PTO Delay Adjustment:	389		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
52	07/06/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	389		
48.5	10/28/2009	PTA 36 MONTHS			
48	11/17/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
47	10/13/2009	EXPORT TO FINAL DATA CAPTURE			
46	10/12/2009	DISPATCH TO FDC			
45	10/12/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
44	10/06/2009	ISSUE FEE PAYMENT VERIFIED			
43	10/06/2009	ISSUE FEE PAYMENT RECEIVED			
42	08/11/2009	FINISHED INITIAL DATA CAPTURE			
41	07/13/2009	EXPORT TO INITIAL DATA CAPTURE			
40	07/10/2009	MAIL NOTICE OF ALLOWANCE			
39	07/09/2009	ISSUE REVISION COMPLETED			
38	07/09/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
37	07/08/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
36	07/08/2009	DOCUMENT VERIFICATION			
35	06/30/2009	NOTICE OF ALLOWABILITY			
34	06/26/2009	DATE FORWARDED TO EXAMINER			
33	06/01/2009	AMENDMENT AFTER FINAL REJECTION			
32	06/03/2009	CASE DOCKETED TO EXAMINER IN GAU			
31	04/01/2009	MAIL FINAL REJECTION (PTOL - 326)			
30	03/27/2009	FINAL REJECTION			
29	02/20/2009	NEW OR ADDITIONAL DRAWING FILED			
28	03/23/2009	DATE FORWARDED TO EXAMINER			
27	02/20/2009	RESPONSE AFTER NON-FINAL ACTION		31	25

26	02/20/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
25	10/20/2008	MAIL NON-FINAL REJECTION			
24	10/16/2008	NON-FINAL REJECTION			
23	09/28/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
19	09/22/2008	DATE FORWARDED TO EXAMINER			
18	08/21/2008	RESPONSE TO ELECTION / RESTRICTION FILED			
17	07/28/2008	MAIL RESTRICTION REQUIREMENT	295		9
16	07/25/2008	REQUIREMENT FOR RESTRICTION / ELECTION			
14.7	09/28/2006	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
14	09/28/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	09/25/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	09/25/2006	CASE DOCKETED TO EXAMINER IN GAU			
9	08/07/2006	371 COMPLETION DATE			
8	08/28/2006	APPLICATION DISPATCHED FROM OIPE			
7	08/07/2006	ADDITIONAL APPLICATION FILING FEES			
6	08/07/2006	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

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

YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 04/20/2010

Applicant	: David Perez	: DECISION ON REQUEST FOR
Patent Number	: 7571880	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/553,437	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/22/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **333** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 04/20/2010

Applicant	: Samuel Marlin	: DECISION ON REQUEST FOR
Patent Number	: 7576022	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/553,438	: OF WYETH
Filed	: 10/14/2005	:
		:

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.

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

DLA PIPER US LLP
153 TOWNSEND STREET
SUITE 800
SAN FRANCISCO CA 94107-1957

In re Application of	:	
HALLENBECK et al.	:	
Application No.: 10/553,459	:	DECISION
PCT No.: PCT/US2004/011622	:	
Int. Filing Date: 15 April 2004	:	
Priority Date: 15 April 2003	:	
Attorney Docket No.: 3802-165-27 NATL	:	
For: FLAP ENDONUCLEASE 1 (FEN1)	:	
REGULATORY SEQUENCES AND USES THEREOF	:	

This is a decision on applicants' submission filed 17 November 2006, which has been properly treated as a petition under 37 CFR 1.47(a), in the United States Patent and Trademark Office (USPTO). The petition is **DISMISSED** without prejudice.

BACKGROUND

On 15 April 2004, applicants filed international application PCT/US2004/011622, which designated the United States and claimed a priority date of 15 April 2003. A copy of the international application was communicated from the International Bureau to the USPTO on 28 October 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 17 October 2005 (15 October 2005 being a Saturday).

On 17 October 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 19 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/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 17 November 2006, applicants filed a submission which was accompanied by, *inter alia*, a declaration of inventors, the surcharge under 37 CFR 1.492(h), a declaration of facts by Jessica N. Cecena, a copy of an e-mail from Jessica Cecena to non-signing inventor Garret

Hampton dated 02 November 2006, and a copy of a letter from Jessica Cecena to non-signing inventor Garret Hampton dated 22 September 2006. The submission has been properly treated as a petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(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 07-1896.

Items (3) has been met.

Item (2) has not been met. It is not clear whether it is being alleged that Garret Hampton 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 e-mail was sent to Mr. Hampton on 19 October 2006. A second e-mail was sent to him on 02 November 2006. It is not clear if either of these e-mails were received by Mr. Hampton. Accordingly, it is not clear if Mr. Hampton received the e-mails and did not respond or if he did not receive them. A letter was sent to Mr. Hampton's last known address on 22 September 2006. Again, it is not clear if Mr. Hampton received the letter and did not respond or if he no longer resides at that address.

If it is being alleged that Mr. Hampton 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. Hampton's address is found, a complete copy of the application papers would still need to be presented to him. It does not appear that a copy of the specification was ever sent to Mr. Hampton.

If it is being alleged that Mr. Hampton cannot be reached or found, a bona fide attempt to find his address must be made and 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.

Item (4) has not been met. The declaration of inventors filed 17 November 2006 is not in compliance with 37 CFR 1.497(a)-(b). The declaration includes three 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 17 November 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 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 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

02/12/2007 SBASHEIR 00000001 071896 10553459
01 FC:1463 200.00 DA

2 8 MAR 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

DLA PIPER US LLP
153 TOWNSEND STREET
SUITE 800
SAN FRANCISCO CA 94107-1957

In re Application of	:	
HALLENBECK et al.	:	
Application No.: 10/553,459	:	DECISION
PCT No.: PCT/US2004/011622	:	
Int. Filing Date: 15 April 2004	:	
Priority Date: 15 April 2003	:	
Attorney Docket No.: 3802-165-27 NATL	:	
For: FLAP ENDONUCLEASE 1 (FEN1)	:	
REGULATORY SEQUENCES AND USES THEREOF	:	

This is a decision on applicants' submission filed 09 March 2007, which has been properly treated as a renewed petition under 37 CFR 1.47(a), in the United States Patent and Trademark Office (USPTO). The petition is **DISMISSED** as **MOOT**.

BACKGROUND

On 15 April 2004, applicants filed international application PCT/US2004/011622, which designated the United States and claimed a priority date of 15 April 2003. A copy of the international application was communicated from the International Bureau to the USPTO on 28 October 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 17 October 2005 (15 October 2005 being a Saturday).

On 17 October 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 19 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/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 17 November 2006, applicants filed a submission which was accompanied by, *inter alia*, a declaration of inventors, the surcharge under 37 CFR 1.492(h), a declaration of facts by Jessica N. Cecena, a copy of an e-mail from Jessica Cecena to non-signing inventor Garret

Hampton dated 02 November 2006, and a copy of a letter from Jessica Cecena to non-signing inventor Garret Hampton dated 22 September 2006. The submission has been properly treated as a petition under 37 CFR 1.47(a).

On 12 February 2007, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a) without prejudice 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 a proper 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.

On 09 March 2007, applicants filed the instant submission which has been treated as a renewed petition under 37 CFR 1.47(a). The submission was accompanied by six declarations 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 declarations of inventors filed 09 March 2007 are in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** as **MOOT**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

SCHMEISER, OLSEN & WATTS
22 CENTURY HILL DRIVE
SUITE 302
LATHAM, NY 12110

Mail Date: 04/21/2010

Applicant	: Jean-Jacques Aureglia	: DECISION ON REQUEST FOR
Patent Number	: 7636882	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/553,494	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1069** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

COPY MAILED

MAY 13 2008

OFFICE OF PETITIONS

In re Application of	:	
Georg Eimer	:	
Application No. 10/553,496	:	DECISION ON PETITION
Filed: October 13, 2005	:	
Attorney Docket No. 870-003-197	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 16, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 9, 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 June10, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to undersigned at (571)272-1642.

This application is being referred to Technology Center AU 3745 for appropriate action by the Examiner in the normal course of business on the reply received October 16, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Peter Meissner	: DECISION ON REQUEST FOR
Patent Number	: 7584035	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/553,502	: 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 **677** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 JUL 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Billy A Robbins
Fulbright & Jaworski
555 South Flower Street
41st Floor
Los Angeles CA 90071

In re Application of ZANE
Application No.: 10/553,503
PCT No.: PCT/US04/00150
Int. Filing: 06 January 2004
Priority Date: 06 January 2003
Attorney Docket No.: LA-7514-101US
For: FLEXIBLE VEHICLE GUIDING ELEMENT

DECISION ON

PETITION TO REVIVE

UNDER 37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 17 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, 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 $130 surcharge for filing the oath or declaration after the thirty month period, is required.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

15 FEB 2007

MARSHALL, GERSTEIN & BORUN LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, IL 60606

In re Application of	:	
LEXOW *et al*	:	
U.S. Application No.: 10/553,505	:	
PCT No.: PCT/GB2004/001665	:	
Int. Filing Date: 16 April 2004	:	**DECISION**
Priority Date: 16 April 2003	:	
Attorney Docket No.: 30986/41550	:	
For: METHOD FOR IDENTIFYING	:	
CHARACTERISTICS OF MOLECULES	:	

This decision is in response to applicants' "Petition Under 37 C.F.R. § 1.47(a) and 35 U.S.C. §116" filed 11 January 2007.

BACKGROUND

On 07 August 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) and a surcharge fee was required. Applicants were given two months to respond with extensions of time available.

On 11 January 2007, applicants filed a response which was accompanied by, *inter alia*, the subject petition; the surcharge fee; a declaration signed by one of the two named inventors; a statement by Preben Lexow; documentary evidence; and authorization to charge any additional fees to Deposit Account No. 13-2855.

DISCUSSION

Applicants claim that joint inventor Erland Ragnhildtsveit refuses to cooperate in the above-identified application and have filed the subject petition in response to the Form PCT/DO/EO/905 mailed 07 August 2006.

A petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the missing joint inventor cannot be located or refuses to cooperate; (3) a statement of the last known address of the nonsigning joint inventor; (4) and an oath or declaration executed by the signing joint inventors on their behalf and on behalf of the nonsigning joint inventors.

Concerning item (1), the petition fee of $200.00 has been charged to Deposit Account No. 13-2885 as authorized.

Regarding item (2), the 37 CFR 1.47(a) applicants' submitted a declaration by co-inventor Preben Lexow who states that Mr. Ragnhildtsveit is a disgruntled former employee who has refused to execute an oath or declaration. Petitioners included a letter from the nonsigning inventor dated 03 January 2006 to his former employer. In the letter, Mr. Ragnhildtsveit requests additional money purportedly owed from his former employer.

Petitioners state that a copy of the subject application, a declaration and an assignment were mailed to the nonsigning inventor on 13 December 2006. A copy of the cover letter was included. However, the letter states only that a copy of the specification, declaration and assignment was included. Nonetheless, the statement by Mr. Lexow is taken to show that a complete copy of the subject application (specification, claims and drawings) were forwarded to the nonsigning inventor. If this is not the case, petitioners must promptly notify this office. Mr. Lexow also claims that he has not received a response from Mr. Ragnhildtsveit to his request.

This conduct is sufficient to show a refusal to cooperate pursuant to section 409.03(d) of the MPEP and meets item (2).

With regards to item (3), the last known address of Erland Ragnhildtsveit is listed as:

Jonsokveien 5
1182 Oslo,
Norway

Concerning item (4), the 37 CFR 1.47(a) applicants submitted a declaration signed by one of the two co-inventors on behalf of themselves and the nonsigning joint inventor. The residence, address and citizenship of all three inventors are recorded on the declaration. This declaration meets the requirements of section 409.03(a) and is in compliance with 37 CFR 1.497(a) and (b).

All requirements of 37 CFR 1.47(a) are complete.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **GRANTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C.

371(c). The application has an international filing date of 16 April 2004 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 11 January 2006.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record and will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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

0 4 OCT 2007

MARSHALL, GERSTEIN & BORUN LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, IL 60606

In re Application of	:	
LEXOW *et al*	:	
U.S. Application No.: 10/553,505	:	
PCT No.: PCT/GB2004/001665	:	
Int. Filing Date: 16 April 2004	:	**DECISION**
Priority Date: 16 April 2003	:	
Attorney Docket No.: 30986/41550	:	
For: METHOD FOR IDENTIFYING	:	
CHARACTERISTICS OF MOLECULES	:	

Applicants' petition to revive under 37 CFR 1.137(b) filed on 22 May 2007 is hereby **GRANTED** as follows:

Applicants submitted a sequence listing complying with the requirements of 37 CFR 1.821-1.825 with the petition. The petition fee of $1500.00 was paid. The required statement pursuant to 37 CFR 1.137(b)(3) was provided. A terminal disclaimer is not required.

Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A Notification of Acceptance of Application Under 35 U.S.C. 371 and 1.495 (Form PCT/DO/EO/903) and filing receipt was mailed by the DO/EO/US on 25 July 2007. No further action by DO/EO/US is required.

This application is being forwarded to Technology Center 1600 for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Patrick Alexander Kosmehl
Collard & Roe
1077 Northern Boulevard
Roslyn, NY 11576

Mail Date: 04/21/2010

Applicant	: Patrick-Alexander Kosmehl	: DECISION ON REQUEST FOR
Patent Number	: 7581747	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/553,513	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/09/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **907** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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

13 APR 2007

23363
CHRISTIE, PARKER & HALE, LLP
P.O. Box 7068
Pasadena, CA 91109-7068

In re Application of OMASA, Ryushin U.S. Application No.: 10/553,525 PCT No.: PCT/JP2004/005324 Int. Filing Date: 14 April 2004 Priority Date: 02 May 2003 Attorney Docket No.: 56283/DBP/F349 For: ACTIVE ANTISEPTIC WATER OR ACTIVE ANTISEPTIC WATER SYSTEM FLUID, AND METHOD AND DEVICE FOR PRODUCTION THE SAME	:	**DECISION**

This is a decision on the petition filed on 29 December 2006. No fee is required.

BACKGROUND

On 02 August 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b), and an English translation must be provided. Applicant was given two months to respond.

On 29 December 2006, applicant submitted the instant petition which was accompanied by, *inter alia*, a declaration by Daniel G. Ferris; a declaration by Vickie D. Wall; a copy of counsel's docket records from 30 September 2006 to 15 October 2006; an executed declaration; an English translation; and authorization to charge any required fee to Deposit Account No. 03-1728.

DISCUSSION

Applicant claims that the Form PCT/DO/EO/905 mailed 02 August 2006 was not received until 01 December 2006 and requests to reset the period to respond.

Section 710.06 of the Manual of Patent Examining Procedures (MPEP) states that the Office will grant a petition to restart the previously set period for reply to an Office action to run from the date of receipt of the Office action at the correspondence address when the following criteria are met:

(A) **the petition is filed within two weeks of the date of receipt of the Office action at the correspondence address;**

(B) a substantial portion of the set reply period had elapsed on the date of receipt (e.g., at least 1 month of a 2- or 3-month reply period had elapsed); and

(C) the petition includes (1) evidence showing the date of receipt of the Office action at the correspondence address (e.g., a copy of the Office action having the date of receipt of the Office action at the correspondence address stamped thereon, a copy of the envelope (which contained the Office action) having the date of receipt of the Office action at the correspondence address stamped thereon, etc.), and (2) a statement setting forth the date of receipt of the Office action at the correspondence address and explaining how the evidence being presented establishes the date of receipt of the Office action at the correspondence address.

Petitioner provided a statement that the Office communication in question was received at the correspondence address of record via facsimile on 01 December 2006. A copy of this Office action was included which is stamped as received [by the law firm] on 01 December 2006. However, the petition to reset the time period was not filed until 29 December 2006. This is past the two-week period outlined in the MPEP.

Therefore, item (A) is not satisfied.

It is noted that items (B) and (C) were completed.

CONCLUSION

For this reason, applicant's petition to reset the time period is **DISMISSED** without prejudice.

A three-month extension of time is required for the response to the Form PCT/DO/EO/905 mailed 02 August 2006. This fee has been charged to Deposit Account No. 03-1728 as authorized.

If reconsideration on the merits of this petition is desired, a renewed petition must be filed within **TWO (2) MONTHS** from the mail date of this decision.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-

1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

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

3 1 JAN 2008

23363
CHRISTIE, PARKER & HALE, LLP
P.O. Box 7068
Pasadena, CA 91109-7068

In re Application of OMASA, Ryushin U.S. Application No.: 10/553,525 PCT No.: PCT/JP2004/005324 Int. Filing Date: 14 April 2004 Priority Date: 02 May 2003 Attorney Docket No.: 56283/DBP/F349 For: ACTIVE ANTISEPTIC WATER OR ACTIVE ANTISEPTIC WATER SYSTEM FLUID, AND METHOD AND DEVICE FOR PRODUCTION THE SAME	**DECISION**

This is a decision on applicants' "Request for Refund" filed on 13 August 2007 which is hereby **GRANTED** as follows:

A review of USPTO records indicates that applicants were charged an additional $1,300.00 for filing fees by mistake. Applicants previously submitted a $1,300 check in the subject application.

Deposit Account No. 03-1728 has been credited $1,300.00 on 30 January 2008.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

0 5 MAY 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Michael Ridgway
44 Richard Moss House
St Peter Street
Winnchester S023 -8BX
UNITED KINGDOM

In re Application of	:	
RIDGWAY, Michael	:	
Application No.: 10/553,530	:	
PCT No.: PCT/GB2003/001737	:	
Int. Filing Date: 23 April 2003	:	DECISION
Priority Date: None	:	
Attorney Docket No.: None	:	
For: PAINTBRUSH ROTATION CONTROL	:	
SYSTEM	:	

This decision is in response to applicants' petition filed in the United States Patent and Trademark Office on 28 February 2008.

BACKGROUND

On 23 April 2003, applicant filed international application number PCT/GB2003/001737. A copy of that application was transmitted to the Office, by the International Bureau on 01 November 2003. The deadline for payment of the basic national fee was 23 October 2005.

On 17 October 2005, applicant filed a transmittal letter for entry into the national phase in the United States, accompanied by the basic national fee.

On 15 June 2006, the Office mailed Notification of Insufficient Fees (Form PCT/DO/EO/923) indicating that the search fee and examination fee were required within two (2) months of the mailing of the notification. The notification further indicated that extensions of time were available under 37 CFR 1.136(a).

On 23 October 2006, 06 December 2006 and 05 February 2007, applicant filed letters asking about the extensions of time and indicating he did not believe he was a large entity. Applicant did not supply extension of time fees.

On 07 March 2007, 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 issued 15 June 2006.

On 28 February 2008, applicant filed a petition to revive with the Office. Applicant did not indicate whether the revival request was under 37 CFR 1.137(a) or (b), but paid the fee for revival under 37 CFR 1.137(a).

DISCUSSION

A petition to revive an application for patent unavoidably abandoned under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, (2) the petition fee, (3) a satisfactory showing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition to 1.137(a) was unavoidable and (4) a terminal disclaimer if application was filed before June 8, 1995.

Items (1), (2) and (4) have been met. Applicant has provided the proper response and the petition fee. A terminal disclaimer is not required as the application was filed on or after 08 June 1995.

Item (3) has not been satisfied. The deadline for payment search fee and the examination fee was set out in the Notification mailed 15 June 2006. Further the extension of time fees are available on the USPTO website. Applicant was aware of the necessity of filing the fees, but submitted multiple responses to the Office without the required fees.

Further, although applicant indicates in his petition that he paid the Office $855 by credit card for the fees, Office records indicate that only $770 was charged. Also, while applicant was correctly informed that it was too late to receive refund of the large entity basic national fee, applicant can establish small entity status at any time and payment of the small entity fee establishes small entity status. Applicant claims to have paid the small entity for the petition fee, but indicates payment of the large entity fees for the search fee and examination fee. Finally, in addition to the fees noted on the Notification of Insufficient Fees, applicant also must pay the fee for paying the search fee or examination fee or for supplying the oath or declaration after 30 months from the priority date. That fee is $130 for a large entity or $65 for a small entity.

Applicant may wish to consider filing a petition under 37 CFR 1.137(b) for unintentional delay. The current fee for a small entity is $770, for other than small entity, the fee is $1540

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.137(a) is **DISMISSED** without prejudice.

This application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(a)".

Any further correspondence with respect to this matter may be filed electronically via EFS-Web or if mailed should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Erin P. Thomson/

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

Enc: Petition to Revive an International Application, Unintentionally Abandoned Under 37 CFR 1.137(b)

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

18 APR 2007

WESTMAN CHAMPLIN & KELLY, P.A.
Suite 1400
900 Second Avenue South
Minneapolis, MN 55402-3319

In re Application of :
IBRAHIM, Nicolas :
U.S. Application No.: 10/553,535 :
PCT No.: PCT/FR2004/000958 : **DECISION**
Int. Filing Date: 16 April 2004 :
Priority Date: 17 April 2003 :
Attorney Docket No.: W51-12-0022 :
For: RADIO DATA TRANSMISSION :
METHOD, EMPLOYING SEVERAL :
DIFFERENT PILOT PATTERNS, . . . :

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 December 2006.

BACKGROUND

On 14 August 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. Applicant was given two months to respond with extensions of time available.

On 14 December 2006, applicant filed the subject petition which was accompanied by, inter alia, a two-month extension and fee; the petition fee; the surcharge fee; a declaration signed by the 37 CFR 1.47(b) applicant for the nonsigning inventor; and other assorted documentary evidence.

DISCUSSION

The 37 CFR 1.47(b) applicant claims that the sole inventor in the above-captioned application refuses to cooperate and filed a petition pursuant to 37 CFR 1.47(b) as a response to the Form PCT/DO/EO/905 mailed 14 August 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 is now $200.00. The $70.00 difference has been charged to Deposit Account No. 23-1123 as authorized.

Regarding item (2), the 37 CFR 1.47(a) applicant claims that the sole inventor refuses to join in the application. Petitioner states that a complete copy of the application, declaration and assignment were presented to the nonsigning inventor on 17 July 2006. A copy of an assignment and declaration were previously mailed on 22 December 2005. The 37 CFR 1.47(a) applicant provided copies of these documents along with an English translation of the cover letters. Proof of delivery of the documents was also submitted. An unsigned statement by Patrice Vidon, a French patent attorney was submitted and it states that "Nicolas Ibrahim failed to respond in any manner." This is sufficient to meet the requirements of section 409.03(d) of the MPEP. As such, item (2) of 37 CFR 1.47(b) is complete.

With regards to item (3), the last known address of the nonsigning joint inventor, Nicolas Ibrahim Jung is given as:

1, rue Bleuats
78180 Montigny le Bretonneux
France

Concerning item (4), the 37 CFR 1.47(b) applicant submitted an unexecuted declaration and power of attorney listing the name address and citizenship of the nonsigning inventor. Petitioner also provided an "Added Page to Combined Declaration and Power of Attorney . . ." on behalf of the nonsigning inventor signed by Mr. Pierre Cosnier as Legal Director of Wavecom. Mr. Cosnier states on the supplemental declaration that he is authorized to act on behalf of Wavecom. *See* § 324 MPEP. The declaration meets the requirements of section 409.03(b) of the MPEP. Thus, item (4) is complete.

Regarding item (6), the 37 CFR 1.47(b) applicant provided a statement that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Items (1), (2), (3), (4) and (6) of 37 CFR 1.47(b) are complete.

With regards to item (5), petitioner claims sufficient propriety interest in the above-captioned application by way of an employment agreement signed by Mr. Ibrahim. Section 409.03(f) of the MPEP discusses proof of proprietary interest and states, in part:

> 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, petitioner has provided a copy of an employment agreement signed by Mr. Ibrahim. A review of the employment agreement indicates that paragraph 8 provides the employer with rights of any invention made, including rights abroad. Petitioner also submitted a statement that "Mr. Ibrahim was employed by Wavecom at the time the invention was made and remained employed at Wavecom through the time the original priority patent application was filed on April 17, 2003."

However, the statement was unsigned and it is not clear if it was made by 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. This is an absolute requirement when meeting the propriety interest requirement using an employment agreement. For this reason, item (5) 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

14 JUN 2007

WESTMAN CHAMPLIN & KELLY, P.A.
Suite 1400
900 Second Avenue South
Minneapolis, MN 55402-3319

In re Application of :
IBRAHIM, Nicolas :
U.S. Application No.: 10/553,535 :
PCT No.: PCT/FR2004/000958 : **DECISION**
Int. Filing Date: 16 April 2004 :
Priority Date: 17 April 2003 :
Attorney Docket No.: W51-12-0022 :
For: RADIO DATA TRANSMISSION :
METHOD, EMPLOYING SEVERAL :
DIFFERENT PILOT PATTERNS, . . . :

This decision is in response to the papers filed 25 May 2007 which are treated as a renewed petition under 37 CFR 1.47(b).

BACKGROUND

On 18 April 2007, a decision dismissing applicant's petition under 37 CFR 1.47(b) was mailed. The 37 CFR 1.47(b) applicant failed to meet the requirements of item (5) of 37 CFR 1.47(b).

On 25 May 2007, petitioner submitted a response to decision.

DISCUSSION

In the initial petition, the 37 CFR 1.47(b) applicant satisfied items (1), (2), (3), (4) and (6) of 37 CFR 1.47(b). With regards to item (5), petitioner claimed sufficient propriety interest in the above-captioned application by way of an employment agreement signed by the nonsigning inventor. A review of the agreement submitted with the original petition demonstrated that the employer was provided with rights of any invention made, including rights abroad. Petitioner also submitted a statement that the nonsigning inventor was employed by Wavecom at the time the invention was made.

However, the statement was deemed unsigned and it was unclear whether the statement was made by 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. For this reason, item (5) was not yet satisfied.

In the renewed petition, the 37 CFR 1.47(b) applicant argues that the statement was provided in the pre-printed form used for the petition. The signature was on page

1-77 and the form included a statement of first hand knowledge on page 1-75 under (III). A further review of the pre-printed form submitted 14 December 2006 supports these claims. As such, item (5) is now complete.

Accordingly, the 37 CFR 1.47(b) applicant has now met all of the requirements of 37 CFR 1.47(b).

CONCLUSION

Applicant's 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 the non-signing inventor at the last known address of record as set forth in the papers filed 14 December 2006 and a notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 16 April 2004 under 35 U.S.C. 363, and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 14 December 2006.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

DATE 6-14-07

APPLICATION NUMBER 10/553,535

DOC CODE Let

DOC DATE 6-14-07

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

14 JUN 2007

Nicolas Ibrahim
1, rue Bleuats
78180 Montigny le Bretonneux
France

In re Application of
IBRAHIM, Nicolas
U.S. Application No.: 10/553,535
PCT No.: PCT/FR2004/000958
Int. Filing Date: 16 April 2004
Priority Date: 17 April 2003
Attorney Docket No.: W51-12-0022
For: RADIO DATA TRANSMISSION METHOD, EMPLOYING SEVERAL DIFFERENT PILOT PATTERNS, . . .

Dear Mr. Ibrahim:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. The counsel for the applicant is listed below. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

WESTMAN CHAMPLIN & KELLY, P.A.
Suite 1400
900 Second Avenue South
Minneapolis, MN 55402-3319

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

28 AUG 2006

MERCK AND CO., INC
P O BOX 2000
RAHWAY NJ 07065-0907

In re Application of: CHAKRAVARTY, Prasun, K., et al.	
U.S. Application No.: 10/553,554	
PCT No.: PCT/US2004/011271	DECISION ON
International Filing Date: 14 April 2004	SUBMISSION OF
Priority Date: 18 April 2003	DECLARATION
Attorney's Docket No.: 21375YP	EXECUTED BY LEGAL
For: BIARYL SUBSTITUTED THIAZOLES, OXAZOLES AND IMADAZOLES AS SODIUM CHANNEL BLOCKERS	REPRESENTATIVE

This decision is issued in response to the 18 October 2005 submission of a declaration executed on behalf of inventor Michael H. FISHER by his legal representative Jeffrey M. FISHER. No petition fee is required.

BACKGROUND

On 14 April 2004, applicants filed international application PCT/US2004.011271. The international application claimed a priority date of 18 April 2003, and it designated the United States. Payment of the U.S. basic national fee was required prior to the expiration of thirty months from the priority date, i.e., 18 October 2005.

On 18 October 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 declaration executed by four of the five applicant/inventors and on behalf of the fifth applicant/inventor, Michael H. FISHER, by his legal representative, Jeffrey M. FISHER.

DISCUSSION

As noted above, applicants have filed a declaration executed on behalf of one of the inventor's by his legal representative. A declaration executed on behalf of an inventor by his/her legal representative may be accepted only if the application falls within the scope of 37 CFR 1.42 or 37 CFR 1.43.

37 CFR § 1.42 states:

> 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 § 1.43 states:

> In case an inventor is insane or otherwise legally incapacitated, the legal representative (guardian, conservator, etc.) of such inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Here, applicants have not indicated which of the above provisions the declaration filed 18 October 2005 is submitted under.

Before the declaration can be accepted, applicants must provide a statement indicating that the non-signing inventor, Michael H. FISHER is either deceased (37 CFR 1.42) or "insane or otherwise legally incapacitated" (37 CFR 1.43). If neither of these regulations applies to the circumstances present here, then a declaration in compliance with 37 CFR 1.497 executed by Michael H. FISHER is required.

CONCLUSION

For the above reasons, the declaration filed 18 October 2005 on behalf of applicant/inventor Michael H. FISHER is **REJECTED** without prejudice.

Applicants have **TWO (2) MONTHS** from the mail date of the present decision to submit a proper response. Such response should include either: (1) a statement confirming that non-signing inventor Michael H. FISHER is either deceased or "insane or otherwise legally incapacitated;" or (2) an oath or declaration in compliance with 37 CFR 1.497 executed by Michael H. FISHER.

Extensions of time are available under 37 CFR 1.136(a). Failure to file a proper response will result in abandonment of the application.

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

RV

21375 YP

UNITED STATES PATENT AND TRADEMARK OFFICE

RAYNARD YURO

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

28 AUG 2006

AUG 3 1 2006

PATENT DEPT.

DOCKETED

AUG 3 1 2006

LOW SCHEPER

Reply due by 10/28/06

MERCK AND CO., INC
P O BOX 2000
RAHWAY NJ 07065-0907

In re Application of: CHAKRAVARTY, Prasun, K., et al.	DECISION ON SUBMISSION OF DECLARATION EXECUTED BY LEGAL REPRESENTATIVE
U.S. Application No.: 10/553,554	
PCT No.: PCT/US2004/011271	
International Filing Date: 14 April 2004	
Priority Date: 18 April 2003	
Attorney's Docket No.: 21375YP	
For: BIARYL SUBSTITUTED THIAZOLES, OXAZOLES AND IMADAZOLES AS SODIUM CHANNEL BLOCKERS	

This decision is issued in response to the 18 October 2005 submission of a declaration executed on behalf of inventor Michael H. FISHER by his legal representative Jeffrey M. FISHER. No petition fee is required.

BACKGROUND

On 14 April 2004, applicants filed international application PCT/US2004.011271. The international application claimed a priority date of 18 April 2003, and it designated the United States. Payment of the U.S. basic national fee was required prior to the expiration of thirty months from the priority date, i.e., 18 October 2005.

On 18 October 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 declaration executed by four of the five applicant/inventors and on behalf of the fifth applicant/inventor, Michael H. FISHER, by his legal representative, Jeffrey M. FISHER.

DISCUSSION

As noted above, applicants have filed a declaration executed on behalf of one of the inventor's by his legal representative. A declaration executed on behalf of an inventor by his/her legal representative may be accepted only if the application falls within the scope of 37 CFR 1.42 or 37 CFR 1.43.

37 CFR § 1.42 states:

> 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 § 1.43 states:

> In case an inventor is insane or otherwise legally incapacitated, the legal representative (guardian, conservator, etc.) of such inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Here, applicants have not indicated which of the above provisions the declaration filed 18 October 2005 is submitted under.

Before the declaration can be accepted, applicants must provide a statement indicating that the non-signing inventor, Michael H. FISHER is either deceased (37 CFR 1.42) or "insane or otherwise legally incapacitated" (37 CFR 1.43). If neither of these regulations applies to the circumstances present here, then a declaration in compliance with 37 CFR 1.497 executed by Michael H. FISHER is required.

CONCLUSION

For the above reasons, the declaration filed 18 October 2005 on behalf of applicant/inventor Michael H. FISHER is **REJECTED** without prejudice.

Applicants have **TWO (2) MONTHS** from the mail date of the present decision to submit a proper response. Such response should include either: (1) a statement confirming that non-signing inventor Michael H. FISHER is either deceased or "insane or otherwise legally incapacitated;" or (2) an oath or declaration in compliance with 37 CFR 1.497 executed by Michael H. FISHER.

Extensions of time are available under 37 CFR 1.136(a). Failure to file a proper response will result in abandonment of the application.

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

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

21 NOV 2006

MERCK AND CO., INC
P O BOX 2000
RAHWAY NJ 07065-0907

In re Application of:	:	
CHAKRAVARTY, Prasun, K., et al.	:	
U.S. Application No.: 10/553,554	:	DECISION
PCT No.: PCT/US2004/011271	:	(37 CFR 1.42)
International Filing Date: 14 April 2004	:	
Priority Date: 18 April 2003	:	
Attorney's Docket No.: 21375YP	:	
For: BIARYL SUBSTITUTED THIAZOLES,	:	
OXAZOLES AND IMADAZOLES AS SODIUM	:	
CHANNEL BLOCKERS	:	

In a decision mailed by this Office on 28 August 2006, the declaration filed on behalf of inventor Michael H. FISHER by his legal representative Jeffrey M. FISHER was rejected without prejudice. Specifically, the declaration was rejected because applicants had not made clear whether the declaration was being filed under 37 CFR 1.42 or 37 CFR 1.43.

On 11 October 2006, applicants filed a response to the previous decision. The response states that inventor Michael H. FISHER was legally incapacitated at the time the declaration was executed, but that the inventor is now deceased. Because the inventor is now deceased, the declaration filed 18 October 2005 is properly considered under 37 CFR 1.42 and 1.497(b)(2).

A review of the declaration confirms that it includes all the information required under 37 CFR 1.42 and 1.497(b)(2).

The request for status under 37 CFR 1.42 with respect to deceased inventor Michael H. FISHER is therefore **GRANTED**.

It is noted that the present decision presumes that Jeffrey M FISHER, the legal representative who executed the declaration for the then-incapacitated inventor, is also the legal representative of the now-deceased inventor's estate. If this is not the case, and there is a different legal representative for the deceased inventor's estate, applicants **must** contact this Office immediately and provide a declaration executed on behalf of the deceased inventor by the proper legal representative.

The application will be referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 18 October 2005.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

United States Patent and Trademark Office

31 JUL 2006

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HAYNES AND BOONE, LLP
901 MAIN STREET
SUITE 3100
DALLAS TX 75202-3789

In re Application of	:	
Brisco et al.	:	
Application No.: 10/553,566	:	DECISION
PCT No.: PCT/US04/11973	:	
Int. Filing Date: 15 April 2004	:	ON
Earliest Priority Date: 17 April 2003	:	
Attorney Docket No.: 25791.277.06	:	PETITION
For: Apparatus For Radially Expanding And Plastically Deforming A Tubular Member	:	

The petition to revive under 37 CFR 1.137(b) filed 19 June 2006 in the above-captioned application is hereby **GRANTED** as follows:

Applicants seek revival on the basis "that the abandonment was unintentional," stating that "The failure to pay was unintentional" and that "Applicant had no intention of allowing this application to go abandoned." This is being construed as a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statements in the petition are 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 authorization to charge the basic national fee to a Deposit Account, no. 08-1394, and has also authorized payment of the petition fee from the Deposit Account (it is noted that the large entity petition fee is $1500.00 while the large entity basic national fee is $300.00) . Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

This application is being forwarded to the United States Designated/Elected Office for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an executed oath or declaration compliant with 37 CFR 1.497(a) and (b), and the surcharge under 37 CFR 1.492(h).

George M. Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
Tel: (571) 272-3283
Fax: (571) 273-0459